



northern
beaches
council

Delegated Authority Report

2018/081496

DA #	DA2017/1277
Site Address	13 The Corso, Manly (Lot 1, DP 88842, Shop C)
Proposal	Change of use to a food & drink premises (Café) & alterations to the existing building.
Officer	Max Duncan

SUMMARY:

Application Lodged:

19 December 2017

Applicant:

BBF Town Planners

Owner:

Mirose Investments

Estimated Cost:

\$70,000.00

Zoning:

MLEP, 2013 – B2 Local Centre

Heritage:

Item 106: Group of Commercial building

NSW LEC:

Not applicable

Notification:

22 December 2017- 29 January 2018

Submissions received:

Nil (0)

Site Inspected:

16 January 2018

DCP Variations proposed:

Awning Signage, Car parking.

Recommendation:

Approval

Subject Property and surrounding area



The subject property is commonly known as 13 The Corso, Manly and legally known as Lot 1 in DP 8842. The site is located on the northern side of The Corso. The property is rectangular in shape and has a frontage of 4.3m to Market Lane, an average depth of 17.52m and an overall site area of 206.8m². The property currently contains a two storey dwelling with vehicular access via market lane.

The area is characterised by commercial development typically retail and food and drink premises.

Property Burdens and Constraints

There are no burdens or constraints that would preclude the proposed development.

Site History/Background

Previous development on site, includes:

DA388/2003- Alterations and additions to the existing dwelling. (REFUSAL)

DA251/2003- Change of use to pizza Shop. (APPROVED)

Description of proposed development

The proposal includes change of use to a food & drink premises & alterations to the existing building including:

- Change of use to food and drink premises (café).
- Hours of operation (7am-8:30pm Monday to Sunday).
- Signage.
- Internal fit-out works.

Internal Referrals

Building Comments

Council's Building Surveyor offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Heritage Comments

Council's Heritage Officer has commented on the proposal as follows:

"Sign to Market Lane to be deleted from the proposal"

Council's Heritage Officer offered no further objection to the proposal.

Waste Comments

Council's Waste Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Environmental Health

Council's Environmental Health Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Planning Comments

Environmental Planning & Assessment Act 1979 – Section 79(C)(1)

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) *the provisions of:*
- (i) *any environmental planning instrument, and*

State Environmental Planning Policy No. 64 (Advertising and Signage)

Schedule 1 Assessment Criteria

An assessment of the proposed development in response to the criteria at Schedule 1 of SEPP 64 is as follows:

Criteria	Response
Character of the Area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The signage is inconsistent with other approved commercial premises within the Manly Town Centre in terms of contributing to The Corso and overall Manly Town Centre area. Signage along the Corso is required to be separated by at least 3.0m as required under the Manly DCP. The proposed signage, which relates to an existing under awning sign on The Corso frontage and an existing under awning sign on Market Lane are within 3.0m of other signage. It's also noted that the premises does not front The Corso so the signage on The Corso is not directly related to the premises. Further no approval can be found for the 2 x existing sign structures. Accordingly the proposed signage is not supported.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Yes
Special areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No. The subject site is a part of Heritage Item (No. 106) Group of Commercial building. The proposed signage is inconsistent with the environmental heritage of Manly and the item to which it is located within.
Views and vistas	
Does the proposal obscure or compromise important views?	No
Does the proposal dominate the skyline and reduce the quality of vistas?	No
Does the proposal respect the viewing rights of other advertisers?	Yes
Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	No – See Character of area discussion
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	No - See Character of area discussion
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	No - See Character of area discussion
Does the proposal screen unsightliness?	Not applicable
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No

Does the proposal require ongoing vegetation management?	No
Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Proposal is non-compliant with the numerical controls under the DCP for number and size of the proposed under awning sign and is therefore not supported.
Does the proposal respect important features of the site or building, or both?	No - See Character of area discussion
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	No - See Character of area discussion
Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Not applicable.
Illumination	
Would illumination result in unacceptable glare?	Not applicable.
Would illumination affect safety for pedestrians, vehicles or aircraft?	No
Would illumination detract from the amenity of any residence or other form of accommodation?	No
Can the intensity of the illumination be adjusted, if necessary?	No
Is the illumination subject to a curfew?	No
Safety	
Would the proposal reduce the safety for any public road?	No
Would the proposal reduce the safety for pedestrians or bicyclists?	No
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No

(c) *satisfies any other relevant requirements of this Policy.*

There are no other relevant requirements to consider as part of this Policy.

- (2) If the Minister for Planning is the consent authority or clause 18 or 24 applies to the case, the consent authority must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:
- (a) *is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
 - (b) *has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and in the Guidelines and the consent authority is satisfied that the proposal is acceptable in terms of:*
 - (i) *design, and*
 - (ii) *road safety, and*

- (iii) *the public benefits to be provided in connection with the display of the advertisement, and*
- (c) *satisfies any other relevant requirements of this Policy.*

Not applicable.

- (3) In addition, if clause 18 or 24 applies to the case, the consent authority must not grant consent unless arrangements that are consistent with the Guidelines have been entered into for the provision of the public benefits to be provided in connection with the display of the advertisement.

Clause 18 and/or 24 do not apply in this instance.

Comment: The signage proposed while existing, has no previous approval. A retrospective assessment of the signage has found the proposal to be inconsistent with this SEPP 64-Advertising and Signage, and therefore not supported.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005:

The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

Manly Local Environmental Plan 2013

The subject site is located in Zone B2 Local Centre under the Manly LEP 2013. The proposed development is considered permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

Zone B2 Local Centre

Objectives of zone

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

The proposed development will provide further variety in the food and drink premises along The Corso.

- *To encourage employment opportunities in accessible locations.*

The proposal for a cafe on The Corso provides employment opportunity in an accessible location.

- *To maximise public transport patronage and encourage walking and cycling.*

Not applicable.

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

Part 4 Principal development standards

There are no relevant Principal Development Standards contained within Part 4 of the Manly LEP 2013 to consider as part of this assessment.

Part 5 Miscellaneous Provisions

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

5.	Miscellaneous Provisions	Applies	Complies	Comments
5.10	Heritage Conservation	Yes	Yes	The works will not have any unreasonable impact on the environmental heritage of Manly or items or areas of heritage significance.

Part 6 Local Provisions

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

6.	Local Provisions	Applies	Complies	Comments
6.1	Acid Sulphate Soils	Yes	Yes	Class 4 Acid Sulphate Soils. The proposal is consistent with Clause 6.1.
6.9	Foreshore Scenic Protection Area	Yes	Yes	The proposal will not have any detrimental visual impact upon the coastal foreshore. The proposal is compliant with this Clause.
6.11	Active street frontages	Yes	Yes	The proposed development complies with Clause 6.11.
6.13	Design Excellence	Yes	Yes	See comments below

Comment:

Design Excellence

The proposed works will enhance the streetscape and quality of the public realm, and is sympathetic to its setting being within Manly townscape, including neighbouring sites and existing or proposed buildings. The proposed signage is consistent with the townscape and uses high standards of architectural design, materials and detailing appropriate to the building type and location. The proposal is compliant with the Clause 6.13 of the manly DCP.

79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no applicable Draft Planning Instrument.

79C(1)(a)(iii) - any development control plan, and

Manly Development Control Plan 2013:

The following is an assessment of the proposal's compliance with the standards of the Development Control Plan. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

Part 3 General Principles of Development

Issues	Consistent with principle	Inconsistent with principle
Townscape	✓ (see comments)	
Heritage – In Vicinity	✓	
Sunlight Access and Overshadowing	✓	
Privacy and Security	✓	

Maintenance of Views	✓	
Sustainability	✓	
Accessibility	✓	
Stormwater management	✓	
Waste Management	✓	
Mechanical Plant Equipment	✓	

Comment:

3.1 Townscape

The proposal is consistent with the relevant objectives relating to townscape in section 3.1 of the Manly DCP. The relevant objectives in the Manly DCP that relate to townscape are as follows:

Objective 1) To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape

There is no change to the existing parking provisions as part of this proposal. The proposed change of use will not increase the demand for off-street parking.

Objective 2) To assist in maintaining the character of the locality.

The proposal maintains an existing commercial use, with no change to the exterior façade. The character of the Corso remains unchanged.

Objective 3) To recognise the importance of pedestrian movements and townscape design in the strengthening and promotion of retail centres.

There is no increased floor space proposed. The works will not unreasonably impact on pedestrian movements.

Objective 4) To minimise negative visual impact, in particular at the arterial road entry points into The Council area and the former Manly Council area, so as to promote townscape qualities

The proposed works will not unreasonably impact on the visual amenity of the existing townscape. The proposed works including new fencing and fit out will not cause an unreasonable visual impact. In regards to signage, the works are consistent with SEPP 64- Advertising and signage.

Part 4 - Development Controls

Site Area: 206.8m ²	Permitted/ Required	Proposed	Complies Yes/No
Car Parking	1 space	0 spaces	As existing. See comments
Signage - Number of signs -Size of signs	1 under awning	2 under awning	As existing.

Comment:

4.2.4 Car parking, Vehicular Access and Loading

Under Schedule 3 of the Manly DCP 2013, parking is to be provided at the following rates for residents and visitors:

- Commercial premise- 1(One space for every 40sqm of gross floor area)
- Food and Drink Premises- 1(One space for every 40sqm of gross floor area of serviced area)

Food and drink premises require 1 car space for every 40sqm of gross floor area of serviced area. In this case the existing parking rates are considered to be reasonable and consistent with the objectives of Clause 4.2.4 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.

The proposed service area of the site is measured to 20m² well under the numerical requirement of 1 parking space for every 40sqm of gross floor area of serviced area. As such, the proposed café would not result in a significant intensification of use and any change to the existing car parking rates is unreasonable.

As the parking requirements are not increased and the intensity of use is not increasing, a change of the existing parking provisions is not required. In regards to loading, the proposed change of use will not require significantly more service by commercial vehicles, and therefore does not require further loading facilities to those already existing.

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

The site remains a commercial use. The proposed food and premises would not unreasonably impact on pedestrian and vehicular movements within the Manly Town Centre.

Given the above it is considered that the relevant Car parking, Vehicular Access and Loading objectives outlined in Clause 4.2.4 have been achieved, and is therefore considered acceptable on merit.

4.2.8.6 Hours of Operation

The proposed hours of operation for the food and drink premises are consistent with Clause 4.2.8.6 of the Manly DCP, subject to conditions. The proposed hours are consistent with other food and drink premises within The Corso and the Manly Town Centre overall. A food and drink premises operating under the proposed hours (7am-8:30pm Monday to Sunday) is not considered to cause unreasonable acoustic impacts to residential development within the vicinity of the subject site, subject to conditions.

Part 5 - Special Character Areas and Sites

Special Character Areas and Sites	Applicable	Not Applicable
Conservation Area	✓	✓
Foreshore Scenic Protection Area	✓	✓
Threatened Species and Critical Habitat	✓	✓
Flood Control Lots	✓	✓
Riparian Land and Watercourses	✓	✓
Road Widening	✓	✓
Gurney Crescent and Clavering Road, Seaforth	✓	✓

Comment:

Conservation Area

Council's Heritage Officer stated that the proposed development is generally acceptable within The Corso heritage item and the Town Centre Conservation Area, subject to the imposition of conditions. The development is consistent with the objectives of Part 5 of the Manly DCP, having no unreasonable impacts on the characteristics of the conservation area, streetscape, or surrounding built and natural environments.

Foreshore Scenic Protection Area

The nature and minimal scale of the proposed external works will have no unreasonable impacts on the Foreshore Scenic Protection Area.

79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
No planning agreement has been entered into in relation to the proposed development.

79C(1)(a) (iv) - the regulations

The relevant prescribed regulations contained within the *Environmental Planning and Assessment Regulations 2000* are addressed through the imposition of suitable conditions.

79C(1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

There is no Coastal Zone Management Plan applicable for the Manly area.

79C(1) (b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed development as modified by the conditions of consent is not considered to have any unreasonable impact on the natural and built environments or any unreasonable social and economic impacts in the locality.

79C(1) (c) - the suitability of the site for the development,

The proposed development as modified by the conditions of consent is considered to be suitable for the site.

79C(1) (d) - any submissions made in accordance with this Act or the regulations

The application was notified to nearby and adjoining property owners in accordance with Section 2.3 of Council's Development Control Plan 2013 with no (0) submissions received.

79C(1) (e) - the public interest.

The proposed development as modified by the conditions of consent is not considered to have any unreasonable impact on the public interest.

S94 Contribution towards provision or improvement of amenities or services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) *the dedication of land free of cost, or*
 - (b) *the payment of a monetary contribution,*
- or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

In this case, the proposed development will not require the provision of or increase the demand for public amenities and public services in the area as no additional floor space is proposed.

CONCLUSION:

The application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979, Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 and is considered to be satisfactory for **approval**, subject to conditions.

RECOMMENDATION

That Development Application No. 2017/1277 for change of use to a food & drink premises & alterations to the existing building at 13 The Corso, Manly be **Approved** subject to the following conditions:-

GENERAL CONDITIONS

1. The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 2017/1227:

Plan No. / Title	Issue/ Revision & Date	Prepared By
1/ Floor Plan	Revision 3A/ 4 December 2017	Studio Liam Mugavin
2/ Elevations	Revision 3A/ 23 November 2017	Studio Liam Mugavin
4/ Site/Tenancy Plan	Revision 3A/ 4 December 2017	Studio Liam Mugavin

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

2. 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)

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

ANS01

The proposed under awning signs fronting Market Lane and the Corso, as nominated on plan "Market Lane Signage" and "The Corso Signage" are to be deleted from the plans. Details are to be provided, prior to the issue of a construction certificate. Any proposed signage shall be the subject of a separate application.

Reason: To ensure consistency with the heritage and signage provisions under the Manly DCP.

ANS02

The approved plans must be submitted to the Sydney Water *Tap in*™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Sydney Water's *Tap in*™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Reason: Due to the proximity of the proposed development to Sydney Water assets

ANS03

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water.

Reason: To ensure compliance with the Sydney Water Act 1994

1 (2BS01)

Detailed plans and specifications must be provided prior to the issue of the Construction Certificate complying with the requirements of Australian Standard 4764-2004 (Design, Construction and Fit-out of a Food Premises) and Food Safety Standard 3.2.3 (Food Premises and Equipment).

Reason: To ensure compliance with legislation and to protect public health and safety.

2 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

3 (2FR01)

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

Reason: Compliance with the Environmental Planning and Assessment Act 1979.

4 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

5 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

6 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

7 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

8 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

9 (4BS01)

The construction and fit-out of the food premises must comply with the following:-

- Food Act 2003,
- Food Regulations 2004,
- Australian Standard AS 4674-2004: Construction and fit out of food premises,
- Australia and New Zealand Food Standards Code 3.2.3: Food Premises and Equipment.

Reason: To ensure compliance with legislation and to protect public health and safety.

10 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.

- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

11 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

12 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

13 (5BS02)

Prior to the issue of the Occupation Certificate, the proprietor of the food business must notify their business operations to council. If the food business is licensed business (such as a butcher shop, dairy producer, or seafood processor) a license application with the NSW Food Authority must be lodged.

Reason: To ensure compliance with legislation and the Australia and New Zealand Food Standards Code.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

ANS04

The hours of operation are as follows:

- Monday to Sunday 7am-8:30pm

Reason: To uphold the amenity to surrounding properties.

ANS05

No cooking of food requiring the use of a stove, oven, hot plate, grill, fryers or the like is permitted on the premises.

Reason: The application has provided no provision for mechanical ventilation or grease trap.

ANS06

That the proprietor shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract and invoices are to be made available for inspection at any time.

Reason: To protect the local amenity of the neighbourhood.

ANS07

Outdoor seating is not approved under this application and is subject to a separate outdoor dining application.

Reason: To uphold the amenity to surrounding properties.

14 (6BS02)

The ongoing operation and fit out of the premises must be maintained in accordance with the following requirements:

- Food Act 2003
- Food Regulations 2004
- Australian Standard AS4674-2004: Construction and fit out of food premises
- Australia and New Zealand Food Standards Code 3.2.3: Food Premises and Equipment
- Australia and New Zealand Food Standards Code 3.2.2: Food Safety Practices and General Requirements

Reason: To ensure compliance with legislation and to protect public health and safety.

15 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

16 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

17 (6WM02)

Deliveries and waste collection must only occur during the following hours:

- Weekdays – 7:00am – 8:00pm
- Weekends and Public Holidays – 8:00am – 8:00pm

Reason: To minimise disruption to neighbouring properties.

18 (6WM03)

Waste bins used for commercial premises are to be left on public footpaths for the minimum time necessary for waste collection and then promptly removed. Lids should be closed to prevent littering.

Reason: To ensure waste and bins are promptly removed from public places following collection; to limit obstruction of footpaths or roads; and to minimise public amenity impacts.

19 (6WM04)

All non-recyclable waste from commercial premises must be presented for collection in a lidded receptacle. Waste receptacles are not to be stored in public spaces such as footpaths.

Reason: Public amenity and litter minimisation.

20 (6WM05)

No waste generated on site from any commercial operation is to be placed in public place bins. Commercial operators must maintain their commercial waste bins in an organised, clean and sanitary condition, preventing potential for litter from overflowing bins.

Reason: To communicate policy regarding illegal trade waste dumping in public bins; and maintenance of trade waste bins.

21 (6WM10)

The operation of the premises must be conducted in a manner that does not pollute waters as defined by the Protection of the Environment Operations Act, 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.