

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/1418
<b>Responsible Officer:</b>	Claire Ryan
<b>Land to be developed (Address):</b>	Lot 1 DP 1170245, 0 Wharves And Jetties MANLY NSW 2095
<b>Proposed Development:</b>	Use of Premises as restaurants
<b>Zoning:</b>	
<b>Development Permissible:</b>	
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Roads & Maritime Services
<b>Applicant:</b>	Giovanni Cirillo
<b>Application lodged:</b>	27/08/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	31/08/2018 to 18/09/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 0.00

### 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

<b>Property Description:</b>	Lot 1 DP 1170245 , 0 Wharves And Jetties MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site is legally described as Lots 1, 2 and 3 in Deposited Plan 1170245 and is commonly known as Manly Wharf. The site is located within Manly Cove and is located at the junction of East Esplanade and West Esplanade, Manly.</p> <p>This site has an area of 13,405sqm. The subject site is located in Zone W2 Environmental Protection under SREP (Sydney Harbour Catchment), 2005.</p> <p>The site has multiple pedestrian accesses from the street as well as from the ferry terminal. The site is oriented east west, with the northern and southern boundaries fronting East and West Esplanade and Manly Cove, respectively. The Wharf is surrounded by sheltered marine environment. The surrounding waters and nearby harbour foreshore is known to provide habitat for Little Penguins, and possess other marine ecology including seagrass beds.</p> <p>Opposite the site is Manly Corso. The Corso is a wide open promenade and public open space between Manly Beach and Manly Wharf and provides street furniture, public art and a focal point for the Manly Town Centre. Commercial uses including shops, offices, restaurants, cafes, licensed premises and services and amenities dominate the frontages of The Corso. The scale of development along The Corso is varied between two to four storeys.</p> <p>East and West Esplanades characterised by mixed-use developments consisting of ground floor commercial uses such as shops, offices, restaurants and cafes, with residential above. Some of the building along East Esplanade consist primarily of multi-storey commercial developments. The scale of development along East Esplanade is predominately between three to six storeys. The scale of development along West Esplanade is predominately between three to eight storeys.</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 recent history:

- DA0142/2011 for Construction of a first floor addition to the existing Manly Wharf structure including four (4) restaurant tenancies with plant rooms and changes to the ground floor including two (2) new retail tenancies was refused on 19 April 2012 by the former Manly Independent Assessment Panel. A subsequent appeal was lodged with the NSW Land and Environment Court (LEC) by the Applicant against the refusal of the application. The LEC approved the development by orders issued on 7 November 2013.
- DA0142/2011 Part 2 for Section 96 to modify approved DA0142/2011 was approved on 15 October 2015 by the former Manly Independent Assessment Panel.
- MOD2017/0340 for Modification of Development Consent DA0142/2011 granted for construction of a first floor addition to the existing Manly Wharf structure including restaurant tenancies and changes to the ground floor including new retail tenancies was approved on 18 May 2018 under staff delegation.
- MOD2018/0196 for Modification of Development Consent DA0142/2011 granted for alterations and additions to Manly Wharf was approved on 17 October 2018 by the Northern Beaches Local Planning Panel.
- MOD2018/0525 for Modification of Development Consent DA142/2011 granted for commercial premises is currently under assessment by Council.
- DA2018/1706 for signage is currently under assessment by Council.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent to increase the maximum number of patrons from 50 persons across two restaurants, as follows:

- Tenancy 1 'Sake': increase to 300 patrons; and

- Tenancy 2 'El Camino': increase to 207 patrons.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;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&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&amp;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>
<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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 &amp; 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 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.

## MEDIATION



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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>The proposal is to increase the total number of patrons from the 2 restaurants from 100 to 507 for 2 current Court approved premises. An acoustic report by Acoustic Logic (Ref 20181158.1/2108A/R2/MF ) has a raft of specific recommendations to try and avoid nuisance. Many relying on going actions by Management and staff i.e. Muted music sound levels, closing windows and doors monitoring behavior of exiting patrons and signs on exit (of questionable actual effect on drinking patrons).</p> <p>Conditions are proposed.</p> <p>Toilet facilities appear adequate for the increased patronage.</p> <p>The application states no building work so no additional conditions have been proposed for the kitchens and toilets.</p> <p>No reference is made in the SEE to the increase in cooking for some 500 patrons. It is relevant to include a condition to address this potential visual pollution matter.</p> <p>Recommendation: Approval</p>
NECC (Coast and Catchments)	<p>DA2018/1418 has been assessed for coastal impacts. The Sydney Harbour REP has been considered. No physical construction or change of use is proposed for this DA. Increase in seating numbers is proposed for two restaurants. There are no objections to this development application based on coastal impacts.</p>
Strategic and Place Planning (Heritage Officer)	<p>According to SEE: "Manly Wharf is listed as a Heritage Item in SREP 2005, in the Manly Local Environmental Plan 2013, and is listed on the State Heritage Register in the NSW Heritage Act. A Heritage Impact Statement accompanied the original Development Application and subsequent Section 96(2) Modification. These established that the development had no adverse impact on the Heritage Item. This Development Application does not propose any physical works and seeks only to increase the maximum occupancy rates in relation to the approved restaurant tenancies 1 and 2 that were granted under CDC 18000376/ 1."</p> <p>Based on the above, I have no objection to this proposal from heritage perspective.</p> <p>Kind regards</p>

Internal Referral Body	Comments
	Zoran Popovic heritage adviser
Traffic Engineer	<p>Council's Traffic Engineer commented on the proposal as follows:</p> <p><i>The applicant has not supplied a Traffic and Parking Assessment. The impacts of the increase of patronage is unknown and therefore an assessment cannot be undertaken.</i></p> <p><u>Assessing Officer's Comment:</u> Development Consent No. 142/2011 approved the use of the site for the two restaurants subject of this application. Development Consent No. 142/2011 required a parking rate based on gross floor area of serviced area. The Applicant has provided the following comment regarding the parking requirement:</p> <p><i>Under the previous DA 142/2011 and its subsequent S96 modification, parking contributions were calculated from the Manly DCP rates applicable at the time which made the calculation from GFA rather than from occupancy. The current application does not alter the GFA or service area of the building and therefore parking requirements are unchanged.</i></p> <p>As there is no increase to gross floor area of serviced area, no additional parking is required in relation to this application consistent with the Manly DCP requirements. Further the gross floor area of serviced area is equivalent to DA142/2011 and CDC18000376/1.</p>
Waste Officer	<p><u>Assessing Officer's Comment:</u> Council's Waste Officer made no comment on the proposal, other than to recommend conditions relating to waste management. No building works occur as part of this application. As such, some recommended conditions are not required, as they are waste management is covered by the original Development Consent No. 142/2011. The recommended condition relating to hours of waste collection has been amended to be consistent with Development Consent No. 142/2011.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Police - Local Command (CPTED)	<p>NSW Police have commented on the proposal as follows:</p> <p><i>NSW Police have no objections to the building being used for the two restaurants although have concerns in relation to noise and alcohol related antisocial behaviour in the area.</i> <i>I have submitted these concerns to NSW Liquor and Gaming in our response to the Rockpool Liquor Licence Application's, (See email</i></p>

External Referral Body	Comments
	<p><i>sent to NSW L&amp;G below), in particular the history of noise complaints against the Manly Wharf Hotel, which have since being largely mitigated through conditions added onto their Liquor Licence. Police are of the opinion that the conditions on the current DA, along with our recommended conditions, would go towards mitigating these concerns.</i></p> <p><i>Further to this Police request these conditions are mirrored on the Council DA as there is the possibility that NSW Liquor and Gaming will refuse our recommendations.</i></p> <p><i>Conditions sought:</i></p> <ul style="list-style-type: none"> <li><i>- All outdoor areas be cleared of Patrons by 10.00pm 7 days a week.</i></li> <li><i>- No playing of amplified music from outdoor speakers or live entertainment on the outdoor areas, due to the close proximity of residential dwellings.</i></li> <li><i>-A staff member be responsible for ensuring patrons do not disturb the quiet and good order of the neighbourhood, when leaving the premises and patrol the vicinity at closing time to ensure patrons do not congregate and disturb the neighbourhood.</i></li> <li><i>- The licensee must become an active member of the Northern Beaches Local Liquor Accord.</i></li> </ul> <p><u><i>Assessing Officer's Comments:</i></u>  <i>Suitable conditions have been applied in accordance with the comments above.</i></p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### 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 (Infrastructure) 2007**

### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

### Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## **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.

The subject site is located in Zone W2 Environmental Protection under SREP SHC 2005.

The proposed development is not listed as a permissible use within Clause 18 of SREP SHC 2005 and as a result the proposal, and the approved development, relies upon the provisions of Clause 18(2) of SREP SHC 2005. The permissibility of the use was considered through the assessment of the original application. This application does not propose any change to the approved use and therefore the proposal is considered to be permissible pursuant to cl 18(2) of SREP SHC 2005.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), Clause 26 (relating to maintenance, protection and enhancement of views) and Clause 27 (relating to boat storage facilities) 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.

## **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 proposal includes an increase to the maximum occupancy of the approved restaurants, and does not include any physical works. As such, the proposal is not anticipated to cause any unreasonable impact in relation to the above.

- (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 above, the proposal includes an increase to the maximum occupancy of the approved restaurants, and does not include any physical works. As such, impact is reasonably avoided.

### 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 proposal includes an increase to the maximum occupancy of the approved restaurants, and does not include any physical works. As such, the proposal is not anticipated to cause any unreasonable impact in relation to the above, and impact is reasonably avoided.

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

### Manly Local Environmental Plan 2013

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

Compliance Assessment

Clause	Compliance with Requirements
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
6.10 Limited development on foreshore area	Yes
6.21 Noise impacts—licensed premises	Yes

### Manly Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.2 Heritage Considerations	Yes	Yes
4.2.5.6 Late Night Venues	Yes	Yes

### THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Manly Section 94 Development Contributions Plan**

S94 Contributions are not applicable to this application.

## **CONCLUSION**

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

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

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

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

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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2018/1418 for Use of Premises as restaurants on land at Lot 1 DP 1170245, 0 Wharves And Jetties, MANLY, subject to the conditions printed below:

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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
1011 GA Sake + El Camino	24 August 2018	SGB Group

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Sake & El Camino Plan of Management	24 August 2018	Giovanni Cirillo
BCA Capability Statement	22 August 2018	MBC Modern Building Certifiers
Additional Patrons Acoustic Assessment	21 August 2018	Acoustic Logic

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

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

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

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

2. **Noise Management Plan**

A noise management plan shall be prepared (copy to Council for its records) with a copy being kept on site detailing all recommendations as required by the Acoustic Report by Acoustic Logic (Ref 20181158.1/2108A/R2/MF) and other measures deemed necessary.

The plan shall be part of staff induction and be reviewed at least annually. Duties such as closing of windows and doors, ensuring background music sound level compliance and managing exiting patrons shall be allocated to specific responsible staff and documented.

Reason: To ensure that specific noise control measures are carried out in a timely and ongoing manner .

3. **Fire Safety Matters**

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the



issue of the Interim / Final Occupation Certificate.

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

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

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

### **4. Noise Reduction Measures**

All measures as recommended by the Acoustic Report by Acoustic Logic (Ref 20181158.1/2108A/R2/MF ) are to be carried out.

Reason: To ensure no unreasonable acoustic amenity to surrounding residences.

### **5. Smoke and Odour**

Should the significantly increased total patron numbers (100 increasing to 507) and resultant increased cooking load cause any visual smoke from the kitchen mechanical exhaust system then work shall be immediately be carried out to install smoke and or odour control equipment to eliminate the issue

Reason: To avoid visual pollution and eliminate any nuisance.

### **6. Commercial Waste Collection and Deliveries**

Waste and recyclable material, generated by this premises, and all deliveries must not be undertaken between the hours of 10pm and 7am on any day.

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

### **7. Orderly Behaviour**

A staff member is to be responsible for ensuring patrons do not disturb the quiet and good order of the neighbourhood, when leaving the premises and patrol the vicinity at closing time to ensure patrons do not congregate and disturb the neighbourhood.

Reason: To ensure no unreasonable acoustic amenity to surrounding residences.

### **8. Amplified Music / Live Entertainment**

No playing of amplified music from outdoor speakers or live entertainment is to occur on the outdoor areas, due to the close proximity of residential dwellings.

Reason: To ensure no unreasonable acoustic amenity to surrounding residences.

### **9. Outdoor Areas**

All outdoor areas are to be cleared of Patrons by 10.00pm 7 days a week.

Reason: To ensure no unreasonable acoustic amenity to surrounding residences.

10. **Liquor Accord**

The licensee must become an active member of the Northern Beaches Local Liquor Accord.

Reason: NSW Police requirement.

11. **Hours of Operation**

The hours of operation of the two (2) new restaurants, on the first floor, (i.e. hours open for business) must not exceed 8.00am to 11.00pm Monday to Saturday and 8.00am to 10.00pm Sunday without the prior approval of Council.

However, from the commencement of trading (documentation must be submitted to Council nominating the date) of the first restaurant at the first floor level for a trial period of 3 years, the hours of operation are to be from 8.00am to 1.00am the following day Friday and Saturday and 8.00am to Midnight on Sunday.

Any extension to this period must be the subject of a further application to Council, lodged prior to the end of the 3 year trial period. If an application is lodged prior to the end of the 3 year trial period the trial hours can continue until any such application is determined.

Reason: To ensure the amenity of the surrounding locality is maintained and hours of operation are consistent with those in the surrounding locality.

12. **Number of Patrons**

The restaurant tenancies are not to exceed the following patronage, without prior approval:

- Tenancy 1 'Sake': 300 patrons; and
- Tenancy 2 'El Camino': 207 patrons.

Reason: To ensure consistency with the approval.

13. **Parking**

Parking is to be provided in accordance with Development Consent No. 142/2011 and any subsequent modification applications.

Reason: To ensure adequate parking is provided.

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

**Signed**



**Claire Ryan, Principal Planner**

The application is determined on 01/11/2018, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**