

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0846
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Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 1 DP 1208984, 6 Lagoon Street NARRABEEN NSW 2101
Proposed Development:	Use of Premises as a cafe
Zoning:	Warringah LEP2011 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Volcano Pty Ltd
Applicant:	GSBN Studio

Application lodged:	23/05/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	30/05/2018 to 13/06/2018
Advertised:	Not Advertised
Submissions Received:	3
Recommendation:	Approval

Estimated Cost of Works:	\$ 80,000.00
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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

Warringah Development Control Plan - C3 Parking Facilities

SITE DESCRIPTION

Property Description:	Lot 1 DP 1208984 , 6 Lagoon Street NARRABEEN NSW 2101
Detailed Site Description:	<p>The subject site consists of one allotment located on the eastern side of Pittwater Road with the eastern property boundary fronting Lagoon Street.</p> <p>The site is irregular in shape having a splayed frontage to Pittwater Road of 13.51 metres, variable depth of between 47.605m and 53.345m. The site has a surveyed area of 616.1m².</p> <p>The site is located within the B2 Local Centre zone. The site currently comprises a two storey commercial/residential brick building with metal roof. Commercial premises are located on the lower level with three residential units located on the first floor. The tenancy which is the subject of this application is located at the front northwest corner on the ground level. This tenancy has been utilised for commercial purposes.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a mix of commercial and residential buildings to the north, south and east. To the west of the site across the six laned Pittwater Road is Berry Reserve and car park.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following:

DA2016/0850

Alterations and additions for shop top housing including basement carparking and strata subdivision
Determined - 18/11/2016

Mod2016/0339, Mod2017/0008, Mod2017/0074, Mod2017/0159, Mod2017/0294

Modification of Development Consent DA2016/0850 granted for Alterations and additions for shop top housing including basement carparking and strata subdivision

The land has been used for residential / commercial purposes for an extended period of time.

PROPOSED DEVELOPMENT IN DETAIL

This proposal seeks approval for the use of ground floor level northwest corner tenancy for a café. The works involve a fit out to provide for seating, food preparation and servery.

The existing WC at the rear of the corridor adjacent to the tenancy will be upgraded to include accessible fittings and handrails/tactile indicators to the access stairs.

The proposal does not require any physical works on the existing building. A Building Certificate (BC2015/0019) has been issued in this regard.

The associated signage will utilise the existing approved fascia and under awning signage with new wording.

There is no change to the existing footprint or envelope of the structure.

The proposal seeks approval for the following hours of operation:

7 days a week – 6am to 2pm

Maximum of 4 staff on site at any one time.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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	Warringah 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&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>Clauses 54 and 109</u> of the EP&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&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&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&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	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the</p>

Section 4.15 Matters for Consideration'	Comments
and built environment and social and economic impacts in the locality	<p>Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
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.

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 process council is in receipt of 3 submission/s from:

Name:	Address:
Mr Derek Rhys Pohlmann	1417 Pittwater Road NARRABEEN NSW 2101
Mrs Jennifer Rosemary Van Gelder	29 / 1 - 7 Lagoon Street NARRABEEN NSW 2101
James Lund H2O Cafe	Shop 3 1431 Pittwater Road NARRABEEN NSW 2101

The following issues were raised in the submissions and each have been addressed below:

- Number of Cafes in the area and precedent
- Street frontage and access
- Location of Amenities and rubbish storage
- Parking

The matters raised within the submissions are addressed as follows:

- **Number of Cafes and precedent**

The submissions raised concern regarding the sustainability of the number of Cafes in Narrabeen and asked the question how many more Cafes are going to be allowed in the area.

Comment:

The proposed use as a *restaurant and cafe* is a permissible use within the B2 Local Centre Zone subject to obtaining a development approval. The proposal is located along Pittwater Road in Narrabeen and there are three other Cafes in the immediate vicinity. The number of cafes in the area and their viability is not a planning consideration and does not form part of the assessment of the application.

- **Street frontage and access**

The submission raised concern that there is no street frontage or step back on the site for people to queue and how would the elderly people in wheelchairs, motorised scooters and zimmer frames get around this area if congested. The submission also asked if there was approval for outdoor seating.

Comment:

The proposed cafe fronts Pittwater Road which has a wide footpath that would provide ample space for unobstructed pedestrian movement. However, it is considered that there is plenty of space within the cafe for the numbers of anticipated customers and it is unlikely that queuing would occur outside of the cafe.

The proposed application does not include outdoor seating. A separate application would need to be lodged with Council and would be assessed on its merits.

- **Location of amenities and rubbish storage**

The submission questioned the location of amenities and where rubbish would be stored.

Comment:

The proposal will utilise the existing retail waste storage area within the ground floor of the building. The waste storage area is located within 6.5m of the Lagoon Street frontage and normal commercial waste collection will apply to this development.

The Cafe amenities for both staff and customers are located at the rear of the cafe and is shown on the accompanying plans.

- **Parking**

The submission raised concern regarding car parking on the site.

Comment:

This issue has been addressed in detail under part C3 - Parking Facilities of the WDCP in this report. In summary, the site does not currently provide any parking, which is common for such developments in this section of Pittwater Road. The site is well placed in terms of public transport with frequent bus routes servicing the site. The site is also located immediately opposite a public parking area and there additional public parking on Lagoon Street. The café will service predominantly passing trade and it is considered that the site is well located to service this area whilst not requiring the use of vehicles to access the Cafe.

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 respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>	
Environmental Health (Food Premises, Skin Pen.)	Was sufficient documentation provided appropriate for referral?	NO
	Are the reports undertaken by a suitably qualified consultant?	YES
	<p>Have you considered the following?</p> <ul style="list-style-type: none"> • Review Statement of Environmental Effects, consider ongoing use: <ul style="list-style-type: none"> - Food Premises, use AS 4674 and Food Standards Code and BCA (re ventilation and toilets). Consider location of mechanical ventilation (AS 1668) and grease traps - Backpackers/Boarding House, use Public Health Act and Local Gov Regulations and BCA. - Mortuary, use Local Gov Regulations - Skin penetration acupuncture, tattoo, beauty salon, use Local Gov Regulations - Public pool, use Public Health Act - Childcare, use AS 4674 (kitchen) and BCA toilets • Consider waste disposal. All new food shops should have waste stored in rooms. • Consider impact of noise, hours of operation, outdoor seating, location of equipment, times of deliveries, noise management plans, acoustic reports etc. • Shop top housing must have separate waste storage for residential and commercial. EH&P don't look at residential waste areas or 	YES

Internal Referral Body	Comments
	<p>collection.</p> <p>General Comments Insufficient information supplied to assess Mechanical Ventilation. Therefore recommending no cooking until information supplied and assessed. Other standard conditions recommended</p> <p>Recommendation</p> <p style="text-align: right;">APPROVAL - subject to conditions</p> <p>Comments completed by: James Montgomery</p> <p>Date: 28/5/18</p> <p>Planners Note: The applicant has provided additional information that satisfies Councils Environmental Health Team requirements regrading no cooking on the premises. The condition has been updated from <i>No Cooking on the Premises</i> to <i>Restricted Cooking Activities</i>.</p> <p>Council Environmental Health team have retained the conditions regarding mechanical ventilation on the site and have stated that 'should the certifier be satisfied that Michael Yan of Building Services Engineers (BSE) is a qualified person then the report provided by BSE, dated 13 July 2018 (project number: 20180503) would satisfy the condition for 'Plans for Mechanical Ventilation'.</p>
NECC (Riparian Lands and Creeks)	No objection to approval with no conditions recommended.
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The area where the proposed cafe is to be located at 6 Lagoon St is affected by high hazard flooding.</p> <p>The depth of flooding on the footpath on Pittwater Rd just in front of the proposed cafe is predicted to be 1.1m in a 1 in 100 year flood event.</p> <p>However the proposal is only for a change of use, and the building itself is not to be structurally changed.</p> <p>The proposed change of use to a cafe generally complies with the flood requirements of the DCP and LEP.</p>
Waste Officer	No objection to the proposal subject to conditions.
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.

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 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
<p>1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p>	<p>The site is located within the B2 Local Centre zone. This zone envisages development that includes retail, business, entertainment and community uses serve the needs of people who live in, work in and visit the local area.</p> <p>The proposed signage is consistent in its design and of a size and scale commensurate with the building on the site.</p>	<p>YES</p>
<p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>Site inspection shows that the signage will maintain consistency with the theme of outdoor advertising in the area and particularly on the subject building. It is therefore considered that the installation of signage on the site will not contribute to any inconsistency and/or visual clutter.</p>	<p>YES</p>
<p>2. Special areas</p>	<p>The size, height and location of the proposed</p>	<p>YES</p>

Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	signage underneath an awning and located across the 6 lane Pittwater Road will not distract from the amenity and visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.	
3. Views and vistas Does the proposal obscure or compromise important views?	The proposed sign will be inserted into an existing light box beneath the awning. Views and vistas will not be obscured or compromised as a result of the proposed signs.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed sign will not result in any changes to the skyline or quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed sign does not obstruct viewing rights of other current or future advertisers in the vicinity of the site.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed sign are appropriate given the scale of the development and the use proposed.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal is considered to contribute to the interest of the streetscape setting due to its positioning on the site, adding to the character of the retail and residential area.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed sign is complementary to the design of the development and does not result in any 'visual clutter'.	YES
Does the proposal screen unsightliness?	The awning is considered to be in good condition. The proposal will not result in the screening of unsightliness.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposal does not protrude above the roofline. It is considered that the size and positioning of the signage is suitable for the facade.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The scale of the proposed sign is considered to be commensurate with the size of the site and the building to which it will be affixed.	YES
Does the proposal respect important features of the site or building, or both?	The proposed signage is respectful of the existing and proposed built form.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The design is considered satisfactory for the intended identification purposes.	YES
6. Associated devices and logos with advertisements and advertising structures	No safety devices, platforms, external lighting devices have been designed as an integral part of the signage or structure on which it is to be	YES

Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	displayed have been proposed as part of this application.	
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The proposed signage is location within an existing light box, beneath an awning along the busy lit Pittwater Road. It is considered that the illumination of the sign will not result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation.	YES
Can the intensity of the illumination be adjusted, if necessary?	The sign is located within a light box and illumination can not be adjusted. However, the level of illumination on the sign is considered acceptable and will not result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation.	YES
Is the illumination subject to a curfew?	Illumination of signage shall cease between the hours of 12.00 midnight and 6.00 am daily.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	Due to the location of the proposed signage, the proposed signage is not considered to have any adverse impact upon the safety for any public road, pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage would not obscure sight lines from public areas and therefore would not reduce the safety of pedestrians.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

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.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

The proposal is for the change of use of a retail premises to a Cafe and internal fitout. The WLEP Development Standards do apply to this proposal.

Warringah Development Control Plan

Built Form Controls

The proposal is for the change of use of the premises for a Cafe and internal fitout. There will be no change to the WDCP Built Form Controls

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

Detailed Assessment

C3 Parking Facilities

Description of non-compliance

The proposed change of use for a cafe does not provide any on site parking.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Restaurant	<p>Whichever is the greater of:</p> <p>15 spaces per 100 m2 GFA, or</p> <p>1 space per 3 seats.</p> <p>The above rate may be reduced if there is, in the consent authority's opinion, suitable available parking in the vicinity during the operating hours of the proposed development.</p>	<p>Total GFA = 31.1m2 requires a total of 4.7 spaces</p> <p>18 seats = 6 spaces</p> <p>Required - 6 car parking spaces</p>	0	- 6
Total		6	0	- 6

The site does not currently provide any parking, which is common for such developments in this section of Pittwater Road. The site is well placed in terms of public transport with frequent bus routes servicing the site. The site is also located immediately opposite a public parking area and there is also public parking available on Lagoon Street. The café will service predominantly passing trade.

It is considered that the site is well located to service this area whilst not requiring the use of vehicles to access the Cafe. Whilst the informal parking provisions is not ideal, it is considered

that strict compliance with the parking controls and the requirement for a single tenant to upgrade the parking for the building would be unreasonable. To require parking for this development is unreasonable and such a requirement would prohibit any use of the premises.

In balancing the proposed use and the limited parking against the provision of public transport, timed on street parking and the reliance on passing trade and the nearby local centre, it is considered that no parking is acceptable in these circumstances.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The proposed development does not provide any car parking and there will be no change to location or design of the existing car parking on the site.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The proposed development does not provide any car parking and there will be no change to location or design of the existing car parking on the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 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.

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

Warringah Section 94A Development Contribution Plan

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;
- Warringah Local Environment Plan;

- Warringah 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 DA2018/0846 for Use of Premises as a cafe on land at Lot 1 DP 1208984, 6 Lagoon Street, NARRABEEN, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Restricted cooking activities**

Cooking equipment provided at the food business and the intensity of cooking must comply with the specifications provided in the report by Michael Yang of Building Services Engineers dated 13 July 2018 (project number: 20180503).

Reason: Increased cooking equipment provisions or increased cooking intensity may require mechanical ventilation and further development consent.(DACHPBOC1)

2. **Amenity**

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997.

(DACHPBOC4)

3. **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
DA02 - Existing and Demolition Plan - Issue B	MAY 2018	GSBN Studio
DA03 - Proposed Cafe - Issue B	MAY 2018	GSBN Studio
DA04 - Elevation and Section - Issue B	MAY 2018	GSBN Studio
DA05 - Site Analysis - Issue B	MAY 2018	GSBN Studio
Narrabeen Cafe - Equipment - Issue C	JULY 2018	GSBN Studio

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
DA Stage BCA Disability Access Report UH.8249.3_SLINGSHOTCAFE.docx	9 May 2018	Urban Health Access & Heritage Consultants
Shop 3, 6 Lagoon St. Narrabeen. DA Acoustic Report for Mr. James Nayler 2225/6	15/05/2018	West & Associates. Pty Ltd
Narrabeen Cafe Ventilation 20180503	13/07/2018	BSE True Partners

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Waste Management Plan		
Drawing No.	Dated	Prepared By
Waste management plan	N.D.	Alessandro Belgiorno-Nettis

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. (DACPLB01)

4. **Approved Land Use**

Nothing in this consent shall authorise the use of tenancy as detailed on the approved plans for any land use of the site beyond the definition of a restaurant or cafe.

A restaurant or cafe is defined as:

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

Note. Restaurants or cafes are a type of *food and drink premises*—see the definition of that term in this Dictionary.”

(development is defined by the Warringah Local Environment Plan 2011 (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. (DACPLB03)

5. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

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) 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.
- (c) 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.
- (d) 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.
- (e) 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.

- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

- (k) 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 2008
 - (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. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

7. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, 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).

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

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

8. Plans of Kitchen Design, construction and fit out

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the Food premise complies with the design construction and fit-out requirements.

9. Plans of Mechanical ventilation

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with the Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings", must be approved by the Certifying Authority

for any cooking equipment with an individual or combined power rating level that triggers the requirement for mechanical ventilation under AS1668.2 including any deep frying equipment.

Reason: To ensure that the design, construction and installation requirement for mechanical ventilation complies with the Australian Standard 1668.2.

10. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 3.55m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 3.55m AHD unless adequately protected from floodwaters in accordance with industry standards.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

11. **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. (DACPLC02)

12. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

14. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan .

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

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

15. **Registration of Food Business**

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

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

16. **Requirement for commercial waste contract**

That the proprietor shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract and invoices are to be made available for inspection at any time. All bins will be marked so that they can be identified to the owner.

Reason: To protect the local amenity of the neighbourhood.
(DACHPFPOC1)

17. **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 person who is eligible as a 'Member' of Environmental Health Australia (EHA) that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

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

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

18. **Mechanical Ventilation certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

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

Reason: To ensure that the mechanical ventilation system complies with the design requirements. (DACHPFPOC4)

19. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

20. **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)

21. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

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

22. **Deliveries and waste service collections**

Deliveries and waste service collections shall only occur after 7am and prior to 10pm on any day.

Reason: To minimise the impacts of noise on neighbouring premises. (DACHPGOG1)

23. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Sunday and Public Holidays – 6:00 - 2:00pm

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

Reason: Information to ensure that amenity of the surrounding locality is maintained.
(DACPLG08)

24. **Hours of Illumination**

Illumination of signage at the subject premises shall cease between the hours of 12.00 midnight and 6.00 am daily.

Signs must not flash, move or be constructed of neon materials.

Reason: To ensure residential premises are not affected by inappropriate or excessive illumination. (DACPLG11)

25. **Commercial Waste Collection (DACPLG18)**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.(DACPLG18)

26. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG25)

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

Signed




Julie Edwards, Planner

The application is determined on 03/08/2018, under the delegated authority of:



Anna Williams, Manager Development Assessments













ATTACHMENT A




















Notification Plan	Title	Date
 2018/312823	Plan - Notification	23/05/2018

ATTACHMENT B

Notification Document	Title	Date
 2018/323039	Notification Map	28/05/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/312825	Report - Access	09/05/2018
 2018/312826	Report - Noise	16/05/2018
 2018/312824	Report - Statement of Environmental Effects	23/05/2018
 2018/312823	Plan - Notification	23/05/2018
 2018/312833	Plans - Master Set	23/05/2018
 2018/312827	Report - Waste Management	23/05/2018
 DA2018/0846	6 Lagoon Street NARRABEEN NSW 2101 - Development Application - Change of Use	23/05/2018
 2018/311744	invoice for ram applications - Gsbn Studio	23/05/2018
 2018/311755	DA Acknowledgement Letter - Gsbn Studio	23/05/2018
 2018/312820	Development Application Form	23/05/2018
 2018/312822	Applicant Details	23/05/2018
 2018/312832	Plans - Internal	24/05/2018
 2018/312830	Plans - External	24/05/2018
 2018/315780	Environmental Health (Food Premises, Skin Pen.) - Assessment Referral - DA2018/0846 - 6 Lagoon Street NARRABEEN NSW 2101	24/05/2018
 2018/317378	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0846 - 6 Lagoon Street NARRABEEN NSW 2101	24/05/2018
 2018/323641	Conditions	24/05/2018
 2018/315848	Waste Referral Response	25/05/2018
 2018/323001	ARP Notification Map	28/05/2018
 2018/323010	DA Acknowledgement Letter (not integrated) - Gsbn Studio	28/05/2018
 2018/323039	Notification Map	28/05/2018
 2018/323063	Notification Letter - 99	28/05/2018
 2018/323872	DA2018/0846 - 6 Lagoon Street, Narrabeen	28/05/2018
 2018/323890	Environmental Health Referral Response - commercial use	28/05/2018
 2018/339243	Building Assessment Referral Response	04/06/2018
 2018/342034	Online Submission - Van Gelder	05/06/2018
 2018/342761	Online Submission - Pohlmann	05/06/2018
 2018/346361	Confirmation of notification sign - 6 Lagoon Street Narrabeen	06/06/2018

	2018/351705	Submission - Lund	08/06/2018
	2018/355919	Submission Acknowledgement Letter - James Lund H2O Cafe - SA2018/351705	13/06/2018
	2018/402011	Narrabeen Cafe - DA2018/0846	28/06/2018
	2018/402026	RE: Narrabeen Cafe - DA2018/0846	29/06/2018
	2018/402006	Re: Narrabeen Cafe - DA2018/0846	29/06/2018
	2018/407271	Re: Narrabeen Cafe - DA2018/0846	03/07/2018
	2018/451818	Re: Narrabeen Cafe - DA2018/0846	16/07/2018
	2018/459399	Natural Environment Referral Response - Flood	19/07/2018
	2018/460255	Natural Environment Referral Response - Riparian	19/07/2018
	2018/471018	Re: Narrabeen Cafe - DA2018/0846	25/07/2018
	2018/471020	RE: Narrabeen Cafe - DA2018/0846	25/07/2018
	2018/488267	Re: Narrabeen Cafe - DA2018/0846	25/07/2018
	2018/481550	Re: Narrabeen Cafe - DA2018/0846	31/07/2018
	2018/485192	1807 Narrabeen - Equipment Plan - 180712	02/08/2018
	2018/485193	1807 Narrabeen - Equipment Plan - 180712	02/08/2018
	2018/485194	20180503 Consultants Advice V1	02/08/2018
	2018/485843	Working plans	02/08/2018
	2018/493123	Assessment Report	03/08/2018
	2018/497618	Stamped Plans	07/08/2018