

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

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| Application Number: | Mod2022/0575 |
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| Responsible Officer: | Nick Keeler |
| Land to be developed (Address): | Lot 1 DP 216273, 11 The Corso MANLY NSW 2095 |
| Proposed Development: | Modification of Development Consent DA2019/1535 granted for the use of premises as a bookstore and licensed small bar |
| Zoning: | Manly LEP2013 - Land zoned B2 Local Centre |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Bresact Pty Ltd Estia Pty Ltd |
| Applicant: | Bresact Pty Ltd |

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|----------------------------------|----------------------------------|
| Application Lodged: | 11/11/2022 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Refer to Development Application |
| Notified: | 16/11/2022 to 30/11/2022 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify development consent DA2019/1535 granted for use of premises as a bookstore and licensed small bar.

Specifically, the application seeks to modify conditions numbered 22, 26, 28 and 30.

Condition 22 - Hours of Operation

Amend the approved Hours of Operation to the following:

Bookstore:

Monday – Saturday: 9.00am – 12.00 midnight

Sunday and Public Holidays: 9.00am – 10.00pm

Bar:

Monday – Saturday: 12.00pm – 12.00 midnight

Sunday and Public Holidays: 12.00pm – 10.00pm

Condition 26 - Compliance with the Plan of Management

To be amended to refer to the amended plan of management submitted with this application.

Condition 28 - Minors

Amend the condition to permit the following:

From 6.00pm minors, unless with a responsible adult or guardian, will not be permitted on the premises and such minors on the premises at 5.30pm will be requested to leave by 6.00pm. Prior to 6.00pm minors not in the company of an adult will only be permitted at the front of the premises where books are located. Minors with a responsible adult will be permitted on the premises until 9pm and be requested at 8.30pm to leave by 9pm. The required statutory signage will be erected in a prominent location on the premises. The foregoing is subject to approval by the Independent Liquor and Gaming Authority.

Condition 30 - Security

Delete the condition.

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

There are no assessment issues.

SITE DESCRIPTION

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|------------------------------|---|
| Property Description: | Lot 1 DP 216273 , 11 The Corso MANLY NSW 2095 |
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Detailed Site Description:

The subject property is commonly known as 11 The Corso Manly and legally known as Lot 1 in DP 216273. The site is located on the ground floor of the two (2) storey building fronting the street. At the rear of the site at ground floor is a leased commercial premises fronting Market Lane. At first floor is a leased commercial premises and a residential premises. A second residential unit is located on the second floor at the rear of the building. with commercial offices located above. Adjoining the property is 7-9 The Corso which is adjacent to an arcade providing pedestrian access from The Corso through to Market Lane.

The site is located in the B2 Local Centre zone pursuant to the the Manly Local Environmental Plan 2013. The building is identified as a heritage item (Item I106) as listed in Schedule 5 Environmental Heritage Part 1 "Heritage items of the MLEP 2013. The site is also located within the Manly Town Centre Conservation Area.

The site is located within the Manly Town Centre. The site is surrounded by a variety of development including residential and commercial uses.

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:

Application **DA2019/1535** for Use of premises as a bookstore and licensed small bar was approved on 09/05/2020 by Council staff.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/1535, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

| Section 4.55(1A) - Other Modifications | Comments |
|---|---|
| A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if: | |
| (a) it is satisfied that the proposed modification is of minimal environmental impact, and | <p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reason:</p> <ul style="list-style-type: none"> • no unreasonable additional amenity impact to adjacent properties or the public domain is expected as a result of the proposed modification |
| (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and | <p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2019/1535 for the following reasons:</p> <ul style="list-style-type: none"> • the modification is generally consistent with the approved bookstore and small bar • the modification does not alter the land use of the site • all expected outcomes of the original assessment are maintained under the modification |
| (c) it has notified the application in accordance with: | The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning |

| Section 4.55(1A) - Other Modifications | Comments |
|---|--|
| (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and | and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan. |
| (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be. | See discussion on "Notification & Submissions Received" in this report. |

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of 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 | There are no current draft environmental planning instruments. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Manly Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021) | <p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> |

| Section 4.15 'Matters for Consideration' | Comments |
|---|---|
| | <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62</u> and/or 64 of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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>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> | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| <p>Section 4.15 (1) (c) – the suitability of the site for the development</p> | <p>The site is considered suitable for the proposed development.</p> |
| <p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p> | <p>See discussion on “Notification & Submissions Received” in this report.</p> |
| <p>Section 4.15 (1) (e) – the public interest</p> | <p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p> |

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 16/11/2022 to 30/11/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

| Internal Referral Body | Comments |
|--------------------------------------|---|
| Environmental Health (Industrial) | <p>General Comments</p> <p>Statement of Modification, is repeated here: Ground Floor Shop 11 The Corso Manly NSW 2095 Development Application (DA) DA2019/1535 (as modified by Mod2020/0194 and Mod2020/0613) was approved by Northern Beaches Council on 9 May 2020 for alterations and additions to an existing building including use as a bookstore and licensed small bar. This Section 4.55(1A) is seeking to modify Conditions numbered 22, 26, 28 and 30 of DA2019/1535 in relation to the use. Condition 22 is Hours of Operation. The Applicant seeks an amendment to the Hours of Operation to enable a more flexible use of the premises that is in accordance with and encouraged by the NSW Statement Governments recent changes to liquor licensing laws for small bars that offer diverse services, that includes bookstores. Condition 26 is Compliance with the Plan of Management. The amendment requires that operations must comply with the amended plan of management submitted with this application that incorporates amendments to Conditions 22, 28 and 30 as sought by the Applicant. Condition 28 is Minors. The amendment to this condition is directly related to the variation sought for the Hours of Operation and the recent reforms to liquor licensing laws that now permit minors in small bars. Condition 30 is Security. The Applicant seeks the requirement for a security guard be removed. In view of the alternative and lower risk business model being offered by the Applicant and that it is a new licensee with no compliance history, the Applicant requests that it have the opportunity to operate and assess its risk profile before a security guard is required. This statement includes a description of the site and surrounding area, the proposed modifications, an assessment of the proposed modifications pursuant to Section 4.15 of the Environmental Planning & Assessment Act (EP&A Act) in view of the Statement of Environmental Effects submitted with DA 2019/1535 and consideration of the proposed modification against Section 4.55(1A) of the EP&A Act.</p> <p>Hours and noise The Applicant is seeking the Hours of Operation be amended to the following:</p> |

| Internal Referral Body | Comments |
|--|--|
| | <p>Hours of Operation are to be restricted to:</p> <p>Bookstore:</p> <p>Monday – Saturday: 9.00am – 12.00 midnight</p> <p>Sunday and Public Holidays: 9.00am – 10.00pm</p> <p>Bar:</p> <p>Monday – Saturday: 12.00pm – 12.00 midnight</p> <p>Sunday and Public Holidays: 12.00pm – 10.00pm</p> <p>The first amendment to the Hours of Operation is to permit the bookstore to close at the same time as the bar. The closure of the bookstore prior to closure of the bar is not feasible given both uses operate from the same space within the premises.</p> <p>The second amendment is the bars trading hours be restricted to 12.00pm – 12.00am Monday to Saturday and 12.00pm – 10.00pm on Sunday/Public Holidays with a minors authorisation from 12.00pm – 9.00pm daily (6.00pm – 9.00pm only in the company of a responsible adult).</p> <p>Notes:</p> <p>Residential premises are within the building which is of initial concern.</p> <p>Despite noise levels being predicted not to be excessive there remains a risk of sleep disturbance in regard to any sudden impact noise as opposed to general background sound. Similar proposals have required anti vibration measures especially from kitchen areas .Sleep disturbance is a rising and overlooked public health issue in the community and needs to be considered.</p> <p>Clean up and waste "put out" noise when patrons leave at midnight needs to be considered and the management plan shows waste "put out" prior to 10pm and not earlier than 7am.</p> <p>The current Plan of Management is considered adequate.</p> <p>The front doors are to be closed from 8pm to control any noise spill.</p> <p>Not resubmitted, but we refer to this, is the acoustic report by Koikas Acoustics dated 13 Sept 2019 for the previous DA2019/1535 considered trading to 12 midnight - without nuisance. This was a predictive assessment and we are not aware of any verification during current operation.</p> <p>The seating is restricted to 32 patrons.</p> <p>The Corso is currently a busy entertainment precinct and residents are aware of this.</p> <p>No complaints have been received to date for the current operation.</p> <p>The application notes the potentially affected residential units are tenanted but this should not impact on our assessment.</p> <p>As a book store environment the potential use as a loud party venue is greatly reduced.</p> <p>Environmental Health has reviewed the Noise related implications of the proposal and supports the proposal subject to conditions.</p> |
| Strategic and Place Planning (Heritage Officer) | HERITAGE COMMENTS |
| | Discussion of reason for referral |
| | <p>The proposal has been referred to Heritage as the subject property is part of a group listed heritage item, being Item 1106 - Group of</p> |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>commercial buildings - All numbers, The Corso. The property is also located in the C2 - Town Centre Conservation Area and within the vicinity of heritage items:</p> <p>Item I107 - Commercial building - 36 The Corso, Manly</p> <p>Item I102 - 2 cast iron pedestals (former street lights) - The Corso (central reservation, between The Esplanade and Darley Road), Manly</p> <p>Item I104 - Street trees - The Corso (from Whistler Street to Sydney Road), Manly</p> <p>Details of heritage items affected</p> <p>Item I106 - Group of commercial buildings <u>Statement of significance:</u> The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort. <u>Physical description:</u> The Corso is the NE-SW link between Manly Beach and Manly Cove. It acts as a low scale horizontal corridor which steps down from the harbour to the ocean. It has a cohesive character resulting from generally low scale of development on its principle streets, Construction to the property boundaries, slightly higher and distinctive corner buildings and a good level of pedestrian protection and amenity generated by footpath awnings and through-block arcades has produced strongly defined and comfortable urban spaces.</p> <p>Item I107 - Commercial building <u>Statement of significance:</u> One of the most elaborate facades featured in The Corso, contributes aesthetically and historically to the Corso streetscape. <u>Physical description:</u> 2 storey rendered brick building of late Victorian period with elaborate Italianate rendered decoration above ground floor. Architectural significance in intricacy and detailing of pediment and in general abundance of motif and ornament including garlands, globes, acanthus leaf, palmate and intaglio decoration. 21/7/99 Community Aid Abroad shop. Some glass survives, however has been painted. Original form of shop survives beneath modern building.</p> <p>Item I102 - 2 cast iron pedestals (former street lights) <u>Statement of significance:</u> Important evidence of early lighting fixtures in The Corso. Central reservation of The Corso between The Esplanade and Darley</p> |

| Internal Referral Body | Comments | | | | | | | | | | | | | | | | | | | | | |
|--|--|----------------------------------|--|--|--|----|--|------------------------------|----|--|-----------------------------|----|--|---------------------------------------|----|--|---|----|--|-------|----|--|
| | <p>Road, Manly.</p> <p><u>Physical description:</u> Each pedestal is made of cast iron, square in section and tapering towards the top. A narrow cylindrical stem for a street light has been removed from each and capped. Each pedestal carries the MMC emblem of the Council, with a plate identifying the manufacturer: 'Marrickville Engineering Works Ltd., Makers, Sydney'. Further research is necessary to identify the date and type of illumination (gas or electricity).</p> <p>Item I104 - Street trees <u>Statement of significance:</u> Part of earliest planting on The Corso c.1850's by H.G. Smith. Historic and aesthetic importance to the streetscape.</p> <p><u>Physical description:</u> Centre planting of Ficus Macrophylla (Moreton Bay Fig) Remnant Palm planting (Phoenix Canariensis) of 1928.</p> <p>C2 - Town Centre Heritage Conservation Area The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.</p> <table><tr><th colspan="3">Other relevant heritage listings</th></tr><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>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr><tr><td>Other</td><td>No</td><td></td></tr></table> <p>Consideration of Application This application seeks consent for modifications to the Conditions</p> | Other relevant heritage listings | | | Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | | Australian Heritage Register | No | | NSW State Heritage Register | No | | National Trust of Aust (NSW) Register | No | | RAIA Register of 20th Century Buildings of Significance | No | | Other | No | |
| Other relevant heritage listings | | | | | | | | | | | | | | | | | | | | | | |
| Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | | | | | | | | | | | | | | | | | | | | | |
| Australian Heritage Register | No | | | | | | | | | | | | | | | | | | | | | |
| NSW State Heritage Register | No | | | | | | | | | | | | | | | | | | | | | |
| National Trust of Aust (NSW) Register | No | | | | | | | | | | | | | | | | | | | | | |
| RAIA Register of 20th Century Buildings of Significance | No | | | | | | | | | | | | | | | | | | | | | |
| Other | No | | | | | | | | | | | | | | | | | | | | | |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>numbered 22, 26, 28 and 30 of consent DA2019/1535 in relation to the use. Given the proposal does not involve any physical change to the property, it is considered that it will not have an additional impact upon the heritage item or their significance.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions required.</p> <p>Consider against the provisions of CL5.10 of Manly LEP 2013. Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> |
| | <p>Further Comments</p> |

| External Referral Body | Comments |
|--|--|
| NSW Police - Licensing (Clubs, Hotels, Pubs) | <p>The application was referred to NSW Police Northern Beaches Licensing Unit with comments received on 9 March 2023. The Police referral generally supports the applicant's proposal, except the proposal to delete Condition No. 30 that requires a security guard to be employed at the venue on Friday and Saturday evenings from 8:00pm until close or when the last patron has left the vicinity (whichever occurs last). Police have recommended that security be provided from 7:00pm until close on Friday and Saturday evenings.</p> <p>All recommendations included in the Police referral are to be incorporated into the conditions of consent.</p> |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

Nil

Manly Local Environmental Plan 2013

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

Principal Development Standards

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

Compliance Assessment

| Clause | Compliance with Requirements |
|--------------------------------------|------------------------------|
| 4.3 Height of buildings | Yes |
| 4.4 Floor space ratio | Yes |
| 5.10 Heritage conservation | Yes |
| 6.1 Acid sulfate soils | Yes |
| 6.11 Active street frontages | Yes |
| 6.21 Noise impacts—licensed premises | Yes |

Mainly Development Control Plan

Built Form Controls

| Built Form Controls | Requirement | Approved | Proposed | Complies |
|-------------------------------|---|----------|-----------|-------------|
| Schedule 3 Parking and Access | Retail - 1 space per 40m ² of GFA = 3 spaces (91.1m ² / 40 of GFA = 2.3 - rounded up to 3) | 0 spaces | Unaltered | As approved |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| 3.1 Streetscapes and Townscapes | Yes | Yes |
| 3.1.3 Townscape (Local and Neighbourhood Centres) | Yes | Yes |
| 3.2 Heritage Considerations | Yes | Yes |
| 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise) | Yes | Yes |
| 3.4.2 Privacy and Security | Yes | Yes |
| 3.4.4 Other Nuisance (Odour, Fumes etc.) | Yes | Yes |
| 3.6 Accessibility | Yes | Yes |
| 3.8 Waste Management | Yes | Yes |
| 3.10 Safety and Security | Yes | Yes |
| 4.2 Development in Business Centres (LEP Zones B1 | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| Neighbourhood Centres and B2 Local Centres) | | |
| 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor | Yes | Yes |
| 4.2.5 Manly Town Centre and Surrounds | Yes | Yes |
| 4.2.5.4 Car Parking and Access | Yes | Yes |
| 4.2.5.6 Late Night Venues | Yes | Yes |
| 5 Special Character Areas and Sites | Yes | Yes |
| 5.1.1 General Character | Yes | Yes |
| 5.1.2 The Corso | Yes | Yes |
| 5.4.1 Foreshore Scenic Protection Area | Yes | Yes |

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.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0575 for Modification of Development Consent DA2019/1535 granted for the use of premises as a bookstore and licensed small bar on land at Lot 1 DP 216273,11 The Corso, MANLY, subject to the conditions printed below:

A. Modify Condition No. 22 - Hours of Operation to read as follows:

The hours of operation are to be restricted to:

Bookstore:

Monday – Saturday: 9.00am – 12.00 midnight

Sunday and Public Holidays: 9.00am – 10.00pm

Bar:

Monday – Saturday: 12.00pm – 12.00 midnight

Sunday and Public Holidays: 12.00pm – 10.00pm

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

Reason: To ensure that no liquor is sold, supplied or consumed at the premises until all minors have exited the premises and to ensure that amenity of the surrounding locality is maintained.

B. Modify Condition No. 26 - Compliance with the Plan of Management to read as follows:

Operations must comply with the Plan of Management submitted with the development application DA2019/1535, as amended by the Plan of Management submitted with the modification application Mod2022/0575.

The Plan of Management submitted with the modification application Mod2022/0575 must be updated to include Crime Scene Preservation, including the following:

1. Immediately after the person in charge of the Licensed Premises becomes aware of an incident involving and act of violence causing injury to a person on the premises, the person must;
 - i) Take all practical steps to preserve and keep intact the area where the act of violence

occurred,

- ii) Retain all materials and implements associated with the act of violence in accordance with the Crime Scene Preservation guideline issued by the NSW Police,
- iii) Make direct and personal contact with the Local Area Command or his/her delegate and advise the Commander or delegate of the incident, and
- iv) Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

Reason: Effectively manage operational outcomes to minimise any detrimental impacts on amenity.

C. Modify Condition No. 28 - Minors to read as follows:

Before 10:00pm, minors may only be permitted in the licensed area of the premises during meal service and in the company of a responsible adult, unless a Minors Authorisation is granted by Liquor & Gaming NSW.

The conditions of any Minors Authorisation granted by Liquor & Gaming NSW prevail to extent of any inconsistency with this condition.

Reason: To ensure compliance with liquor licencing requirements.

D. Modify Condition No. 30 - Security to read as follows:

At least one security guard must be employed at the venue on Friday and Saturday evening from 7:00pm until close or when the last patron has left the vicinity (whichever occurs last).

Reason: Public safety.

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

Signed



Nick Keeler, Planner

The application is determined on 15/03/2023, under the delegated authority of:



Rodney Piggott, Manager Development Assessments