

2 September 2021



Giovanni Cirillo
L24, Three International Towers, 300 Barangaroo Avenue
SYDNEY NSW 2000

Dear Sir/Madam

Application Number: Mod2021/0314
Address: Lot 1 DP 1170245 , 0 Wharves And Jetties, MANLY NSW 2095
Proposed Development: Modification of Development Consent DA2020/0962 granted for alterations and additions to Manly Wharf in association with Hugos restaurant

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

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

Please read your Notice of Determination carefully and the assessment report in the first instance.

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

Regards,



Rodney Piggott
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	Mod2021/0314
Determination Type:	Modification of Development Consent

APPLICATION DETAILS

Applicant:	Giovanni Cirillo
Land to be developed (Address):	Lot 1 DP 1170245 , 0 Wharves And Jetties MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2020/0962 granted for alterations and additions to Manly Wharf in association with Hugos restaurant

DETERMINATION - APPROVED

Made on (Date)	01/09/2021
-----------------------	------------

The request to modify the above-mentioned Development Consent has been approved as follows:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance in accordance with the plans and documents listed in Condition 1, except as amended by any other condition of consent and the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA 100, Floor Plan - Proposed, issue P13	31 March 2021	Squillace
DA 201, Proposed West Elevation, issue C	31 March 2021	Squillace
DA 301, Proposed South Elevation / Section AA, issue C	31 March 2021	Squillace

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary (Stage 1) Site Investigation, reference E33925rpt	6 April 2021	JK Environments
Biodiversity Assessment, reference 0148219	27 May 2021	Environmental Resources Management Australia Pty Ltd
Plan of Management	16 April 2021	Planning Lab

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

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

B. Modify Condition 6 'Compliance with requirements of Heritage NSW' to read as follows:

Heritage Consultant

- a) A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.

Site Protection

- b) Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

Photographic Archival Recording

- c) A photographic archival recording of the areas proposed to be modified must be prepared prior to the commencement of works and at the completion of works. This recording must be in accordance with the Heritage NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Heritage NSW, Department of Premier and Cabinet.

Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

Unexpected Historical Archaeological Relics

- d) The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified.
Additional assessment and approval may be required prior to works continuing in the affected area (s) based on the nature of the discovery.

Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.

Compliance

- e) If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

Section 60 Application

- f) An application under section 60 of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

C. Modify Condition 9 'Amended to the Approved Plans' to read as follows:

The following amendments are to be made to the Approved Modified Plans:

- a) Deleted.
- b) Deleted.
- c) Deleted.
- d) Deleted.
- e) The two 'existing planter boxes' to the north of the extended western deck are to be removed.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: Consistency with requirements of Heritage NSW.

D. Modify Condition 10 'Construction Environment Management Plan' to read as follows:

A Construction Environmental Management Plan (CEMP) must be prepared with respect to the approved development. The CEMP is to be prepared by a suitably qualified person and must address:

- a) all measures for the protection of native flora and fauna during construction,
- b) the requirements and general terms of approval of DPI Fisheries,
- c) a risk assessment of all environmental aspects and impacts to the site and surrounding properties or waterbodies associated with:
 - i. hazardous substances
 - ii. water
 - iii. air
 - iv. noise
 - v. vibration
 - vi. waste and litter
 - vii. environmental protection objectives and control strategies
 - viii. environmental conditions using measurable indicators and standards
 - ix. emergency response plan
 - x. environmental monitoring and reporting plan
- d) Any other matters specifically highlighted in conditions of this consent.
- e) Use of construction methods that minimise disturbance of the sediments (e.g. driven piles).
- f) Use of a floating boom with a silt curtain around the work area;
- g) Mooring to the existing wharf during construction and eliminating (where possible) the use of anchors that disturb the seabed;
- h) Development of procedures for handling waste, including construction waste any residual sediment that may come to the surface on construction equipment or during demolition/removal of existing piles; and
- i) Completion of works during favourable weather conditions for tide, wind and waves.
- j) The project ecologist is to provide fortnightly reports during the course of construction to Council and the applicant certifying that the CEMP is being complied with or, to the extent it may not be, prescribing rectification measures and the applicant must comply with any such measures expeditiously.

An induction plan for site personnel must be prepared that addresses the CEMP.

The CEMP and site induction plan must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure the appropriate operation and management of the site and to protect native vegetation, wildlife, habitats and receiving waterways.

E. Modify Condition 28 'Plan of Management' to read as follows:

The approved use of the outdoor areas associated with Hugos Restaurant is to be in accordance with the terms of the Plan of Management prepared by Planning Lab dated 16 April 2021 as amended as follows:

- a) A maximum of 80 patrons are allowed within the western outdoor dining area at any given time.
- b) A maximum of 36 patrons are allowed within the southern outdoor dining area at any given time.
- c) All patrons within the western outdoor dining area and the southern outdoor dining area are to be seated.
- d) No amplified music or live entertainment is permitted at either the western or southern outdoor dining area.
- e) The outdoor areas are not to be used between the hours of 12am midnight to 11am.
- f) Management is to ensure that patrons departing the premises do so in an orderly manner to minimise noise impacts (especially after 10pm)
- g) Garbage and bottle disposal should be undertaken prior to 10pm and not before 7am.
- h) A register of any complaints and any actions made in response to such complaints is to be maintained on site and produced upon request from Council.
- i) Tables must be cleared in a timely manner so items are not blown into the waterway.
- j) Disposable items such as plastic or polystyrene cups, containers and straws are not to be used in outdoor dining areas.
- k) With the exception of candles (including LED battery candles), no external lighting is permitted.
- l) Hours of operation for the outdoor dining areas are limited to 11:00am to 11:30pm on all days, with all restaurant services to cease and all customers to vacate within 30 minutes.
- m) A 1m wide service area is to be outlined on the ground immediately adjacent to the southern outdoor dining area, with staff servicing the southern outdoor dining area to be generally limited to this area.

The Plan of Management is to be submitted to the Principal Certifying Authority prior to the issuance of the occupation certificate.

Reason: To ensure appropriate management of outdoor areas to minimise impacts upon the surrounding environment.

Important Information

This letter should therefore be read in conjunction with DA2020/0962 dated 9 December 2020.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

Right to Review by the Council

You may request Council to review this determination of the application under Division 8.2 of the Environmental Planning & Assessment Act 1979. Any Division 8.2 Review of Determination application should be submitted to Council within 3 months of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

Right of Appeal

Section 8.10 of the Environmental Planning and Assessment Act confers on an applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land and Environment Court within 6 months of determination.

NOTE: A fee will apply for any request to review the determination.

Signed On behalf of the Consent Authority



Name Rodney Piggott, Manager Development Assessments

Date 01/09/2021