

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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

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| Application Lodged: | 30/12/2019 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Commercial/Retail/Office |
| Notified: | 28/01/2020 to 11/02/2020 |
| Advertised: | Not Advertised |
| Submissions Received: | 1 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 60,000.00 |
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PROPOSED DEVELOPMENT IN DETAIL

The subject development application proposes to fitout the existing shop as a bookshop and wine bar. The bookshop will be located at the front of the site fronting The Corso with the wine bar located at the rear of the shop. The proposal includes a maximum of 52 patrons and five (5) staff.

Internal fitout

- Construction of storeroom and coolroom.
- Construction of wall with double door.
- Construction of 2 x WC.

- Installation of shelving.

Operating Hours

The proposed hours of operation for the bookshop are as follows:

- Monday: 9.00am - 5.00pm
- Tuesday to Sunday and Public Holidays: 9.00am - 10.00pm.

The proposed hours of operation for the small bar are as follows:

- Monday - Closed
- Tuesday - Saturday: 5.00pm - 12am (midnight)
- Sunday and Public Holidays: 5.00pm - 10.00pm.

Deliveries

Deliveries will take place between 9.00am and 3.00pm via the loading dock in Market Lane. Waste will be collected regularly through a private contractor from Market Lane with waste stored at the rear of the premises.

Signage

No signage is proposed as part of the subject development application.

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

Assessment - NSW Police – Licensing (Clubs, Hotels, Pubs)

Manly Local Environmental Plan 2013 - 6.21 Noise impacts—licensed premises

Manly Development Control Plan - 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

Manly Development Control Plan - 4.2.5.4 Car Parking and Access

SITE DESCRIPTION

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| Property Description: | Lot 1 DP 216273 , 11 The Corso MANLY NSW 2095 |
| Detailed Site Description: | <p>The subject property is commonly known as 11 The Corso Manly and legally known as Lot 1 in DP 216273. The site is located on the ground floor of the two (2) storey building fronting the street. At the rear of the site at ground floor is a leased commercial premises fronting Market Lane. At first floor is a leased commercial premises and a residential premises. A second residential unit is located on the second floor at the rear of the building. with commercial offices located above. Adjoining the property is 7-9 The Corso which is adjacent to an arcade providing pedestrian access from The Corso through to Market Lane.</p> <p>The site is located in the B2 Local Centre zone pursuant to the the Manly Local Environmental Plan 2013. The building is identified as a heritage item (Item I106) as listed in Schedule 5 Environmental Heritage Part 1 "Heritage items of the MLEP 2013. The site is also located within the Manly Town Centre Conservation Area.</p> <p>The site is located within the Manly Town Centre. The site is surrounded by a variety of development including residential and commercial uses.</p> |

Map:



SITE HISTORY

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

- DA300/04 - Change of use of shop from clothing sales to vitamin sales and new signage (2 illuminated and 1 non-illuminated. Approved 28 July 2004.
- DA440/00 - Clothing shop, fitout and sign. Approved 22 November 2000.
- DA427/94 - Proposed fitout of bakery. Approved 18 October 1994.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration' | Comments |
|---|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on "Environmental Planning Instruments" in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | None applicable |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Manly Development Control Plan 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>Clause 50(1A)</u> of the EP&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&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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 clause is not relevant to this application.</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</p> |

| Section 4.15 Matters for Consideration' | Comments |
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| | <p>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&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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be 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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| 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.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the

relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

| Name: | Address: |
|------------------|-----------------|
| Bella Rosenfield | Address Unknown |

A submission was received from the owner of the arcade at 13 The Corso.

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

- Disorderly and drunken behaviour of patrons frequenting the wine bar

The matters raised within the submissions are addressed as follows:

- Disorderly and drunken behaviour of patrons frequenting the wine bar.
Comment:
Concern has been raised by the owner of the arcade at 13 The Corso which is adjacent to the subject site. The concerns raised relate to disorderly and drunken behaviour of patrons frequenting the proposed wine bar and any vandalism which may occur as a result of this behaviour. A Plan Of Management accompanies the development application which outlines the management of patrons in regard to entering and existing the premises and the responsible sale of alcohol. Conditions imposed by the Police are also included to ensure the use of the venue maintains public safety and the amenity of the neighbourhood.

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.) | <p>General Comments</p> <p>Proposal to have a bookstore and bar in one of the Corso-facing ground level tenancies. Appropriate place for such use with regard to noise generated from bar activities. Environmental Health has reviewed the application with keen interest in the noise and food components.</p> |

| Internal Referral Body | Comments | | | |
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| | <p>Firstly, toilet facilities need to be addressed. With capacity of approximately 52 patrons, the applicant should consider a urinal in one of the cubicles to meet BCA requirements.</p> <p>In operating a food business, we'll recommend standard conditions for licensing and fit-out. Further to that, a premise operating as a food business - including bars - needs to have adequate hand washing facilities. To comply with food safety standards a hand wash basin will need to be provided.</p> <p>With regard to noise, an acoustic report prepared by Koikas Acoustics Pty Ltd recommends some industry standards that will serve as adequate conditions.</p> <p>Extending on noise conditions, we will also recommend waste collection and delivery times.</p> <p><u>Planner Comment:</u> An addendum (by Koikas Acoustics Pty Ltd, dated 6 May 2020) to the Acoustic report was received by Council on 6 May 2020. The addendum was required to accurately address the maximum allowable number of patrons to the premises from 32 to 52 which is proposed throughout the development application. The addendum was referred to Environmental Health who raised no objections and no further comments as originally imposed.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p> | | | |
| Landscape Officer | <p>The application does not propose any new landscape works or alteration to existing surrounding trees.</p> <p>No objections are raised to approval subject to general tree protection conditions as indicated below.</p> | | | |
| Strategic and Place Planning (Heritage Officer) | <table><tr><th>HERITAGE COMMENTS</th></tr><tr><th>Discussion of reason for referral</th></tr><tr><td><p>The proposal has been referred to Heritage as the subject property is a heritage item, within the vicinity of heritage items and within a conservation area.</p><p>Item I106 - Group of commercial buildings - All numbers, The Corso</p><p>Item I107 - Commercial building - 36 The Corso</p><p>Item C2 - Town Centre Heritage Conservation Area</p></td></tr></table> | HERITAGE COMMENTS | Discussion of reason for referral | <p>The proposal has been referred to Heritage as the subject property is a heritage item, within the vicinity of heritage items and within a conservation area.</p> <p>Item I106 - Group of commercial buildings - All numbers, The Corso</p> <p>Item I107 - Commercial building - 36 The Corso</p> <p>Item C2 - Town Centre Heritage Conservation Area</p> |
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| Internal Referral Body | Comments |
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| | <p>Item I102 - 2 cast iron pedestals (former street lights) - The Corso (central reservation, between The Esplanade and Darley Road)</p> <p>Item I104 - Street trees - The Corso (from Whistler Street to Sydney Road)</p> <p>Details of heritage items affected</p> <p>Details of the heritage items as contained within the Manly Heritage inventory are:</p> <p>Item I106 - Group of commercial buildings <u>Statement of significance:</u> The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort. <u>Physical description:</u> The Corso is the NE-SW link between Manly Beach and Manly Cove. It acts as a low scale horizontal corridor which steps down from the harbour to the ocean. It has a cohesive character resulting from generally low scale of development on its principle streets, Construction to the property boundaries, slightly higher and distinctive corner buildings and a good level of pedestrian protection and amenity generated by footpath awnings and through-block arcades has produced strongly defined and comfortable urban spaces. These spaces range from the tight enclosure of the arcades through to the openness of the Ocean Beach promenade and the esplanade.</p> <p>Item I107 - Commercial building <u>Statement of significance:</u> One of the most elaborate facades featured in The Corso, contributes aesthetically and historically to the Corso streetscape. <u>Physical description:</u> 2 storey rendered brick building of late Victorian period with elaborate Italianate rendered decoration above ground floor. Architectural significance in intricacy and detailing of pediment and in general abundance of motif and ornament including garlands, globes, acanthus leaf, palmate and intaglio decoration. 21/7/99 Community Aid Abroad shop. Fine example of elaborate Victorian Italianate shop Some glass survives however has been painted. Original form of shop survives beneath modern building.</p> <p>Item C2 - Town Centre Heritage Conservation Area The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling</p> |

| Internal Referral Body | Comments | | | | | | | | | | | | | | | | | | | | | |
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| | <p>colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.</p> <p>Item I102 - 2 cast iron pedestals (former street lights) <u>Statement of significance:</u> Important evidence of early lighting fixtures in The Corso. Central reservation of The Corso between The Esplanade and Darley Road, Manly. <u>Physical description:</u> Each pedestal is made of cast iron, square in section and tapering towards the top. A narrow cylindrical stem for a street light has been removed from each and capped. Each pedestal carries the MMC emblem of the Council, with a plate identifying the manufacturer: 'Marrickville Engineering Works Ltd., Makers, Sydney'. Further research is necessary to identify the date and type of illumination (gas or electricity).</p> <p>Item I104 - Street trees <u>Statement of significance:</u> Part of earliest planting on The Corso c.1850's by H.G. Smith. Historic and aesthetic importance to the streetscape. <u>Physical description:</u> Centre planting of Ficus Macrophylla (Moreton Bay Fig) Remnant Palm planting (Phoenix Canariensis) of 1928.</p> <table><tr><th colspan="3">Other relevant heritage listings</th></tr><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr><tr><td>Other</td><td>No</td><td></td></tr></table> <p>Consideration of Application</p> | Other relevant heritage listings | | | Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | | Australian Heritage Register | No | | NSW State Heritage Register | No | | National Trust of Aust (NSW) Register | No | | RAIA Register of 20th Century Buildings of Significance | No | | Other | No | |
| Other relevant heritage listings | | | | | | | | | | | | | | | | | | | | | | |
| Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | | | | | | | | | | | | | | | | | | | | | |
| Australian Heritage Register | No | | | | | | | | | | | | | | | | | | | | | |
| NSW State Heritage Register | No | | | | | | | | | | | | | | | | | | | | | |
| National Trust of Aust (NSW) Register | No | | | | | | | | | | | | | | | | | | | | | |
| RAIA Register of 20th Century Buildings of Significance | No | | | | | | | | | | | | | | | | | | | | | |
| Other | No | | | | | | | | | | | | | | | | | | | | | |

| Internal Referral Body | Comments |
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| | <p>The proposal seeks consent for the change of use and internal alterations/internal fitout including partition walls, installation of a drinks service area, sanitary facilities, storage and shelving, to 11 The Corso, Manly. It does not include any outdoor signage or any changes to the facade or shopfront. The proposal retains the existing facade, therefore it is believed that there will be no adverse impact upon the significance of the heritage item and the conservation area.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of MLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> <p>Further Comments</p> <p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 27 February 2020</p> |
| Waste Officer | DA has no residential component thus waste referral not required |

| External Referral Body | Comments |
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| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. |
| NSW Police – Licensing (Clubs, Hotels, Pubs) | <p>The development application was referred to NSW Police with comments received on 26 March 2020. The Police referral recommended refusal, however did include conditions that are to be imposed should Council approve the development application. In response to the referral, a submission from the applicant was received on 15 April 2020.</p> <p>The Police referral raised concern with the number of licensed premises on the Northern Beaches and the particularly high concentration of licensed premises located within Manly. The Police referral provided crime data from The Alcohol Related Crime Information Exchange (ARCIE) in relation to alcohol related crime within the Northern Beaches and within the suburb of Manly. The Police raised the following issues in relation to the proposed development:</p> <ul style="list-style-type: none"> • Full consideration has not been given to the local impact of |

| External Referral Body | Comments |
|------------------------|---|
| | <p>operating this type of licensed premises in an already saturated areas of licensed venues.</p> <ul style="list-style-type: none"> • The number of alcohol related crime in Manly is the highest within the Northern Beaches area and adding another licensed premises would only contribute to an increase in alcohol related crime within the Manly area. • Concern is raised with the potential risk to minors given the mixed use nature of the venue 'morphing' from a retail bookstore during the day into a licensed small bar selling and supplying liquor in the late afternoon/night. The Police state that <i>"strict harm minimisation measures and operating practices will need to be implemented in order to address such risk should the Development Consent be granted."</i> • Police raised concern that the premises does not have a kitchen in which to prepare and store food of a nature and quantity consistent with the responsible sale, supply and service of alcohol. This is a lawful requirement for a venue with a Small Bar Liquor License to ensure that food is made available whenever liquor is sold or supplied. • The Police state that <i>"strong consideration must also be given to the amenity of the neighbourhood and how an additional Licensed Small Bar trading until midnight six days a week is likely to impact on the area, particularly the nearby residents."</i> <p>The Police have reviewed the application and object to the application being granted. The reasons for refusal are outlined below:</p> <ul style="list-style-type: none"> • <i>This application will increase the availability of alcohol within the Northern Beaches Police Area Command.</i> • <i>Manly is a high density hot spot for alcohol related crime.</i> • <i>The Northern Beaches Police Area Command, and Manly in particular, is already heavily saturated with licensed premises.</i> • <i>Additional liquor outlets (irrespective of the licence type) do increase alcohol related crime, and this application is no different.</i> • <i>Additional liquor outlets (irrespective of the licence type) do increase disturbance complaints and negative impacts on neighbourhood amenity (such as litter).</i> <p>Further to the reasons for refusal outlined above, the Police referral states that if the application is approved by Council, Police request a number of conditions to be included into the development consent for the purpose of maintaining Public Safety and the Amenity of the Neighbourhood.</p> <p>In response to the recommendation for refusal of the development application by the Police, the applicant provided a detailed response received by Council on 16 April 2020. The response argues that whilst there are a number of licensed premises within the Manly area this is</p> |

| External Referral Body | Comments |
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| | <p>not in itself a reason to refuse the application. The submission from the applicant states:</p> <ul style="list-style-type: none"> • The use of the premises as a bookstore and wine bar will contribute to the local economy and amenity for both local and international visitors and local residents. The applicant argues that the proposal is in line with Clause 6.11 of the Manly Local Environmental Plan (MLEP) 2013 <i>Active Street Frontages</i>. • There is no requirement for a Small Bar to include a commercial kitchen. The applicant has stated that the food will be of a substantial nature and will be prepared on the premises and available during trading hours. The applicant did provide an example of the types of food the small bar will be providing with the application. • Examples of other approved licensed small bars were provided within the submission with similar trading hours and patronage. <p>The Plan of Management (POM) submitted with the development application states that minors will not be permitted under any circumstances to enter the premises after 5pm to purchase books. All minors (and their respective guardians) on the premises at 4.30pm will be requested to leave the premises no later than 5pm. The bar will not commence trading until all minors have exited the premises. The POM states that during the trading hours of 9.00am to 5.00pm for the bookstore, the bar will not be visible to customers with no reference made to the bar within these hours.</p> <p><u>Planner Comment:</u></p> <p>The main concern raised by Council is in relation to the operation of the wine bar and bookstore and the management of minors within a licensed premises. The proposed hours of operation for both the bookstore and small bar do overlap for a period of time with the proposed hours of operation of the bookstore 9.00am - 5.00pm on Mondays, 9.00am - 10.00pm Tuesday to Sunday & Public Holidays. The proposed operating hours for the small bar are 5.00pm - Midnight on Tuesdays to Saturdays, and 5.00pm - 10.00pm on Sundays and Public Holidays. The bar will be closed on Mondays. As mentioned above and discussed with the POM accompanying the development application, the bookstore is proposed to stay open for a period during the trading hours of the bar, however all minors (and guardians) will be asked to leave the premises and the serving of alcohol will not occur until all minors have vacated the premises. The overlapping hours of operation of the bookstore and wine bar have raised concern with the Police. This is in regard to the risk imposed on minors with the proposed operating hours of the bar commencing at 5.00pm whilst the bookstore is still operating. To ensure this issue is avoided, the wine bar is to commence trading at 5.30pm Tuesday to Sunday and on Public Holidays. This will allow adequate time for any minors to</p> |

| External Referral Body | Comments |
|------------------------|---|
| | <p>have vacated the premises before the bar commences trade and will be consistent with the POM and Police requirements. A condition is imposed in the consent to ensure that minors and their respective guardians vacate the premises within half an hour of the bar commencing trade. A condition approving the bar to open at 5.30pm (Tuesday to Sunday and Public Holidays) is outlined in the hours of operation condition imposed in the consent. The proposed bookstore hours will remain unchanged.</p> <p>An acoustic report has been submitted with the development application which provides recommendations based on a maximum patronage of 32. The proposed wine/bar bookstore proposes a maximum patronage of 52. An addendum to the Acoustic Report by Koikas Acoustics was received on 6 May 2020 from the applicant which increased the number of patrons from 32 to 52 (32 seated and 20 standing within the premises). The addendum concluded that the predicted noise levels will maintain compliance with the project noise criteria and will not result in adverse noise impact to surrounding residential receivers. The addendum was referred to Council's Environmental Health Section on 6 May 2020 for comment with no objection raised subject to conditions.</p> <p>The bar proposes to operate until midnight on five days (Tuesday - Sat) and until 10.00pm on Sundays and Public Holidays with the bar close on Mondays. This is considered reasonable given the maximum patronage of 52 and it's location within The Corso and it's close proximity to other licensed premises. The venue is not considered a late night venue and therefore is not assessed against Clause 4.2.5.6 Late Night Venues in the MDCP 2013. The POM outlines in considerable detail the policies and procedures around the responsible service of alcohol and management of patrons entering and exiting the venue. These issues are also addressed in the conditions recommended in the Police referral.</p> <p>Based on the proposed use of the premises and the detailed POM provided with the development application, the proposed bookstore / wine bar is supported subject to appropriate conditions imposed by Council and the Police.</p> |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

Nil

Manly Local Environmental Plan 2013

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

Principal Development Standards

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

Compliance Assessment

| Clause | Compliance with Requirements |
|--------------------------------------|------------------------------|
| 4.3 Height of buildings | Yes |
| 4.4 Floor space ratio | Yes |
| 5.10 Heritage conservation | Yes |
| 6.1 Acid sulfate soils | Yes |
| 6.11 Active street frontages | Yes |
| 6.21 Noise impacts—licensed premises | Yes |
| Schedule 5 Environmental heritage | Yes |

Detailed Assessment

6.21 Noise impacts—licensed premises

The proposal is accompanied by an acoustic report detailing extensive testing within the local area. The acoustic report provides recommendations to ensure the proposal does not result in any unreasonable noise impacts within the locality. The original report was not consistent with the number of patrons proposed for the use, with the acoustic report by Koikas Acoustics Pty Ltd, dated 13 September 2019 providing recommendations based on a maximum patronage of 32 patrons as opposed to the number of 52 patrons proposed within the development application.

An addendum to the Acoustic report has been received by Council on 6 May 2020 and referred to the Environmental Health section for comment. No objection has been raised based on the additional information provided by Koikas Acoustics within the addendum. No further conditions are imposed as per the original recommendation.

Manly Development Control Plan

Built Form Controls

| Built Form Controls - Site | Requirement | Proposed | % | Complies |
|----------------------------|-------------|----------|---|----------|
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| Area: | | | Variation* | |
|-------------------------------|---|----------|------------|----|
| Schedule 3 Parking and Access | Retail - 1 space per 40m ² of GFA = 3 spaces (91.1m ² / 40 of GFA = 2.3 rounded up to 3) | 0 spaces | 100% | No |

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - 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 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 3.1 Streetscapes and Townscapes | Yes | Yes |
| 3.2 Heritage Considerations | Yes | Yes |
| 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise) | Yes | Yes |
| 3.4.1 Sunlight Access and Overshadowing | Yes | Yes |
| 3.4.2 Privacy and Security | Yes | Yes |
| 3.4.3 Maintenance of Views | Yes | Yes |
| 3.4.4 Other Nuisance (Odour, Fumes etc.) | Yes | Yes |
| 3.8 Waste Management | Yes | Yes |
| 4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres) | Yes | Yes |
| 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor | Yes | Yes |
| 4.2.5 Manly Town Centre and Surrounds | Yes | Yes |
| 4.2.5.4 Car Parking and Access | Yes | Yes |
| 5 Special Character Areas and Sites | Yes | Yes |
| 5.1.1 General Character | Yes | Yes |
| 5.1.2 The Corso | Yes | Yes |
| 5.4.1 Foreshore Scenic Protection Area | Yes | Yes |
| Schedule 6 - The Corso: Site Specific Controls | Yes | Yes |

Detailed Assessment

4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

Description of Non-Compliance

The Manly DCP 2013 requires the provision of 1 parking space per 40sqm of gross floor area for commercial premises. In this regard the parking required for this development is 2.3 parking spaces. The existing approved use on the site is a clothing store. The required parking for this use is 1 space per 40sqm of serviced area. The existing demand for parking on the site is 2.3 spaces. In both instances the required parking is rounded up to 3 spaces. As such the proposal will not generate any further non-compliance with the control or demand on parking within the locality.

Merit Consideration

With regard to the consideration of the variation, the development is considered against the underlying objectives of the control as follows:

Objective 1) To ensure there is adequate provisions for car parking access and loading in future development and redevelopment in all business zones

Comment:

The proposal will not generate any further demand for parking within the area. Furthermore, the site is located within the Manly Town Centre and is well serviced by public transport. The proposal will not result in any unreasonable impacts on traffic or parking within the locality.

Objective 2) To minimise conflicts between pedestrian and vehicular movement systems within the business areas.

Comment:

The proposal will not generate any conflict between pedestrians and vehicles.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.2.5.4 Car Parking and Access

The proposal will not generate any further requirement for parking on the site. As such, no contribution for the shortfall in parking is required.

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

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;
- Manly Local Environment Plan;

- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/1535 for Use of premises as a bookstore and licensed small bar on land at Lot 1 DP 216273, 11 The Corso, MANLY, subject to the conditions printed below:

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 |
| NCC-01 Issue B | 12 October 2019 | Design Studio |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|------------------|------------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Plan of Management | 30 December 2019 | N.C. Coombes & CO Solicitors |
| Heritage Impact Statement | 30 December 2019 | N.C. Coombes & CO Solicitors |
| Acoustic Report | 13 September | Koikas Acoustics Pty |

| | | |
|---|------------|--------------------------|
| | 2019 | Ltd |
| Acoustic Statement - Modified patron numbers at 11 The Corso, Manly NSW | 6 May 2020 | Koikas Acoustics Pty Ltd |

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:

| Waste Management Plan | | |
|--|------------------|------------------------------|
| Drawing No/Title. | Dated | Prepared By |
| Northern Beaches Waste Management Plan | 30 December 2019 | N.C. Coombes & CO Solicitors |

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. **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.

3. 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) 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.

FEES / CHARGES / CONTRIBUTIONS

4. **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

5. **Adequacy of Sanitary Facilities**

Prior to issue of the Construction Certificate the Principal Certifier is to be provided with details of sanitary facilities for patrons and staff as required by the Building Code of Australia for the Classification of the building under its approved use. Where a sanitary facility is shared by another occupancy on the same site the total number of potential users shall be taken into

consideration in calculations for compliance with this condition.

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

Reason: To ensure the provision of adequate sanitary and associated facilities for the premises.

6. 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.

7. 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.

8. 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 WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

9. 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 suitably qualified 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.

10. Mechanical Ventilation certification

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from

the installer of any 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.

11. **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.

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

12. **Liquor License**

The Licensee for any Liquor Licence held at the premises must join and be an active participant in the local liquor accord.

13. **Food**

The Licensee for any Liquor Licence held at the premises must ensure that food, that is of a nature and quantity consistent with the responsible service of alcohol, is available at all times whilst liquor is being sold, supplied or consumed on the premises.

14. **Smoke-Free Environment Legislation**

The use and operation of the premises is to comply with the Smoke-Free Environment Act 2000 and the Smoke-Free Environment Regulation 2000. Guidance may also be obtained from the NSW Health Department (to ensure that smoking is not permitted on premise).

15. **Crime Scene Preservation**

1. Immediately after the person in charge of the Licensed Premises become aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:

- i. Take all practical steps to preserve and keep intact the area where the act of violence occurred.
- ii. Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police.
- iii. Make direct and personal contact with the Local Area Command or his/her delegate and

advise the Commander or delegate of the incident and

iv. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

16. Advertising and Liquor Promotions

1) The Licensee for any Liquor Licence held at the premises must ensure that no advertising or promotional material relating to liquor is to be displayed outside the premises or within the retail bookstore area of the premises outside of any authorised Liquor Trading Hours.

2) Any signs or notices which identify the premises as a Licensed Premises and are required to be displayed in accordance with the Liquor Act and/or Liquor Regulations are exempt from subclause (1).

17. Incident Register

(1) The Licensee for any Liquor Licence held at the premises must maintain a register, in the form approved by the Secretary (Liquor & Gaming NSW), in which the licensee is to record, in the manner approved by the Secretary, the details of any of the following incidents and any action taken in response to any such incident:

- (a) any incident involving violence or anti-social behaviour occurring on the premises,
- (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
- (c) any incident that results in a person being turned out of the premises under section 77 of the Act,
- (d) any incident that results in a patron of the premises requiring medical assistance,
- (e) any incident that involves the possession or use on the premises of any substance that the licensee suspects of being a prohibited plant or a prohibited drug.

(2) The Licensee must, if requested to do so by a police officer or inspector

- (a) make any such incident register immediately available for inspection by a police officer or inspector, and
- (b) allow a police officer or inspector to take copies of the register or to remove the register from the premises.

(3) The licensee of subject premises must ensure that the information recorded in an incident register under this clause is retained for at least 3 years from when the record was made.

18. Consents, Registers and Plan Of Management kept on Premises

A full copy of all current Development Consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Management must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or Inspector from Liquor and Gaming NSW.

19. Noise

1) The Licensed Premises are not to be themed or operated as a 'Nightclub'. No DJ styled booth, no disco lighting systems and no dance floor area are to be utilised at any time in the premises.

2) All external doors and/or windows to the premises are to be kept closed after 8:00pm daily.

3) The LA 10 noise level emitted from the licensed premises shall not exceed the background

noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight and between 12:00 midnight and 07:00 am at the boundary of any affected residence. Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am. For the purposes of this condition, the LA 10 can be taken as the average maximum deflection of the noise emission from the licensed premises.

20. **Sale and/or Supply of Liquor**

The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation.

21. **Neighbourhood Amenity**

1. The management of the premises:

- i. Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
- ii. Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations.
- iii. Shall record in an Incident Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.
- iv. Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in an Incident Register.

2. An adequate queuing system for patrons must be implemented at the main entrance of the licensed restaurant so as to ensure that if patrons are queuing to gain entry they do not obstruct or impede pedestrian traffic flow.

22. **Hours of Operation**

The hours of operation are to be restricted to:

Bookstore

- o Monday – 9.00am - 5.00pm
- o Tuesday to Saturday – 9.00am - 10.00pm
- o Sunday and Public Holidays – 9.00am - 10.00pm

Wine Bar

- o Monday – Closed
- o Tuesday to Saturday – 5.30pm to 12.00 Midnight
- o Sunday and Public Holidays – 5.30pm - 10.00pm

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

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

23. **Maximum Patrons**

A maximum of 52 patrons are permitted on the premises at any one time.

Reason: To maintain the amenity of the locality.

24. **Noise from waste collection and deliveries**

Deliveries and waste collection services (including trade waste) must only occur during the following hours:

- Weekdays – 6:30 am – 8:00 pm
- Weekends and Public Holidays – 8:00 am – 8:00 pm

Reason: To minimise disruption to neighbouring properties.

25. **Operational noise conditions**

7 am to midnight, the LA10 noise level must not exceed the background by more than 5dB in any 1/1 octave band centre frequency from 31.5Hz to 8kHz inclusive at the boundary of any residential premise.

Midnight to 7 am, the LA10 noise level must not exceed the background noise level in any 1/1 octave band centre frequency from 31.5Hz to 8kHz inclusive at the boundary of any residential premise and must not be audible within any habitable room of any residential premise.

Reason: minimise noise impacts for surrounding residents.

26. **Compliance with the Plan of Management**

Operations must comply with the Plan of Management submitted with the development application DA2019/1535.

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

27. **Mechanical noise controls**

Noise created by mechanical plant used by the premises must not be audible in a residential premise before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or before 7 am or after 10 pm on any other day. At all other times, use of mechanical plant must not result in noise that exceeds 5 dB(A) above background at the boundary of the nearest residential premise.

Reason: To protect the acoustic amenity of neighbouring properties.

28. **Minors**

1) All minors (and their respective parents or guardians) will be asked to leave the premises at least 30 minutes prior to the commencement of any approved Liquor Trading Hours.

2) The Licensee for any liquor licence held at the premises must ensure that no liquor is sold, supplied or consumed at the premises until all minors have exited the premises.

29. CCTV Footage on Premises

The Licensee for any Liquor Licence held at the premises shall maintain a CCTV system that meets the following minimum requirements:

1) A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:

- a. the person represents not less than 100% of the screen height, and
- b. there is an unobstructed view of the person's face.

2) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:

- a. all other public entrances and exits, whether or not in use at the time,
- b. staircases,
- c. all portions of the floor area accessible to the public where entertainment is provided,
- d. toilet external entrances,
- e. all public accessible areas within the premise excluding toilets
- f. the footpath area directly adjacent to the premises, and
- g. courtyard and smoking areas.

3) The CCTV recordings of the cameras referred to in sub condition (2) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:

- a. the person represents not less than 50% of screen height, and
- b. there is an unobstructed view of the person's face.

4) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

5) Camera recordings must meet the standards set in sub condition (1) and (3) at all times, either by way of camera positioning, camera shades or other environmental factors.

6) Recordings must:

- a. be in digital format,
- b. record at a minimum of thirty frames per second (30fps), and
- c. commence at least one hour prior to opening and operate continuously until at least one hour after closing.

7) The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.

8) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30-day period.

9) When the venue is open and trading, at least one person shall be at the venue that is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.

10) Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, NSW Liquor & Gaming Inspectors or other regulatory officers upon request.

11) The CCTV system shall be able to reproduce a copy of the recordings on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, NSW Liquor & Gaming Inspectors or other regulatory officers.

12) Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.

30. **Security**

At least one security guard must be employed at the venue on Friday and Saturday evening from 8:00pm until close or when the last patron has left the vicinity (whichever occurs last).

31. **Maximum Patron Capacity**

1. Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the main principle entry to the premises. The signage shall state: Approved patron capacity is limited to 52.

2. Management are responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified in sub clause (a).

3. Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected near the main principle entry to the premises; in such manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state: Upon leaving please respect local residents by minimising noise.

4. Signage specified in sub clause (a) and (d) is to be erected prior to the commencement of operations. Blank condition for on going

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

Signed



Penny Wood, Planner

The application is determined on 09/05/2020, under the delegated authority of:



A handwritten signature in black ink, appearing to read "Anna Williams".

Anna Williams, Manager Development Assessments