

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0415
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Responsible Officer:	Adam Urbancic
Land to be developed (Address):	Lot 51 DP 1050178, 1068 Pittwater Road COLLAROY NSW 2097
Proposed Development:	Alterations and additions to an existing cafe
Zoning:	Warringah LEP2011 - Land zoned RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	Hemmes Property Pty Ltd

Application Lodged:	28/04/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	25/05/2020 to 08/06/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 67,000.00
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EXECUTIVE SUMMARY

The development application seeks consent for alterations and additions to an existing cafe, with the operation of the cafe to remain consistent with the original development consent (DA1998/1074), as modified.

The application has been referred to the Northern Beaches Local Planning Panel for determination as the subject site is Crown Land managed by Northern Beaches Council.

The subject site is located within the RE1 Public Recreation zone and development on the subject site is not restricted by any built form controls.

The key considerations in the assessment of the application have been related to coastal hazards, car

parking and noise.

As a result of the public exhibition process, no submissions were received for this application.

Based on the detailed assessment contained in this report, it is recommended that the application be approved, subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for alterations and additions to an existing structure, specifically the following works:

- demolition of the existing step and part of the low wall on the north-eastern elevation;
- demolition of the existing internal wall and awning shutters between the dining area and the serving area;
- removal of the existing external door to the serving area on the south-western elevation;
- installation of new awning windows to all of the existing openings above the low walls on the north-eastern, north-western and south-western elevations;
- construction of a new low wall and the installation of new flooring and awning windows in the location of the demolished step and low wall on the north-eastern elevation;
- construction of a new wall with an awning window to replace the external door on the south-western elevation;
- construction of new internal wall lining to the southern wall of the serving area; and
- installation of a new external roller security shutter on the southern elevation.

The operation of the cafe is to remain consistent with the original development consent (DA1998/1074), as modified.

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

Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Local Environmental Plan 2011 - 6.5 Coastline hazards
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D3 Noise

SITE DESCRIPTION

Property Description:	Lot 51 DP 1050178 , 1068 Pittwater Road COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the north-eastern side of Pittwater Road.</p> <p>The site is irregular in shape with a 15.435m frontage to Collaroy Beach. The site has a surveyed area of 103m².</p> <p>The site is located within the RE1 Public Recreation zone and accommodates a one (1) storey timber clad pavilion with a canvas roof which is currently operated as a cafe.</p> <p>The site is flat with no dominant slope.</p> <p>The site contains no vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a large public car park to the north servicing Collaroy Beach, a two (2) storey commercial building comprising 'The Collaroy', 'The Beach Club' and a smaller commercial premises to the south, and a mix of commercial premises and shop-top housing up to four (4) storeys in height to the west of the site across Pittwater Road. The site adjoins Collaroy Beach to the east.</p>

Map:



SITE HISTORY

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

7 April 1999

Development Application DA1998/1074 for the construction of a wooden deck with pergola and benchtop/storage facility for a proposed new outdoor cafe was granted consent.

This area was approved to operate as an ancillary dining area to one of the adjacent restaurants located within the then Surf Rock Hotel.

4 May 2001

Modification Application DA1998/1074/1 to development consent DA1998/1074 was granted consent.

The modification application approved the re-configuration of the deck to provide a fire egress on the south-western corner of the deck, the deletion of the approved pergola and structural engineering details for the construction of the deck. The proposed expansion of the storage area was not granted consent.

28 June 2005

An Order was issued in relation to the removal of an unauthorised steel framed and roofed awning constructed over the deck.

26 June 2006

Modification Application DA1998/1074/2 to development consent DA1998/1074 was granted consent.

The modification application sought consent for as-built works to the deck, specifically the pergola roof and the kitchen/food preparation area in the southern portion of the deck. The as-built pergola roof was granted consent, however, a condition was included requiring the as-built kitchen/food preparation area to be removed within 30 days of the date of the modified consent to ensure compliance with the original development consent (ancillary dining area only) and relevant legislative requirements for food safety.

12 January 2015

Order EPA2014/0368 in relation to the removal of the as-built hooded canvas fixed pivot arm awnings attached to the side of the deck structure on the northern elevation and the timber lining and timber trusses installed under the vinyl clad roofing of the deck structure, as well as the as-installed kitchen in the southern portion of the deck, was issued.

This Order was withdrawn on 5 February 2015 following legal representations from the owner, subject to compliance with the relevant food safety standards.

14 September 2017

A Notice of Intention to Issue an Order in relation to necessary rectification works to the structure as a result of storm damage in June 2016 was issued, following an inspection of the premises on 21 July 2017.

The rectification works were certified as having been completed on 20 December 2017, in accordance with the works outlined in the following documents:

- Pelican Pavilion, Collaroy Beach Hotel Rock Protection Maintenance Activities, Review of Environmental Factors, dated 28 August 2017 and prepared by Royal Haskoning DHV; and
- Pelican Pavilion, Collaroy Beach Hotel Rock Protection Maintenance Activities, Construction Management Plan, dated 29 August 2017 and prepared by Royal Haskoning DHV.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for commercial purposes for an extended period of time. The proposed development retains the commercial use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah 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	<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

Section 4.15 Matters for Consideration'	Comments
Regulation 2000 (EP&A Regulation 2000)	<p>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 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</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 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 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 Warringah 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	No submissions have been received.

Section 4.15 Matters for Consideration'	Comments
submissions made in accordance with the EPA Act or EPA Regs	
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 25/05/2020 to 08/06/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objections subject to conditions to ensure compliance with the Building Code of Australia.
Environmental Health (Food Premises, Skin Pen.)	No change is proposed to the food preparation area of the business. However, a condition will be applied to cover if changes affect food preparation area.
Landscape Officer	The plans indicate that no significant landscape features are affected by the proposed works. No objections are raised to approval subject to conditions as recommended.
NECC (Coast and Catchments)	<p>This site was impacted by the June 2016 East Coast Low. Large rocks that had been under the structure were removed by the large swell and tides caused by the East Coast Low. This required rectification works including removal of debris and replacement of the large rocks back under the structure. Once these works were completed a suitably qualified coastal engineer certified that structure could fully reoccupied/reused, subject to the following provision:</p> <p><i>In the event of an ocean storm that exposes the rock protection, structural and coastal engineering inspections of the building structure and rock protection are to be undertaken and a report submitted to the Lessor and Lessee advising whether the building structure is suitable for ongoing use, either fully or with restrictions</i></p> <p>Based on this information and advice, the proposal is supported with the condition stipulated in the certification.</p>

Internal Referral Body	Comments														
	The proposal has also been assessed to comply with the NSW State Environmental Planning Policy - Coastal Management.														
Parks, reserves, beaches, foreshore	The Plans indicate internal works to an existing building on public land. As such, construction works and access will occur over council land. Specific conditions have been included to address potential impacts on Council assets and public safety. No objections are raised to approval subject to conditions as recommended.														
Property Management and Commercial	The proposal is for alterations to the Deck Pavilion, which is adjacent to 'The Collaroy' and located at 1064 Pittwater Road, Collaroy. The site is subject to a lease between Northern Beaches Council and the proprietors of 'The Collaroy'. Property has no objections to the proposal as submitted.														
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS														
	Discussion of reason for referral														
	The proposal has been referred to Heritage as the subject property adjoins a heritage item														
	I20 - Former Arlington Amusement Hall - 1056-1066 Pittwater Road, Collaroy														
	Details of heritage items affected														
	Details of the item as contained within the Warringah heritage inventory are as follows:														
	<u>Statement of significance:</u> A rare surviving example of an early 20th century commercial terrace in the area. Displays good integrity & is typically representative of federation commercial terraces. Historically provides evidence of important role of recreational/commercial devt.														
	<u>Physical description:</u> Terrace of 5 shops of face brickwork with rendered details. Entrance to former Amusement Hall assymetrically located with a semi-circular pediment & the name. Some stone features in detailing. Recessed porches on 1st floor, majority infilled & altered. No evidence of original shops on ground floor.														
	Other relevant heritage listings														
	<table><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td></td><td></td></tr><tr><td>RAIA Register of 20th</td><td></td><td></td></tr></table>	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register			RAIA Register of 20th	
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Internal Referral Body	Comments		
	Century Buildings of Significance		
	Other	N/A	
	Consideration of Application		
	The proposal seeks consent for refurbishments to the existing cafe pavilion structure at 1068 Pittwater Road. Changes include new glazing, flooring, cladding and doors to the existing structure. The heritage item is located immediately to the south of the site. The proposal is considered to not impact upon the heritage item or its significance.		
	Therefore Heritage raises no objections and requires no conditions.		
	Consider against the provisions of CL5.10 of WLEP.		
	Is a Conservation Management Plan (CMP) Required? No		
	Has a CMP been provided? No		
	Is a Heritage Impact Statement required? No		
	Has a Heritage Impact Statement been provided? No		
Further Comments			
COMPLETED BY: Brendan Gavin, Principal Planner			
DATE: 10 August 2020			
Waste Officer (Council Land)	No residential component. Waste referral not required.		

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 19 - Bushland in Urban Areas

For land adjoining land zoned or reserved for public open space, Council shall not grant development consent unless it has taken into account:

- (c) the need to retain any bushland on the land,*
- (d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- (e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

Comment:

The adjoining land zoned for public open space forms part of Collaroy Beach Reserve, however, the portion of the land directly adjoining the subject site does not contain any bushland. Nevertheless, Council's Park Assets Officer has reviewed the proposed development and has recommended conditions to ensure that the proposed development is appropriately managed to protect the land zoned for public open space in relation to the erosion of soils, the siltation of streams and waterways, and the spread of weeds and exotic plants.

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

SEPP (Coastal Management) 2018

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

13 Development on land within the coastal environment area

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

- disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposed development is unlikely to cause an adverse impact to the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental values and natural coastal processes, the water quality of the marine estate, or to marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. The proposed development is also unlikely to cause an adverse impact to existing public open space and safe access to and along the beach for members of the public, including persons with a disability. The subject site has not been identified to contain any Aboriginal cultural heritage, practices or places, however, a condition will be included to ensure that if any Aboriginal engravings or relics are unearthed as part of the proposed development, works will cease immediately and the relevant authorities will be notified. Furthermore, the proposed development is unlikely to cause an adverse impact on the use of the surf zone.

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

Comment:

As detailed above, the proposed development has been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause 1.

14 Development on land within the coastal use area

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

Comment:

The proposed development maintains the existing, safe access to and along the beach and will not cause any overshadowing, wind funnelling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands, will be preserved. As mentioned above, the subject site has not been identified to contain any Aboriginal cultural heritage, practices or places, however, a condition will be included to ensure that if any Aboriginal engravings or relics are unearthed as part of the proposed development, works will cease immediately and the relevant authorities will be notified. The proposed development will also not have an adverse impact on the cultural and built environmental heritage. As such, it is considered that the proposed development has been designed, sited and will be managed to avoid an adverse impact on the aforementioned cultural and environmental aspects. Furthermore, the proposed development is consistent with the surrounding coastal and built environment, which consists primarily of commercial premises, and is of an appropriate bulk, scale and size.

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

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

Comment:

The subject site, as well as the majority of land on the eastern side of Pittwater Road adjoining Collaroy Beach, is located within the 'Area of Wave Impact and Slope Adjustment' on the Coastline Hazard Map of the Warringah Local Environmental Plan 2011. Council's Senior Environment Officer - Coast has reviewed the proposed development and is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on the land or other land, subject to the inclusion of a condition requiring the structure to be inspected in the event of an ocean storm that exposes the rock protection to ensure that the structure is suitable for ongoing use.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Warringah Local Environmental Plan 2011

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

There are no applicable principal development standards under Part 4 of the Warringah Local Environmental Plan 2011 to consider as part of this assessment.

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes
6.5 Coastline hazards	Yes

Detailed Assessment

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and*
- (b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and*
- (c) the development will not impact on or affect the existing subsurface flow conditions.*

Comment:

The subject site is located within 'Area A' on the Landslip Risk Map associated with this clause. The proposed development involves minor works to the existing structure on the site, which are wholly located within the existing footprint, therefore, a Preliminary Assessment of Site Conditions was not required to be submitted. Council's Senior Environment Officer - Coast has reviewed the application and is satisfied in relation to the coastal risks, subject to a condition. Council is satisfied that the development will not cause significant detrimental impacts due to stormwater discharge or result in adverse impacts or effects to the existing subsurface flow conditions.

6.5 Coastline hazards

The subject site is located within the 'Area of Wave Impact and Slope Adjustment' on the Coastline Hazard Map associated with this clause. Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) will not significantly adversely affect coastal hazards, and*

Comment:

The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not significantly adversely affect coastal hazards.

- (b) will not result in significant detrimental increases in coastal risks to other development or properties, and*

Comment:

The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not result in significant detrimental increases in coastal risks to other development or properties.

- (c) will not significantly alter coastal hazards to the detriment of the environment, and*

Comment:

The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not significantly alter coastal hazards to the detriment of the environment.

(d) incorporates appropriate measures to manage risk to life from coastal risks, and

Comment:

The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development incorporates appropriate measures to manage risk to life from coastal risks.

(e) avoids or minimises exposure to coastal hazards, and

Comment:

The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development avoids or minimises exposure to coastal hazards.

(f) makes provision for relocation, modification or removal of the development to adapt to coastal hazards and NSW sea level rise planning benchmarks.

Comment:

The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development makes provision for relocation, modification or removal of the development to adapt to coastal hazards and NSW sea level rise planning benchmarks.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the foundations of the development have been designed to be constructed having regard to coastal risk.

Comment:

The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the foundations of the development have been designed to be constructed having regard to coastal risk.

Warringah Development Control Plan

Built Form Controls

There are no applicable built form controls under the Warringah Development Control Plan 2011 to consider as part of this assessment. It is noted that the proposed development does not change the location of existing structure in terms of its setback from the lot boundaries or its overall height.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C3 Parking Facilities	No	Yes
C5 Erosion and Sedimentation	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E9 Coastline Hazard	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

C3 Parking Facilities

There are currently no parking spaces provided for the exclusive use of the patrons or staff of the cafe, however, the site adjoins a large public car park which serves Collaroy Beach and the adjoining commercial premises, including the cafe, 'The Collaroy' and 'The Beach Club'.

In accordance with the requirements of Appendix 1 of the Warringah Development Control Plan 2011, whichever is the greater of 15 parking spaces per 100m² of gross floor area, or 1 space per 3 seats, is to be provided for a restaurant (or a cafe in this instance). As the number of seats within the cafe is not restricted as part of the development consent (DA1998/1074) under which the cafe operates, the requirement is taken to be 15 parking spaces based on a gross floor area of 88.4m². Appendix 1 states that the parking rate may be reduced if there is suitable available parking in the vicinity during the operating hours of the proposed development, however, the operating hours of the cafe are also not restricted as part of the development consent.

As the subject site is a small land parcel which is largely occupied by the cafe structure, parking cannot be reasonably provided within the boundaries of the subject site. It is therefore considered that the continued use of the adjoining public car park by patrons and staff is reasonable given the limited size of the cafe, its operation in conjunction with 'The Collaroy', and its location and site constraints.

D3 Noise

A recommended condition has been included to ensure that deliveries and waste collection associated with the cafe do not take place between the hours of 10:00pm and 6:00am on any day to ensure that residential amenity is maintained.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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.

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;
- Warringah Local Environment Plan;
- Warringah 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

A detailed assessment has been undertaken in relation to the coastal hazards, car parking and noise associated with the proposed development.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/0415 for Alterations and additions to an existing cafe on land at Lot 51 DP 1050178, 1068 Pittwater Road, COLLAROY, 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
DA D400, Proposed Site Plan, Rev A	2 July 2018	Akin Creative
DA E400, Elevations - Proposed Works, Rev A	2 July 2018	Akin Creative

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Building Code of Australia Compliance Statement (Ref: 183695)	16 April 2019	City Plan

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	7 June 2018	Angela Muller

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.

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
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(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Prescribed Conditions (Crown Land Only)**

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

Reason: Legislative Requirement.

4. **General Requirements (Crown Land Only)**

(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) 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.

(c) 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.

(d) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(e) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(f) 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.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(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) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.northernbeaches.nsw.gov.au

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

5. **Compliance with Standards (Crown Land Only)**

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

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

6. **Sewer / Water Quickcheck (Crown Land Only)**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- o Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- o Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing

- and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

8. Construction Management Plan - Council Assets and Public Safety

a) Prior to commencement of works on site, appropriate environmental site management measures must be in place and incorporate the following throughout demolition and construction:

- i) access to and from the site during construction and demolition,
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting,
- iii) methods of loading and unloading machinery and building materials,
- iv) location of storage materials, excavation and waste materials,
- v) methods to prevent material being tracked off the site onto surrounding roadways,
- vi) erosion, sediment and dust control measures, and
- vii) protection of existing trees and vegetation including the tree protection zone, in accordance with AS 4970-2009 Protection of Trees on Development Sites.

b) During works, the site management measures set out in the above must remain in place and be maintained until the completion of works.

c) Safe pedestrian access free of trip hazards must be maintained at all times on or adjacent to any public access routes connected to Council's Road Reserve or Council owned/managed Land.

Reason: Public safety, protection of Council assets.

9. Tree Protection

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

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 50mm 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 WDCP2011 Clause E1 Private Property Tree Management and 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.

10. Protection of Beach

No building materials, including waste and off-cuts, or any other material is to enter onto the

sand of Collaroy Beach.

A plan identifying appropriate techniques to manage construction processes in order to comply with this requirement is to be prepared and submitted to the Principal Certifying Authority prior to the commencement of works.

These techniques are to then be maintained and monitored at all times, and shall remain in place until all development activities have been completed.

Reason: To ensure that the beach is protected.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

12. **Public Tree Protection**

Unless identified by the development consent, no tree roots over 25mm diameter are to be damaged or cut and all structures are to be bridged over such roots. Should any problems arise with regard to the existing or proposed trees on public land during the construction or bond period, the applicant is to immediately Contact Council's Public Trees section and resolve the matter to Council's satisfaction.

Reason: Tree protection.

13. **Protection of Council's Public Assets**

a) The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.

b) 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.

c) 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.

d) 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.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO COMPLETION

14. Kitchen Design, Construction and Fitout of Food Premises

If applicable, any construction/fit out changes to the food preparation/storage area must comply 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'. Prior to any Occupation Certificate (OC) being issued certification is to be provided by a suitably qualified person that the fit-out complies with the above requirement.

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

15. 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 Fire and Rescue NSW.

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 Fire and Rescue NSW, 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.

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

16. Post Storm Inspection

In the event of an ocean storm that exposes the rock protection, structural and coastal engineering inspections of the building structure and rock protection are to be undertaken and a report submitted to the Lessor and Lessee advising whether the building structure is suitable for ongoing use, either fully or with restrictions

Reason: To ensure the structure is suitable for use if impacted by a coastal storm.

17. Deliveries and Waste Collection

Delivery of goods and collection of waste and recyclable material generated by this premises must not occur between the hours of 10:00pm and 6:00am on any day.

Reason: To ensure the acoustic amenity of surrounding properties.

18. Works to cease if item found

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.