

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1047
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Responsible Officer:	Benjamin Price
Land to be developed (Address):	Lot 12 SP 94821, 1 / 17 - 19 Central Avenue MANLY NSW 2095
Proposed Development:	Change of use to a small bar
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Norfolk Property Group Pty Ltd
Applicant:	Symons Goodyer Pty Ltd

Application lodged:	20/06/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	28/06/2018 to 14/07/2018
Advertised:	Not Advertised
Submissions Received:	7
Recommendation:	Approval

Estimated Cost of Works:	\$ 60,000.00
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ASSESSMENT INTRODUCTION

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

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

determination);

- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 6.21 Noise impacts—licensed premises

Manly Development Control Plan - 3.4.2 Privacy and Security

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

Manly Development Control Plan - 4.2.5.4 Car Parking and Access

SITE DESCRIPTION

Property Description:	Lot 12 SP 94821 , 1 / 17 - 19 Central Avenue MANLY NSW 2095
Detailed Site Description:	<p>The subject property is commonly known as 17-19 Central Avenue, Manly and legally known as Lot 12 in SP 94821. The site is located on the eastern side of Central Avenue. The site is irregular in shape and has a frontage of 12.1m to Central Avenue, a variable site depth and an overall site area of 332.5m². The surrounding area is generally flat.</p> <p>The site is located within the Manly Town Centre. The site is surrounded by a variety of development including residential and commercial uses.</p>

Map:



SITE HISTORY

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

DA358/2016 - Change of use of part basement to a food and drink premises. Approved 18 May 2017

DA81/2013 - Demolition of existing, construction of a building containing one (1) retail shop, twenty (20) residential units and sixteen (16) car parking spaces. This application has been subject to two modification applications.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the use of part of the basement as a small bar. The proposal includes a maximum of 55 patrons and 5 staff. The proposed hours of operation are:

- 7am - 1am Monday to Sunday with all patrons off the premises by 1:30am.

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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

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 7 submission/s from:

Name:	Address:
Mr Benjamin Teisserenc	3/5a Raglan Street MANLY NSW 2095
Mr Denis Joseph Mockler	210 / 9 - 15 Central Avenue MANLY NSW 2095
Lillian Maree Bristow	112/173 Taylor Street ARMIDALE NSW 2350
Mr John Ambrose Keating	801 / 1 Raglan Street MANLY NSW 2095
Proprietors of Strata Plans 60400 & 60529	1 Raglan Street MANLY NSW 2095
The Owners of Strata Plan 61139	9-15 Central Avenue MANLY NSW 2095
Mr Gregory Ernest Brown	8 Macquarie Road PYMBLE NSW 2073

The following issues were raised in the submissions and each have been addressed below:

- Hours of Operation & Noise Levels
- Noise and littering from customers entering and leaving
- Manager number & Security personnel

The matters raised within the submissions are addressed as follows:

- Hours of Operation & Noise Levels

Comment:

The NSW Police have reviewed the application including the likely entry/exit of patrons and recommended the following hours of operation:

Monday to Thursday 7:00am - 12:00 Midnight

Friday & Saturday 7:00am - 1 :00am

Sunday 7:00am -10:00pm

Given the extensive experience of the NSW Police within this area it is recommended that these hours of operation be incorporated in this consent. These hours of operation are consistent with the Manly DCP 2013 and in conjunction with the reasonable maximum number of patrons of 55 will not result in unreasonable impacts within the locality. Furthermore an acoustic report has been submitted with the application the includes recommendations to ensure noise levels do not result in any unreasonable impacts within the locality. This report has been included as a consent document.

A condition has been recommended to ensure compliance with the recommended hours of operation and the maximum number of patrons.

- Noise and littering from customers entering and leaving

Comment:

The NSW Police have recommended suitable hours of operation to ensure noise from customers entering and leaving does not result in unreasonable impacts. The maximum number of patrons is not excessive and not likely to generate significant volumes of people entering and leaving. The implemented recommendations from the acoustic report will also minimise acoustic impacts within the locality. Subject to the above the proposal will not result in any unreasonable impacts due to people entering and leaving. Littering outside or on the way to the premises is subject to NSW Police enforcement.

- Manager number & Security personnel

Comment:

The acoustic report includes recommendations for a noise management plan that includes a contact number be supplied. Furthermore the recommendations from the NSW Police require a venue management plan be prepared in consultation with them. These plans will assist the club to be managed in a safe and secure way.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p> <p>Change of Use/Fire Safety Upgrade The existing levels of fire safety within the premises are to be upgraded to achieve an adequate level of fire safety in accordance with the provisions of clause 94 of the Environmental Planning and Assessment Regulation 2000. The fire safety upgrading works are to be included in the Construction Certificate and be implemented prior to occupation of the new building or part. Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety.</p>
Environmental Health (Industrial)	<p>General Comments An assessment of the amended acoustic report Ref No.2017-102 Rev 1 August 20, 2018 Rev 2, has satisfied Councils additional information</p>

Internal Referral Body	Comments
	<p>requests. However given the proximity of the bar to residential receivers, a change in operating hours will be requested by Council. All noise control measures detailed in Section 6 of the acoustic report must be complied with to achieve acceptable noise levels.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p> <p><u>Planning Comments</u> Council's Environmental Health Officer recommended limiting the hours to Sunday 7:00am to 10:00pm, Monday to Saturday 7:00am to 12 midnight.</p> <p>The NSW Police have assessed the application and have recommended the following hours of operation: Monday to Thursday 7:00am - 12:00 Midnight Friday & Saturday 7:00am - 1 :00am Sunday 7:00am -10:00pm</p> <p>The hours recommended by the NSW Police are considered to be the most reasonable. These hours are within the hours of operation permitted by the Manly DCP 2013. Furthermore, the maximum of 55 patrons is not likely to generate significant pedestrian traffic within the locality.</p> <p>The acoustic report demonstrates that subject to its recommendations the development can be carried out with no unreasonable impacts to the acoustic privacy of the residents. This report has been included as a consent document to ensure compliance with the recommendations.</p> <p>The assessment by the NSW Police including conditions to minimise loitering and amenity impacts from entering and leaving the premises. Given the extensive experience of the NSW Police in this area their recommendations have been adopted into this consent.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments A review of revised plans dated 15 October 2018 Drawing Number DA.01 have identified food preparation within the basement area. Consideration has been given to fit out of bar and food preparation area and allocated toilet facilities.</p> <p>Recommendation</p> <p>Approval - with Conditions</p>
Waste Officer	Recommended for approval subject to conditions

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

External Referral Body	Comments
	assumed that no objections are raised and no conditions are recommended.
NSW Police - Local Command (CPTED)	<p>The NSW Police assessed the application and raised no objection subject to the implementation of the following recommendations:</p> <p>1. Venue Management Plan</p> <p>1) The consent holder must engage in a consultative process with Northern Beaches Police Area Command Licensing Officers in order to prepare and implement a Venue Management Plan' ('the plan'). The plan must be signed and approved by the Police Area Commander, an Inspector, OIC or a nominated delegate. A copy of the management plan must be lodged with Northern Beaches Council by the consent holder prior to any premises being occupied and commencing operation. The consent holder, licensee (if a premise is licensed under the Liquor Act 2007) or any other person in control of the premise must comply with the plan at all times.</p> <p>The plan must include a range of strategies designed to maintain the amenity of the neighbourhood where the development is to occur. These conditions may include but are not limited to:</p> <ul style="list-style-type: none"> • installation and maintenance of digital HD CCTV camera system, • crime scene guidelines, • engagement of security guards, • recording/reporting of alcohol and drug related incidents, • patron management, • safe transport options, • noise management, • notification of events, • lighting, • maintaining the amenity of the neighbourhood, • clearing of rubbish, • addressing complaints relating to the operation of the premise, • reviews amendments and/or updates to the plan. <p>It is the responsibility of the consent holder to initiate contact with Northern Beaches Licensing Police to commence the consultative process. The requirements of this management plan are separate to any conditions that may be placed on a liquor licence by the appropriate Authority under the Liquor Act 2007.</p> <p>2) The consent holder and Licensee must ensure that a copy of the Venue Management Plan is maintained at the premise at all times and is to be immediately presented to a Police Officer or any other law enforcement officer when requested.</p> <p>3) Any revised Venue Management Plan must be agreed to and signed by the Northern Beaches Police Area Commander or their delegate. Any revised or updated plan must be lodged by the consent holder with the Northern Beaches Council.</p>

External Referral Body	Comments
	<p>2. Closed Circuit Television (CCTV)</p> <p>1) The consent holder and Licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:</p> <p>(a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),</p> <p>(b) recordings must be in digital format and at a minimum of twelve (12) frames per second,</p> <p>(c) any recorded image must specify the time and date of the recorded image, and the camera identification name or number,</p> <p>(d) the system's cameras must cover the following areas:</p> <ul style="list-style-type: none"> (i) all entry and exit points on the premises, (ii) all staircases in multilevel premises, (iii) the footpath immediately adjacent to the premises, and (iv) all publicly accessible areas (other than toilets) within the premises. <p>2) The licensee must also:</p> <p>(a) keep all recordings made by the CCTV system for at least 30 days,</p> <p>(b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1 (a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and</p> <p>(c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.</p> <p>3) Camera views are not to be obstructed by temporary or permanent structures, fixtures, signs or other impediments.</p> <p>4) 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 Northern Beaches Police Area Commander or delegate within two (2) hours. All reasonable steps must be undertaken to repair the system as soon as practicable.</p> <p>3. Hours of Operation</p> <p>1) Police recommend the following Hours of Operation:</p> <p>Monday to Thursday 7:00am - 12:00 Midnight Friday & Saturday 7:00am - 1 :00am</p>

External Referral Body	Comments
	<p>Sunday 7:00am -10:00pm</p> <p>2) Upon expiration of the permitted hours all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.</p> <p>4. Neighbourhood Amenity</p> <p>1) The consent holder and Licensee of the premises:</p> <ul style="list-style-type: none"> 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 a Register full details of any disturbance complaints 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 complaints and any complainant details if provided. iv. Shall respond to any disturbance complaints in a timely and effective manner. All actions undertaken by management / staff to resolve such complaints shall be recorded in the Register. v. An adequate queuing system for patrons must be implemented at the main entrance of the licensed premises so as to ensure that if patrons are queuing to gain entry they do not obstruct or impede pedestrian traffic flow or cause any undue disturbance to the amenity of the neighbourhood. <p>All recommendations have been incorporated into the consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

Nil

Manly Local Environmental Plan 2013

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

Principal Development Standards

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

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.21 Noise impacts—licensed premises	Yes

Detailed Assessment

6.21 Noise impacts—licensed premises

The proposal is located in the basement and was accompanied by an acoustic report detailing extensive testing within the locality. The acoustic report makes recommendations to ensure the proposal does not result in any unreasonable noise impacts within the locality. The report has been included as a consent document to ensure the recommendations are complied with. The proposal is consistent with the objectives of this clause.

Manly Development Control Plan

Built Form Controls

Controls	Requirement	Proposed	% Variation*	Complies
4.2.5.6 Late Night Venues	Hours of Operating (maximum) b) The maximum hours for hotels, nightclubs, restaurants & food outlets are as follows: i) Hotels & Nightclubs: from 5am up to 2am (next day) and with a restricted entry policy for Nightclubs after 12.30am; and ii) Restaurants & Food Outlets: from 5am up to 1am (next day).	7am-1am	N/A	Yes
Schedule 3	Retail - 1 space per 40sqm of GFA = 3 spaces	0 spaces	100%	No

Parking and Access	(108.1sqm/40=2.7 Rounded up to 3)			
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***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.8 Waste Management	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	No	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.4 Car Parking and Access	Yes	Yes
4.2.5.6 Late Night Venues	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

Merit consideration:

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

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

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

Comment:

The proposal includes the hours of operation of 7am to 1am Monday to Sunday and a maximum of 55 patrons. The Manly DCP 2013 specifies that the maximum permitted hours of operation for Restaurants & Food Outlets: from 5am up to 1am (next day) and for Hotels & Nightclubs: from 5am up to 2am (next day) and with a restricted entry policy for Nightclubs after 12.30am.

The proposal was accompanied by an acoustic report that carried out extensive testing within the area. The acoustic report considered noise from mechanical ventilation, patrons within the site and patrons entering/leaving the site. The acoustic report provided recommendations to ensure the development does not result in any unreasonable impacts to the acoustic privacy of the nearby properties. This report has been included as a consent document to ensure compliance with the recommendations.

The development was referred to the NSW Police for assessment under Crime Prevention Through Environmental Design. The NSW Police raised significant issue with the amenity impact of patrons entering and leaving the premises in particular if they are permitted to loiter outside, as no smoking is permitted in the venue. As a result of the likely amenity impacts the NSW Police have recommended the hours be restricted to 7.00am to 12.00am Monday to Thursday 7.00am to 1.00am Friday and Saturday and 7.00am to 10.00pm Sundays. This recommendation has been incorporated as a condition of consent. The recommended hours of operation will minimise the loss of acoustic privacy to nearby and adjacent development.

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

Comment:

The proposal will not result in any unreasonable impacts to privacy within the locality. The proposal is located in the basement of the premises and will not allow an outlook from the premises.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal will maintain an awareness of neighbourhood security within the locality.

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

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

Description of Non-Compliance

The Manly DCP 2013 requires the provision of 1 parking space per 40sqm of gross floor area for commercial premises. In this regard the parking required for this development is 2.7 parking spaces. The existing approved use on the site is a restaurant/cafe. The required parking for this use is 1 space per 40sqm of serviced area. The existing demand for parking on the site is 2.5 spaces. In both instances the required parking is rounded up to 3 spaces. As such the proposal will not generate any further non-compliance with the control or demand on parking within the locality.

Merit Consideration

With regard to the consideration of the variation, the development is considered against the underlying objectives of the control as follows:

Objective 1) To ensure there is adequate provisions for car parking access and loading in future development and redevelopment in all business zones

Comment:

The proposal will not generate any further demand for parking within the area. Furthermore, the site is located within the Manly Town Centre and is well serviced by public transport. The proposal will not result in any unreasonable impacts on traffic or parking within the locality.

Objective 2) To minimise conflicts between pedestrian and vehicular movement systems within the business areas.

Comment:

The proposal will not generate any conflict between pedestrians and vehicles.

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

4.2.5.4 Car Parking and Access

The proposal will not generate any further requirement for parking on the site. As such, no contribution for the shortfall in parking is required.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any

unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1047 for Change of use to a small bar on land at Lot 12 SP 94821, 1 / 17 - 19 Central Avenue, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 Basment Plan Rev C	15 October 2018	Blackmore Design Group Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Impact Report For proposed Small Bar at No. 17-19 Central Ave, Manly Rev 2	20 August 2018	Acoustic Vibration & Noise Pty Ltd
Plan of Management For The Operations of Small Bar Premise at 17-19 Central Avenue, Manly	February 2019	Not specified

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
NSW Police Northern Beaches Local Area Command	2019/106838	22 February 2019

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

3. **Approval**

This consent does not authorise any works or change of use of the ground floor of the premises.

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

4. **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 (DACPLB09)

5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be

maintained in a safe and clean state until such time as new construction works commence.

- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

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

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

FEES / CHARGES / CONTRIBUTIONS

6. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

7. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

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

8. **Prior to occupation certificate - Sanitary Facilities**

A suitably qualified person is to provide certification of compliance with Class 6 - Restaurants, Cafes and Bars of the Building Code of Australia in relation to Sanitary Facilities and certification of compliance is to be provided to the principal certifying authority prior to Occupation Certification.

Reason: To ensure adequate sanitary facilities for staff and patrons of the premise.
(DACHPFPOC1)

9. **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.

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

Prior to the issuing of any final occupation certificate, certification is to be provided from a suitably qualified person identifying that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674:2004 Design, construction and fit out of food premises.

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

Reason: To ensure that the kitchen complies with the design requirements. (DACHPFPOC3)

11. **Mechanical ventilation**

Where Mechanical ventilation is required to be installed in the food premises it must comply with Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings" Prior to any Occupation Certificate (OC) being issued, certification is to be provided by a suitably qualified person that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2.

12. **Prior to occupation certificate - Noise**

Noise control recommendations detailed in Section 6 of the Acoustic Report prepared by Domeniki Tsagaris dated April 18 2018 Reference No: 2017-102 Rev 1 August 20, 2018 Rev 2 are to be implemented into the development.

Reason: To protect public health and amenity (DACHPFPOC5)

13. **Fire Safety Matters**

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

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

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

to the original design standard.

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

14. Venue Management Plan

1) The consent holder must engage in a consultative process with Northern Beaches Police Area Command Licensing Officers in order to prepare and implement a Venue Management Plan' ('the plan'). The plan must be signed and approved by the Police Area Commander, an Inspector, OIC or a nominated delegate. A copy of the management plan must be lodged with Northern Beaches Council by the consent holder prior to any premises being occupied and commencing operation. The consent holder, licensee (if a premise is licensed under the Liquor Act 2007) or any other person in control of the premise must comply with the plan at all times.

The plan must include a range of strategies designed to maintain the amenity of the neighbourhood where the development is to occur. These conditions may include but are not limited to:

- installation and maintenance of digital HD CCTV camera system,
- crime scene guidelines,
- engagement of security guards,
- recording/reporting of alcohol and drug related incidents,
- patron management,
- safe transport options,
- noise management,
- notification of events,
- lighting,
- maintaining the amenity of the neighbourhood,
- clearing of rubbish,
- addressing complaints relating to the operation of the premise,
- reviews amendments and/or updates to the plan.

It is the responsibility of the consent holder to initiate contact with Northern Beaches Licensing Police to commence the consultative process. The requirements of this management plan are separate to any conditions that may be placed on a liquor licence by the appropriate Authority under the Liquor Act 2007.

2) The consent holder and Licensee must ensure that a copy of the Venue Management Plan is maintained at the premise at all times and is to be immediately presented to a Police Officer or any other law enforcement officer when requested.

3) Any revised Venue Management Plan must be agreed to and signed by the Northern Beaches Police Area Commander or their delegate. Any revised or updated plan must be lodged by the consent holder with the Northern Beaches Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority Prior to the issue of the Occupation Certificate.

Reason: To maintain a reasonable level of amenity within the locality.

15. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

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

16. **Collection of business waste from premise**

The bins must be serviced from within the premises. The occupant must not place bins on public land at any time.

No waste generated on site from any commercial operations is to be placed in public place bins.

Reason: Public amenity and litter minimisation and communicate policy regarding illegal trade waste dumping in public place bins.

17. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Thursday– 7am - 12:00 Midnight
- Friday & Saturday - 7.00am - 1.00am
- Sunday - 7.00am - 10.00pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

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

18. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG19)

19. **Deliveries**

No deliveries, loading or unloading associated with the premises are to take place between the following hours:

Weekdays - 7am - 8pm

Weekends and public holidays - 8am - 8pm

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

20. **Commercial Waste Collection**

Waste collection must only occur during the following hours

Weekdays - 7am - 8pm

Weekends and public holidays - 8am - 8pm

Reason: To ensure the acoustic amenity of surrounding properties. (DACPLG24)

21. **Maximum Patrons**

A maximum of 55 patrons are permitted on the premises at any time.

Reason: To maintain the amenity of the locality.

22. Closed Circuit Television (CCTV)

1) The consent holder and Licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:

- (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
- (b) recordings must be in digital format and at a minimum of twelve (12) frames per second,
- (c) any recorded image must specify the time and date of the recorded image, and the camera identification name or number,
- (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) all staircases in multilevel premises,
 - (iii) the footpath immediately adjacent to the premises, and
 - (iv) all publicly accessible areas (other than toilets) within the premises.

2) The licensee must also:

- (a) keep all recordings made by the CCTV system for at least 30 days,
- (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1 (a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
- (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

3) Camera views are not to be obstructed by temporary or permanent structures, fixtures, signs or other impediments.

4) 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 Northern Beaches Police Area Commander or delegate within two (2) hours. All reasonable steps must be undertaken to repair the system as soon as practicable.

Reason: To ensure the safety and security of the area.

23. Neighbourhood Amenity

1) The consent holder and Licensee 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 a Register full details of any disturbance complaints 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 complaints and any complainant details if provided.

iv. Shall respond to any disturbance complaints in a timely and effective manner. All actions undertaken by management / staff to resolve such complaints shall be recorded in the Register.

v. An adequate queuing system for patrons must be implemented at the main entrance of the licensed premises so as to ensure that if patrons are queuing to gain entry they do not obstruct or impede pedestrian traffic flow or cause any undue disturbance to the amenity of the neighbourhood.

Reason: To ensure the amenity of the locality.

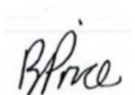
24. **Compliance With Venue Management Plan**

The operation of the premises must comply with the approved Venue Management Plan at all times.

Reason: To maintain a reasonable level of amenity within the locality.

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

Signed



Benjamin Price, Planner

The application is determined on 12/03/2019, under the delegated authority of:



Rodney Piggott, Manager Development Assessments