

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0375
Responsible Officer:	Danielle Deegan – Consultant Town Planner
Land to be developed (Address):	Lot 7356 DP 1167221, Carrington Parade CURL CURL NSW 2096
Proposed Development:	Use of premises as a café
Zoning:	Warringah LEP2011 - Land zoned RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	South Curl Curl Surf Life Saving Club Inc
Application Lodged:	23/04/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	01/05/2024 to 29/05/2024
Advertised:	Not Advertised
Submissions Received:	34
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$0

EXECUTIVE SUMMARY

This development application seeks consent for the use of part of the existing South Curl Curl Surf Life Saving Club (SLSC) building as a café.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as the Council is the landowner. The application is the subject of the Council's policy for the Management of Council related Development Applications, which provides strategies for the management of conflicts for development on Council owned or managed land. The application has been managed and assessed in accordance with this policy and satisfies the requirements under the plan.

The application was exhibited between 01/05/2024 to 29/05/2024. Thirty-four (34) submissions were received, all in support of the proposal.

Critical assessment issues include potential residential amenity impacts. The assessment finds that as the use is within the existing building envelope and sufficiently separated from surrounding residential dwellings, no detrimental impacts are anticipated. Given that a kiosk/café use has been operating on the site for many years without complaint and the numerous submissions received in support of current proposal, the proposed café use is acceptable.

This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks to authorise the existing use of part of the ground floor of the South Curl Curl SLSC as a café.

The application seeks approval for the following hours of operation:

- 7 days a week – 6 am to 9 pm

The floor plan indicate seating for 78 patrons, comprising of:

- Internal seating; 30 patrons
- External seating; 48 patrons.

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 – C2 Traffic, access and safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D3 Noise

SITE DESCRIPTION

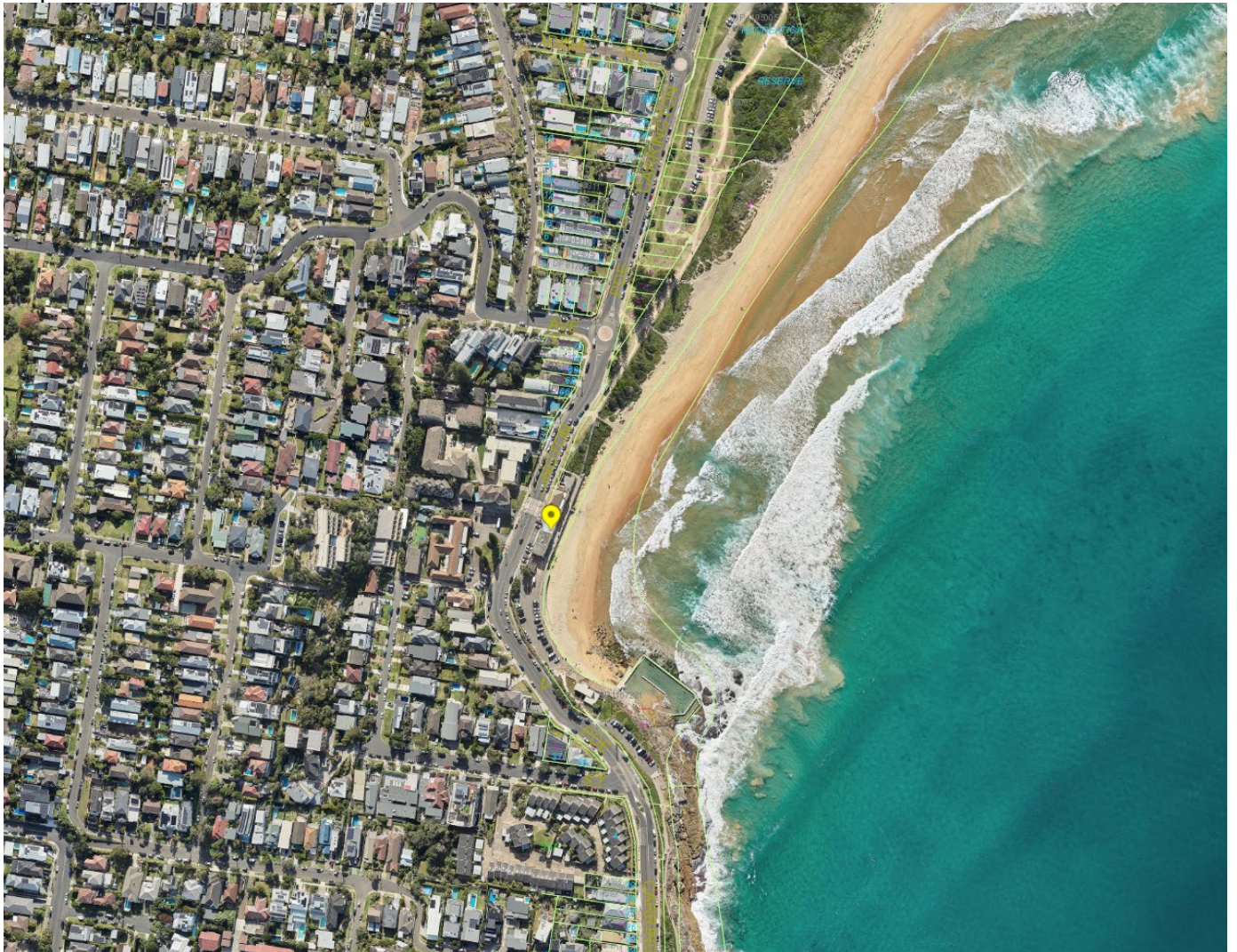
Property Description:	Lot 7356 DP 1167221, Carrington Parade CURL CURL NSW 2096
Detailed Site Description:	The South Curl Curl SLSC is located on part of Lot 7356 in DP 1167221, Carrington Parade, Curl Curl.

The site is located on the southeast side of Carrington Parade and adjoins South Curl Curl Beach to the east. The allotment of land comprises of approximately 4 hectares of public open space including Curl Curl Lagoon, Curl Curl Beach and headland areas. The South Curl Curl SLSC is located towards the southern portion of the allotment.

The South Curl Curl SLSC is a part one / part two storey building containing, public amenities, surf craft storage, a lifeguard office, caretaker residence, a function room, a club hall and observation decks.

An existing café with indoor and outdoor seating is located on the ground floor level towards the southern end of the building. A detached storage shed is located to the south of the main building.

Map:



Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low and medium-density housing. The

Stewart House complex (comprising holiday accommodation and health services for NSW public school children) is located opposite.

SITE HISTORY

A search of Council's records has revealed the following relevant application for this site.

- On 29 January 2003, Warringah Council approved DA2002/1260 for the 'refurbishment and expansion of an existing kiosk at the South Curl Curl Life Saving Club'.

NOTIFICATION and 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 2021 and the Northern Beaches Community Participation Plan 2019.

As a result of the public exhibition process Council is in receipt of 34 submissions from:

Name:	Address:
Lachlan Franklin	11 / 301 - 303 Condamine Street MANLY VALE NSW 2093
Ngoc Duyen Tran	Address Unknown
Mr Larry Stein	3 Adams Street CURL CURL NSW 2096
Michela Verwey	Address Unknown
Ms Natalie Therese Neary	3 Adams Street CURL CURL NSW 2096
Caine Mertens	11 Kimberley Street EAST KILLARA NSW 2071
Mrs Kartya Emma Howes	6 Curl Curl Parade CURL CURL NSW 2096
Michael James Donnan	30 Farnell Street CURL CURL NSW 2096
Mr Stephen John Birch	33 Upper Clifford Avenue FAIRLIGHT NSW 2094
Mr Benjamin Stephen Webster	1 Park Street CURL CURL NSW 2096
Mrs Lisa Settree	35 Gardere Avenue CURL CURL NSW 2096
Mr John Wallace Kershler	31 Starkey Street FORESTVILLE NSW 2087
Mrs Kristy Kerry Warnford	18 Oliver Street FRESHWATER NSW 2096
Mrs Susan Helen Hanley	70 A Golden Grove BEACON HILL NSW 2100
Paul Michael White	67 Wyuna Avenue FRESHWATER NSW 2096
Harrison James Baillie Waterworth	Level 2 86 Bay Street BROADWAY NSW 2007
Mr Nicholas Chandler	60 Wyuna Avenue FRESHWATER NSW 2096
Mr Benjamin James Humel	Level 1 2b Francis Street DEE WHY NSW 2099
Paul Edward Monnington	151 Wyndora Avenue FRESHWATER NSW 2096
Mr Jay Grant Turner	PO Box 22 COLLAROY NSW 2097
Ms Patricia Barbara Green	27 B McDonald Street FRESHWATER NSW 2096
Joanna Eileen Nealon	4 / 28 Clarence Avenue DEE WHY NSW 2099
Peter John Cooney	2 / 37 Carnarvon Drive FRENCHS FOREST NSW 2086
Christopher Owen Perkins	28 Gardere Avenue CURL CURL NSW 2096
Mr John Anthony Studdert	15 Thomas Street NORTH MANLY NSW 2100
David Graham Alldis	3 Park Street CURL CURL NSW 2096

Mrs Valerie Fernande Marie Helene Burke	2 / 44 A Consul Road BROOKVALE NSW 2100
Mr John Patrick White	8 / 105 A Woodland Street BALGOWLAH NSW 2093
Mr David Charles Platter	3 / 2 Stuart Street MANLY NSW 2095
Callum Mckay	84 A Brighton Street FRESHWATER NSW 2096
Mr Timothy David Hager Davis	38 Curl Curl Parade CURL CURL NSW 2096
Julian Mckay	84 A Brighton Street FRESHWATER NSW 2096
Mr Lisa Anne Schumacher	63 Redman Road DEE WHY NSW 2099
Mr Nicholas Philip Tomlinson	6 / 31 Addison Road MANLY NSW 2095

All submissions are in support of the proposal.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported, subject to conditions</p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>Supported, subject to conditions</p> <p>This application is seeking consent for a change of use to permit a cafe and alter hours of operation at South Curl Curl Surf Life Saving Club.</p> <p>The total patron numbers proposed will cater for 30 internally and 48 externally. This requires a minimum of the following sanitary facilities to be provided on the premises:</p> <p>Male: 1 toilet, 1 urinal and 1 washbasin Female: 2 toilets and 1 washbasin</p> <p>The internal layout of the cafe, food storage area must comply with the Australian Standard 4674:2004 Design, construction and fit-out of food premises.</p> <p>Given the location of the cafe and outdoor dining area is on a lower level to the street, Environmental Health is of the opinion that noise is unlikely to be an issue from the operation of the cafe from 6:00am.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Strategic and Place Planning (Heritage Officer)	<p>Supported, subject to conditions</p> <p>Reason for referral:</p> <p>The proposal has been referred to Heritage as the site is located opposite a heritage item</p>

Internal Referral Body	Comments																					
	<p>I128 - Building Known as Stewart House - Carrington Parade Curl Curl</p> <p>Details of the heritage item affected:</p> <p><u>Statement of significance:</u></p> <p>A representative example of the institutional buildings which were erected in the area to provide health and welfare services associated with the sea. Socially important due to the role that it has played in public health and child welfare since 1930.</p> <p><u>Physical Description:</u></p> <p>Elevated face brick building of symmetrical design and central entrance. Tiled hipped roof with stepped parapet centrally located above entrance pavilion. Projecting bays at either end. Flat roofed (enclosed) verandahs with terracotta shingle skirts. Circular driveway at front. Central stairway to entrance. Flagpole.</p> <table border="1" data-bbox="528 904 1418 1444"> <thead> <tr> <th colspan="3">Other relevant heritage listings</th> </tr> </thead> <tbody> <tr> <td>SEPP (Biodiversity and Conservation) 2021</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>N/A</td> <td></td> </tr> </tbody> </table> <p><u>Consideration of Application</u></p> <p>The proposal seeks consent to change the kiosk within the surf club building to a cafe and change its hours of operation. The kiosk is located at the ground level of the building and faces the ocean. Stewart House is located to the west of the site, across Carrington Parade. As there are no physical works proposed, the proposal is considered to not impact upon the heritage item or its significance.</p> <p>Therefore, Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of WLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>	Other relevant heritage listings			SEPP (Biodiversity and Conservation) 2021	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	N/A	
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Other	N/A																					
Waste Officer (Council Land)	<p>Support</p> <p>Waste Management Assessment Supported - without conditions</p>																					

Internal Referral Body	Comments
	No issues for Waste Services

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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	There are no current draft environmental planning instruments.
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 regulations	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 'Matters for Consideration'	Comments
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 Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed use will provide a beneficial social impact for the community by providing a local Café. It is not anticipated that the development will have any adverse social impacts.</p> <p>(iii) Economic Impact The proposed use 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 and 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.

CROWN LAND MANAGEMENT ACT 2016 and LOCAL GOVERNMENT ACT 1993

The land is owned and managed by Council for the purpose of public recreation. Under section 3.21 of the Crown Land Management Act 2016, Council, as the Crown Land Manager, is authorised to classify and manage the land as if it were public land within the meaning of the Local Government Act 1993. The site is classified as ‘community land’ and is part of a public reserve managed by the Northern Beaches Council under the *Warringah Coastal Lands Plan of Management (POM)*.

The Action Plan for Recreational Values included in the POM states the management action for the South Curl Curl SLSC building is to ‘*investigate and consider extensions and/or modifications*’. The proposed Café use is consistent with the uses identified as suitable for the granting of a lease.

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 (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - b) *coastal environmental values and natural coastal processes,*
 - c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - f) *Aboriginal cultural heritage, practices and places,*
 - g) *the use of the surf zone.*

- 2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
 - b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment: The proposal does not include any physical building work and therefore there will be no impacts on any of the matters listed in clause (1)(a) – (g) above.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
 - a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*

- i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - iv) *Aboriginal cultural heritage, practices and places,*
 - v) *cultural and built environment heritage, and*
- b) *is satisfied that:*
- i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment: As there are no physical works proposed, the existing safe access along the beach foreshore will be maintained. There will be no adverse impacts on the matters listed in clause(1)(a)(i) – (v) above.

The proposal complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for community 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the community land use.

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

Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
5.5 Controls relating to secondary dwellings on land in a rural zone	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
5.20 Standards that cannot be used to refuse consent – playing and performing music	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

Zone RE1 Public Recreation

The proposal is for the change of use of part of the existing surf lifesaving club building from a kiosk to a café. The relevant definitions under WLEP 2011 are as follows:

***kiosk** means premises that are used for the purposes of selling food, light refreshments and other small convenience items.*

***restaurant or café** 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, but does not include the preparation and serving of food and drink to people that occurs as part of—*

- (a) an artisan food and drink industry, or*
- (b) farm gate premises.*

The proposed café use is permissible in the RE1 Public Recreation zone.

Objectives of the RE1 zone

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

Comment:

The development is consistent with the relevant objectives of the RE1 zone as follows:

- The proposal retains the existing public open space areas for recreational purposes and complements those activities.
- The proposal complements and enhances the use of the surrounding recreational activities.
- The proposal is within the building envelope of the existing SLSC and will not have a negative impact on the natural environment.
- The proposal maintains the ecological, scientific, cultural or aesthetic values of the land.

WARRINGAH DEVELOPMENT CONTROL PLAN

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes

C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

C2 Traffic, access and safety and C3 Parking Facilities

The proposal maintains the gross floor area and patron numbers of the existing Café use.

The café primarily caters to existing beach, pool and SLSC users and is unlikely to be an end destination in itself. With regards to car parking, the existing car spaces in the adjoining public parking areas provide ample off-street parking to cater for parking demand that may be generated from the café use.

The authorisation of the existing café use is not expected to generate any traffic increases, as the primary trip generator for the site will continue to be South Curl Curl beach, pool and SLSC activities. Impacts on the surrounding street network will be negligible.

D3 Noise

Approval is sought for the following hours of operation:

- 7 days per week – 6 am to 9 pm

Council's Environmental Health officer notes that given the location of the cafe and outdoor dining area below street level, noise is unlikely to be an issue from the operation of the cafe from 6:00 am. Environmental Health supports the proposal subject to consent conditions.

7.12 CONTRIBUTIONS

No contribution is payable under the Northern Beaches Section 7.12 Contributions Plan 2019 as the proposal is for public infrastructure and the Council is the applicant (clause 2.5 of Northern Beaches Section 7.12 Contribution Plan 2019). There is no cost of works associated with the development as the proposal is for the use and change of hours only. As such, there are no fees payable under the S7.12 Contributions Plan.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- 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 does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including the Warringah Local Environment Plan 2011, Warringah Development Control Plan 2011, the Coastal Lands Plan of Management and the relevant codes and policies of Council. 5678

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

PLANNING CONCLUSION

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as the Council is the landowner. The proposed application is the subject of the Council's policy for the Management of Council related Development Applications, which provides strategies for the management of conflicts for development on Council owned or managed land. The application has been managed and assessed in accordance with this policy and satisfied the requirements under the plan.

The critical assessment issues include potential residential amenity impacts. As there are no physical building works proposed, potential impacts to flora and fauna, coastal processes, views, and visual impacts are avoided.

The proposed continued use of the premises as a café will not increase demand for car parking or generate additional traffic impacts on the surrounding street network.

The public notification resulted in 34 submissions in support of the proposal. No objections were raised.

Overall, the proposal performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal is therefore recommended for approval.

REASON FOR DETERMINATION

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2024/0375 for the use of the premises as a cafe on land at Lot 7356 DP 1167221, Carrington Parade, CURL CURL, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-01	A	Kiosk/café floor plan	Michael Airey	April 2024
21857 (2 sheets)	1	Survey	CMS Surveyors	26.10.2022

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Statement of Environmental Effects	-	Nolan Planning Consultants	April 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. Approved Land Use

Nothing in this consent shall authorise the use of the tenancy as detailed on the approved plans for any land use of the site beyond the definition of a café, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

restaurant or café 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, but does not include the preparation and serving of food and drink to people that occurs as part of—

- (a) *an artisan food and drink industry, or*
- (b) *farm gate premises.*

Any variation to the approved land use 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.

3. 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.

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon

completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A “Road Opening Permit” must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

5. Registration of food Business

The food business must be registered with the appropriate regulatory authority, prior to the Occupation Certificate being issued.

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

6. Kitchen Design, construction and fit out of food premises certification

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating 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.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

7. Mechanical Ventilation certification

Where Mechanical ventilation must comply with the following:

- o Australian Standard (AS) 1668.2 “The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings”; and
- o Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

Certification is to be provided to the Principal Certifier prepared by a suitably qualified person to demonstrate that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

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

8. Hours of Operation

The hours of operation are restricted to 6 am to 9 pm, 7 days per week.

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 the amenity of the surrounding locality is maintained.

9. Deliveries

No deliveries, loading or unloading or waste collection associated with the premises are to take place between the hours of 7pm and 6am on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties.

10. Patron Numbers

The capacity of the café is to be limited to:

Internal Seating – 30 Patrons
External Seating – 48 Patrons
Total – 78 Patrons

Reason: To protect the amenity of the surrounding properties and the public domain. To ensure the anticipated numbers are in accordance with the consent.

FINAL DECLARATION



Consultant Name: Danielle Deegan, DM Planning

In submitting this report to Council, I declare that I do not have a conflict of interest in making this recommendation.