

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1011
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<b>Responsible Officer:</b>	Gareth David
<b>Land to be developed (Address):</b>	Lot 36 DP 11594, 271 Powderworks Road INGLESIDE NSW 2101
<b>Proposed Development:</b>	Use of premises as a Home Industry
<b>Zoning:</b>	RU2 Rural Landscape
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Julian Marcel Noble
<b>Applicant:</b>	Alon Musael

<b>Application Lodged:</b>	23/09/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Other
<b>Notified:</b>	30/09/2020 to 14/10/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 18,700.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the use of the ground floor of an existing garage as a home industry. Specifically the development involves:

- Use of a the ground floor of an existing outbuilding as a distillery for the production of Vodka, Gin and Brandy spirits.
- Associated internal fit out;

The operational details as follows:

- Maximum production level of 100 x 700 millilitre bottles per day, equating to 1,400 litres per month;
- Employment of two (2) staff; One of the staff is the resident at the premises adjoining the proposed home industry;
- Operating time from 9:00am to 5:00pm daily;
- Deliveries of products will take place between 9:00am-5:00pm and will be done with small trucks, utes

and vans Delivery frequency would be maximum 2-3 times per week;

- There will not be food preparation on site;

- No cellar door drink tasting, selling or serving of alcohol directly to the public on site is proposed.

## 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

Pittwater Local Environmental Plan 2014 - Zone RU2 Rural Landscape

Pittwater Local Environmental Plan 2014 - 5.4 Controls relating to miscellaneous permissible uses

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater 21 Development Control Plan - B4.13 Freshwater Wetlands (non Endangered Ecological Communities)

Pittwater 21 Development Control Plan - B4.14 Development in the Vicinity of Wetlands

Pittwater 21 Development Control Plan - B4.18 Heathland/Woodland Vegetation

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy

Pittwater 21 Development Control Plan - C1.13 Pollution Control

Pittwater 21 Development Control Plan - C5.19 Food Premises Design Standards

Pittwater 21 Development Control Plan - C5.20 Liquor Licensing Applications

Pittwater 21 Development Control Plan - D6.9 Landscaped Area - Blue Hatched Area

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 36 DP 11594 , 271 Powderworks Road INGLESIDE NSW 2101
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the north-eastern side of Powderworks Road and the south-western side of Mclean Street.</p> <p>The site is irregular in shape with a frontage of 30.48m</p>

along Powderworks Road and a secondary frontage of 31.865m along Mclean Street and a maximum depth of 248.28m. The site has a surveyed area of 7,371.0m<sup>2</sup>.

The site is located within the RU2 Rural Landscape zone and accommodates two storey dwelling and a detached three car garage with a storage loft above. The site is accessed from Mclean Street via an unsealed driveway.

The site rises approximately 16.0m from Mclean Street (North East) to the central portion of the site where the dwelling is located and then falls approximately 15.0m down to Powderworks Road (South West).

The site is heavily vegetated, characterised by heath like vegetation. The site is located within a Heathland/woodland vegetation and is considered a potential habitat for the threatened Eastern Pygmy Possum.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by similar semi rural developments on large lots. The lots directly adjacent to the land are currently vacant.

Map:



#### **SITE HISTORY**

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

- **N0376/00** - Development Application for the construction of a three car brick garage - Approved

2000

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – 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 allow Council to request additional information. Additional information was requested in relation to an Operational Plan of Management and Wastewater Report.</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 matter has been addressed via a condition of consent.</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>



Section 4.15 Matters for Consideration'	Comments
	<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 matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan 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>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS

Clause 4 of the Environmental Planning and Assessment Regulation 2000, (“Regulation”) prescribes that Designated Development is defined as development described in Part 1 of Schedule 3 (of the Regulation).

Part 1, Schedule 3 – 6 Breweries and distilleries, are defined as being designated development having consideration of the following:

### **6 Breweries and distilleries**

*Breweries or distilleries producing alcohol or alcoholic products—*

*(a) that have an intended production capacity of more than 30 tonnes per day or 10,000 tonnes per year, or*

*(b) that are located within 500 metres of a residential zone and are likely, in the opinion of the consent authority, to significantly affect the amenity of the neighbourhood by reason of odour, traffic or waste, or*

*(c) that release effluent or sludge—*

*(i) in or within 100 metres of a natural waterbody or wetland, or*

*(ii) in an area of high watertable, highly permeable soils or acid sulphate, sodic or saline soils.*

It is considered that the proposed home industry would not fall under this categorisation of designated development for the following reasons:

- The intended production of alcohol is less than 30 tonnes per day or 10,000 tonnes per year.
- The proposal has been assessed by Council's Environmental Health and Traffic Officers and is not considered to interfere with the amenity of the neighbourhood by reason of odour, traffic or waste
- The proposal is located within 100 metres. However, the applicant has confirmed and provided an accompanying Onsite Wastewater Management Plan which specifies that any effluent or sludge produced by the distillery will be captured in a 1,000L container, to be collected and disposed of offsite, by a licenced liquid waste disposal contractor. Furthermore the proposal has been reviewed by Council's Water Management and Riparian Lands and Creeks Officer who has raised no objection to the proposal subject to recommended conditions.

## **BUSHFIRE PRONE LAND**

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application (prepared by Building Code & Bushfire Hazard Solutions Pty Limited, dated 16 September 2020). The report stated that the bushfire attack level of the site is "Flame Zone" and the report recommended an alternative solution to comply with Planning for Bush Fire Protection

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS have been included as part of the recommended

conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 30/09/2020 to 14/10/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>Environmental Health has reviewed the statement of environmental effects prepared by MB Town Planning dated 11 August 2020 reference J20084 and the additional information supplied dated 2 October 2020 and is satisfied the proposal is suitable with conditions. Acid sulphate soils and potential noise has been considered.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p><b>General Comments</b></p> <p>Environmental Health has reviewed the Statement of Environmental Effects prepared by MB Town Planning dated 11 August 2020 reference J200084 and additional information received 2 October 2020 determined the approval is permissible with conditions.</p> <p>Further information received by the applicant has clarified that the business will not be conducting drink tastings or serving alcohol to the public on the premises, the business will not be selling packaged spirits to the general public from the property, there will not be any food preparation onsite.</p> <p>Wastewater from the processing of the products will dispose to the onsite wastewater system already approved. Town water supply is used in all sinks and preparation of the food products. Any rainwater use will be suitably conditioned.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Environmental Health (unsewered lands)	<p><b>General Comments</b></p> <p>A review of the Onsite Wastewater Management Plan for The Noble Craft Home Distillery prepared by Whitehead &amp; Associates dated 3 December 2020 has provided sufficient management proposals for wastewater which can be applied to the development.</p>

Internal Referral Body	Comments
	<p>The current effluent management area is operating satisfactorily however recommendations have been provided to ensure water logging does not occur over time.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>The development application is for a proposed home industry and associated works.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan - RU2 Rural Landscape Zone, and the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D6 Ingleside Locality</li> </ul> <p>Under Pittwater LEP, development within RU2 land shall maintain the rural landscape character of the land.</p> <p>The proposal is contained within existing building and utilises the existing established access driveway. No environmental impact is proposed upon the existing Coastal Sandstone Heath vegetation.</p> <p>Planning for Bush Fire Protection -2019 (PBP) is applicable to development located on land determined as being 'bushfire prone' in accordance with the local Bushfire Prone Land Map. Bushfire prone land are defined as those areas. Northern Beaches Council's Bushfire Prone Land Map identifies the subject property as containing Category 1 Vegetation and its associated 100 metre buffer zone and therefore the application of PBP must apply in this instance.</p> <p>The following recommendations of the Bushfire Assessment Report are provided as the minimum necessary for compliance with the pre-release of Planning for Bush Fire Protection 2019. Additional recommendations are provided to supplement these minimum requirements where considered necessary, within the Asset Protection Zone, including:</p> <ol style="list-style-type: none"> <li>1. All grounds within the subject site not built upon from the subject building to the north-western and south-eastern property boundaries and for a minimum distance of 21 metres to the southwest and 31 metres to the northeast shall continue to be maintained be maintained in accordance with an Inner Protection Area as detailed in Appendix 4 of Planning for Bush Fire Protection 2019 and the NSW Rural Fire Service publication 'Standards for Asset Protection Zones'.</li> <li>2. Any new landscaping must comply with Section 3.7 'Landscaping' and Appendix 4 of Planning for Bush Fire Protection 2019.</li> </ol> <p>Landscape Referral raise no objections to the proposal subject to the</p>



Internal Referral Body	Comments
	protection of existing trees and vegetation, and in accordance with Planning for Bush Fire Protection measures.
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following controls:</p> <p>Pittwater 21 Development Control Plan - B3.2 Bushfire Hazzard Pittwater 21 Development Control Plan - B4.1 Flora and Fauna Conservation Category 1 Pittwater 21 Development Control Plan - B4.18 Heathland/woodland Vegetation</p> <p>The proposal for a changed use does not require any vegetation removal. The bushfire report has recommended increase BAL and doe snot require further vegetation removal. The proposal is compliant with above controls.</p>
NECC (Development Engineering)	<p>The existing unsealed driveway access, parking and turning area will required to be sealed in order to service the proposed development. No Development Engineering objection subject to conditions</p> <p>DATED 11/12/2020</p> <p>Based on the Operational Plan of Management for the proposed development, the applicant has advised the traffic volume expected will not be that of a commercial scale. Should the development be changed in the future for commercial type development a sealed access will be required. No Development Engineering objections if the access arrangement is provided to comply with Australian Standards.</p>
NECC (Riparian Lands and Creeks)	We are satisfied that the runoff created by the industry proposed for this site has been captured in the wastewater management system and treated there, and this system will also allow infiltration to groundwater. This then ensures that the development is unlikely to impact surface water or groundwater dependent wetland systems in the surrounding area.
NECC (Water Management)	The proposed development maintains the existing footprint therefore there is no expected impact to surface or ground water in the area.
Traffic Engineer	<p>The proposal is to undertake a home industry within the ground level only of the existing outbuilding. The home industry is a distillery making spirits such as gin and vodka with a maximum production level of 100 x 700 millilitre bottles per day, equating to 1,400 litres per month. Once per month a two cubic metre amount of water will be transported to the premises in a utility vehicle. The utility vehicle will reverse to be adjacent to the flat surface of the internal use area for the proposed home industry. A manually operate loading device that is part of the utility vehicle will be used to move the water into the distillery water tank.</p> <p>The proposal includes partitioning to separate the area adjacent to the roller door within the northeastern area of the outbuilding from the larger area in the southwestern area of the outbuilding. That larger area has an internal area of 49.11 square metres.</p>

Internal Referral Body	Comments
	<p><b>Comments:</b> There does not appear to be any traffic generation or parking requirement associated with the development, other than a service vehicle to deliver the products.</p> <p><b>Conclusion:</b> Traffic raise no objection to the proposal.</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 Rural Fire Service – local branch (s4.14 EPAA)	The proposal was referred to the RFS, who have raised no objections to the development subject to compliance with the recommended conditions.
NSW Police – Licensing (Clubs, Hotels, Pubs)	The proposal was referred to the NSW Police. 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.

## 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 residential 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 residential 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.

**Pittwater Local Environmental Plan 2014**

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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	No change	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

**Zone RU2 Rural Landscape**

The proposed development seeks consent for a home industry in the form of a home distillery. Pittwater

Local Environmental Plan 2014 defines home industry as the following:

**Home industry** means an industrial activity, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following—

- (a) the employment of more than 2 persons other than the residents,
- (b) interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
- (c) the exposure to view, from adjacent premises or from a public place, of unsightly matter,
- (d) the exhibition of signage, other than a business identification sign,
- (e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,

but does not include bed and breakfast accommodation or sex services premises.

Note—

See clause 5.4 for controls relating to the floor area used for a home industry.

Home industries are a type of light industry—see the definition of that term in this Dictionary.

Pittwater Local Environmental Plan 2014 defines industrial activity as the following:

**Industrial activity** means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

It is considered that the proposed home distillery meets the definition of home industry within Pittwater Local Environmental Plan 2014 for the following reasons:

- The proposal would not result in the employment of more than 2 persons other than the residents. This is detailed within the submitted Operational Plan of Management and is to be conditioned within any consent.
- The proposal has been assessed by Council's Environmental Health and Traffic Officers and is not considered to interfere with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.
- The proposed home industry would be located within an existing structure and would not result in the exposure to view, from adjacent premises or from a public place, of unsightly matter
- No signage is proposed
- The submitted Operational Plan of Management details that there will be no retail sales of, or the exposure or offer for retail sale of the produced item on the property, other than by online retailing. This is also to be conditioned within any consent.

As such, the proposal is considered to meet the definition of home industry within Pittwater Local Environmental Plan 2014 is permissible with consent within the RU2 Rural Landscape zone.

#### 5.4 Controls relating to miscellaneous permissible uses

Clause 5.4(3) of PLEP 2014 contains for following provision for Home Industries:

##### ***Home industries***

*If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than 50 square metres of floor area.*

The proposed home distillery has a floor area of 49.11sqm. The applicant has provided a plan demonstrating compliance with this requirement.

Therefore, the proposal complies with the development standard contained until Clause 5.4(3) of the PLEP 2014.

#### 7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

*(a) whether the development is likely to have:*

- (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (iv) any adverse impact on the habitat elements providing connectivity on the land, and*

##### Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

*(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

##### Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:



- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or  
 (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—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:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

### Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	15.0m (Powderworks Rd)	100.6m	N/A	Yes
Front building line	15.0m (McLean Street)	131.0m	N/A	Yes
Side building line	2.5m (N)	4.0m	N/A	Yes
	1m (S)	19.0m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	96% of the total site area minus 300 square metres (6776.1sqm)	80.6% (5941.27sqm) (No Change)	N/A	No (No Chnage)

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.6 Ingleside Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.13 Freshwater Wetlands (non Endangered Ecological Communities)	Yes	Yes
B4.14 Development in the Vicinity of Wetlands	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C5.19 Food Premises Design Standards	Yes	Yes
C5.20 Liquor Licensing Applications	Yes	Yes
D6.1 Character as viewed from a public place	Yes	Yes
D6.3 Building colours and materials	Yes	Yes
D6.5 Front building line	Yes	Yes
D6.6 Side and rear building line	Yes	Yes
D6.7 Building envelope	Yes	Yes
D6.9 Landscaped Area - Blue Hatched Area	No	Yes
D6.12 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **B4.13 Freshwater Wetlands (non Endangered Ecological Communities)**

The proposal has been reviewed by Council's Water Management and Riparian Lands and Creeks Officer who has raised no objection to the proposal subject to recommended conditions.

#### **B4.14 Development in the Vicinity of Wetlands**

The proposal has been reviewed by Council's Water Management and Riparian Lands and Creeks Officer who has raised no objection to the proposal subject to recommended conditions.

#### **B4.18 Heathland/Woodland Vegetation**

The proposal has been reviewed by Council's Bushland & Biodiversity Officer who has raised no objection to the proposal subject to recommended conditions.

#### **B6.3 Off-Street Vehicle Parking Requirements**

#### Description of non-compliance

Clause B6.3 of the P21DCP requires dwellings with two or more bedrooms to provide at least two off-street parking spaces on the site.

The proposal seeks to convert a portion of the existing three car garage into a home industry. This would result in the removal of two enclosed car parking spaces and the maintenance of one formal parking space in the garage, which in turn fails to satisfy the minimum numeric requirements as prescribed by this Control.

The applicant has provided an operational management plan, outlining the details of the proposed use of the home industry. Council's Traffic Engineers have reviewed the details of the proposed development with regards to offstreet parking and traffic generation. Based on the details provided with the application, Council's Traffic Engineers are satisfied that the development will not have an adverse impact based on the proposed use, hours of operation and operational details of the development. Full comments can be found earlier within this report from Council's traffic team. Council's Development Engineers have also review the proposal and raise no objection subject to recommended conditions.

#### Merit Assessment

The submitted operational plan of management outlines that the home industry will only have two staff members with one of the staff residing at the premises adjoining the proposed distillery. This operational plan of management also indicates that no cellar door drink tasting, selling or serving of alcohol directly to the public on site.

The site contains a large (approximately 200sqm), level gravel area area directly adjoining the existing garage. It is considered that this area is sufficient in size to facilitate an informal parking arrangement to accommodate an additional parking area to meet the requirements of this control and service spaces that meets the demands generated by the development. Furthermore, given the size of the property and central location of this informal parking area, the proposal would not result in a impact to the streetscape or adjoining residential amenity.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **C1.6 Acoustic Privacy**

Council's Environmental Health Officer has reviewed the proposal in relation to noise and is satisfied the proposal will not have adverse impact to acoustic privacy subject to recommended conditions.

### **C1.13 Pollution Control**

Council's Environmental Health Officer has reviewed the proposal in relation to pollution control and is satisfied the proposal is suitable subject to recommended conditions.

### **C5.19 Food Premises Design Standards**

Council's Environmental Health Officer has reviewed the proposal in relation to relevant food, drink and health safety standards and is satisfied the proposal is suitable subject to recommended conditions.

### **C5.20 Liquor Licensing Applications**

Council's Environmental Health Officer has reviewed the proposal in relation to Liquor Licensing and has conditioned that the operator is to obtain the applicable licence from Liquor and Gaming NSW and that evidence of an approved licence is to be submitted to the principal certifying authority.

#### **D6.9 Landscaped Area - Blue Hatched Area**

The site as existing fails to comply with the numerical requirement of this clause. This existing non-compliance will remain unchanged as part of the proposal as the works involve the use and fit-out of an existing garage as a home industry and does not propose the reduction of landscaped area onsite. Council therefore raises no issues.

#### **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 2019**

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of 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;
- Pittwater Local Environment Plan;
- Pittwater 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 DA2020/1011 for Use of premises as a Home Industry on land at Lot 36 DP 11594, 271 Powderworks Road, INGLESIDE, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA_004 Rev.B (Site Plan)	29/06/2020	iSA Designs
DA_006 Rev.B (Proposed Garage Floor Plan)	29/06/2020	iSA Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Assessment Report (210034)	16/09/2020	Building Code & Bushfire Hazard Solutions Pty Limited
Operational Plan of Management - Noble Craft Distillery (TRIM2020/658072)	-	Noble Craft Distillery
Onsite Wastewater Management Plan	03/12/2020	Whitehead & Associates Environmental Consultants

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

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

Drawing No/Title.	Dated	Prepared By
DA_007 Rev.B (Construction Waste & Site Management Plan)	29/06/2020	iSA Designs
DA_008 Rev.B (Erosion, Sediment	29/06/2020	iSA Designs



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

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

**2. Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Rural Fire Service	RFS Referral Response (CNR-12806)	27/10/2020

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

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

**3. Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a Dwelling House and Home Industry.

A **Dwelling House** is defined as:

*"dwelling house means a building containing only one dwelling."*

A **Home Industry** is defined as:

*"home industry means an industrial activity, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following—*

- (a) the employment of more than 2 persons other than the residents,*
- (b) interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,*
- (c) the exposure to view, from adjacent premises or from a public place, of unsightly matter,*
- (d) the exhibition of signage, other than a business identification sign,*
- (e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,*

*but does not include bed and breakfast accommodation or sex services premises."*

(development is defined by the Pittwater Local Environment Plan 2014 (as amended))

Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

#### 4. **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.

## 5. **Water Supply**

Any drinking water supplied to the premises associated with the operation of the business is to be supplied by a suitably approved water supplier with a current and approved Quality Assurance Program demonstrating compliance with division 2 of the Public Health Regulation 2012 and Section 25 of the Public Health Act 2010.

Reason: To ensure the safety of the water supply

## 6. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety

- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

**7. No approval for drink tasting, selling or serving of alcohol onsite**

No approval is granted for drink tasting, selling or serving of alcohol directly to the public on site.

To ensure the work is carried out in accordance with the determination of Council

**8. No approval for signage**

No approval is granted under this Development Consent for signs (as defined under Pittwater Local Environment Plan 2014 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage.

## FEES / CHARGES / CONTRIBUTIONS

**9. Security Bond**

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).



Reason: To ensure adequate protection of Council's infrastructure.

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

**10. Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's PITTWATER DCP21 details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

**11. Vehicle Driveway, turning area and parking**

The Applicant is to ensure construction of a driveway, turning area and parking within the private property are provided to service the development in accordance with AS/NZS 2890.1:2004.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access and parking to private property.

**12. Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

**13. Compliance with Standards**

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

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**14. Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

**15. Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

**16. Tree and vegetation protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation, and excluding the requirements of Planning for Bush Fire Protection measures,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees.
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period,

and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: tree and vegetation protection.

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

### 17. **Certification of driveway, turning area and Parking Facility**

The Applicant shall submit a civil Engineers' certificate certifying that the built driveway, turning area and parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

### 18. **Registration of Food Business**

The food business must be registered with the NSW Food Authority, prior to Occupation Certificate being issued. Evidence of registration is to be provided to the principal certifying authority.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

### 19. **Kitchen Design, construction and fit out of food premises certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a suitable qualified person that the design, construction and fit out of food premises is compliant with the requirements of AS 4674:2004 Design, construction and fit out of food premises and the Australian New Zealand Food Standards Code Standard 3.2.3.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the food premises complies with the design requirements.  
(DACHPFPOC3)

### 20. **Licensing Requirements**

Prior to occupation, the operator is to obtain the applicable licence from Liquor and Gaming NSW. Evidence of an approved licence is to be submitted to the principal certifying authority.

Reason: To ensure compliance with applicable licence requirements in NSW

### 21. **Wastewater**

Prior to the issue of any interim / final occupation certificate, certification from a suitably qualified person must be provided demonstrating the appropriate recommendations contained within the wastewater report prepared by Whitehead & Associates dated 3 December 2020 have been implemented into the effluent management area to affectively manage the added effluent from the operation of the development.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To protect public health

**22. Wastewater - Local Government S68 Approval**

Prior to the issuing of any interim / final occupation certificate, a copy of a s68 (Local Government Act 1993) approval to operate the Waste Water System, and the waste water system must be activated and effectively operating to the satisfaction of the Principal Certifying Authority.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

**23. Quality Assurance Program**

Prior to occupation certification, a quality assurance program is to be submitted to NSW Health and approved for the use of the private rainwater supply on the premises. At all times, compliance with Section 25 of the Public Health Act 2010 and Division 2 of the Public Health Regulation 2012 (NSW).

Reason: To ensure the safety of water associated with the use of the business.

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

**24. Noise**

The operation of the business is not to create offensive noise as defined under the Protection of the Environment Operations Act 1997.

Reason: To protect the amenity of the area.(DACHPGOG6)

**25. Tree Retention**

All existing trees and heathland vegetation shall be retained except where Council's prior written consent has been obtained. Trees on Council's exempt species list, available on Council's website, may be removed without consent unless they are in a heritage area or are a heritage item.

**Reason:** To ensure the retention of the Urban Forest/Natural Environment.

**26. Delivery Times**

Deliveries to and from the premises and waste collection associated with the operation of the business is not to occur prior to 6am and after 10pm on any day.

Reason: To protect the amenity of the area. (DACHPBOC5)

**27. Home Industry Employment**

The approved home industry shall not employ more than 2 persons other than the residents of 271 Powderworks Road Ingleside at any time.

Reason: To ensure compliance with the terms of this consent.

28. **Hours of Operation**

The proposed hours of operation of the home industry are to be restricted to:

- Monday to Friday 9:00am – 5:00pm

Reason: Information to ensure that amenity of the surrounding locality is maintained.

29. **Disposal of effluent and sludge**

No effluent or sludge produced by the distilling operation is to be released on the subject site. All effluent and/or sludge produced by the distilling operation is to be captured and disposed of offsite, by a licenced liquid waste disposal contractor.

Reason: To ensure the protection of the natural environment.

30. **Odour**

Odour from any manufacturing or cooking process shall be managed so as to not adversely impact on any neighbouring residential occupier.

Reason: To maintain amenity of the area.

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

**Signed**



**Gareth David, Planner**

The application is determined on 18/12/2020, under the delegated authority of:



**Lashta Haidari, Acting Development Assessment Manager**