

6 June 2022



Robinson Urban Planning Pty Ltd
83 Fletcher Street
TAMARAMA NSW 2026

Dear Sir/Madam

Application Number: DA2021/2065
Address: Lot 2849 DP 822227 , 0 Market Lane, MANLY NSW 2095
Proposed Development: Use of premises (part Road Reserve and Lot 2849) as a Food and Drink Premises (for a 'Small Bar')

Please find attached the Notice of Determination for the above mentioned Application.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's website at www.northernbeaches.nsw.gov.au

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on 1300 434 434 or via email quoting the application number, address and description of works to council@northernbeaches.nsw.gov.au

Regards,



Rodney Piggott
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2021/2065
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Robinson Urban Planning Pty Ltd
Land to be developed (Address):	Lot 2849 DP 822227 , 0 Market Lane MANLY NSW 2095
Proposed Development:	Use of premises (part Road Reserve and Lot 2849) as a Food and Drink Premises (for a 'Small Bar')

DETERMINATION - APPROVED

Made on (Date)	01/06/2022
Consent to operate from (Date):	01/06/2022
Consent to lapse on (Date):	01/06/2027

Detail of Conditions

The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.

Note:

If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.

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
DA01 Proposed Plan - Market Lane Live - Wine Bar	28.4.2022	SARM Architects

Note: The construction certificate process is to be used to ensure the intended placement, design, physical layout of structures on the site will comply with applicable CC stage conditions and requirements of this consent as appropriate. All structures are to be of a portable nature / design in the 'construct' of the 'small bar' and its physical setting.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Report PS131027-A	27.4.2022	WSP
Plan of Management V1-15.10.21*	Oct 2021	Market Lane Live / Matt Clifton
Access Report 3283	28.4.2022	Murrow Consulting
BCA Report 21-217486_BCA_R02	21.10.2021	Philip Chun

*Plan of management to be revised to accord with / inclusive to the conditions of this consent, as relevant.

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
Plan of Management (section18 - Waste)	Oct 2021	Market Lane Live / Matt Clifton

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. Time Limitation - Lapsing of Consent

This consent is limited to three (3) years duration from the Date of Determination.

Should the applicant seek an additional time period / future use of the site to continue after 3 years, a new development application or modification of this consent may be applied for 6 months prior to the lapsing of consent.

Note: Should determination of that request to further continue operation not be determined by Council within a 6 month period the operations are to cease until such time as a definitive determination is made. If a further time extension or new consent is not granted (upon completion of the new application determination) all structures fittings and fixtures are to be removed from the premises to the satisfaction of Council.

Reason: To enable Council to review and manage use of Council land for commercial purposes.

3. **Prescribed Conditions**

- (a) All building works / placement of structures must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) Where applicable, 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) Where applicable, 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) Where applicable, 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, as applicable. 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) Where applicable, 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.

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

5. **Location of Eastern Perimeter Fence**

The eastern perimeter fence of the 'small bar' is to be offset no less than 6.0 metres (m) from the eastern boundary alignment of Market Lane. No seating or tables associated with the bar are to be located outside of the perimeter fence.

Reason: To ensure adequate space is available at all times for vehicular access including emergency services vehicles when necessary

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

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

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

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

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

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

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

7. **Flooding**

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

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level 5.9m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Fencing – F1

Fencing shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level of 5.4m AHD.

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

8. **Plans of Mobile Food design, construction and fit out**

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance the Food Act 2003, Standard 3.2.3 of the Australian and New Zealand Food Standards Code and the NSW Food Authority Guideline for Mobile Food Vending Vehicles must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

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

9. **Plan of Management - Pest Control Requirements**

Updates to the Plan of Management are to include the following requirement specific to pest /

vermin and hygiene controls:

- Pest control measures with a requirement that a contract be entered into with a licensed pest controller with regular inspections; and
- Details be included in the plan of management on how the area will be kept in a clean and healthy condition that prevents pest harbourage.

The updated Plan of Management is to be submitted to Council for review by Council's Environmental Health Team prior to the issue of the Construction Certificate.

Reason: To maintain amenity of the surrounding area for premises on Council owned land.

10. Acoustic Requirements and Restrictions to the Plan of Management

The Plan of Management is to be updated / amended to include the following Acoustic and operations matters:

- Incorporating recommendations from Section 4 of Acoustic Report by WSP Australia Pty Ltd dated 16 May 2022 (reference: PS131027-A);
- Amplified music to be limited from one speaker as per modelling undertaken within the Acoustic Report;
- Amplified background music on Mondays to Fridays is to be limited to 5.00 pm onwards only (except when trading on a public holiday that falls on a weekday, then 12 midday to 10pm);
- Live music to be limited to the following times
 - Monday – Thursday: 6pm – 9pm
 - Friday: 5pm – 10.00 pm
 - Saturdays & Sundays: 3pm –10:00 pm
- Capacity of venue limited to 120 patrons
- Speaker to be fitted with an electronic limiter that limits the output to the noise spectrum within Table 3.1 of the Acoustic Report by WSP Australia Pty Ltd dated 16 May 2022 (reference: PS131027-A). The limiter is to be installed in a tamper proof enclosure (or in the case of a DSP based limiter) with no access to the limiter controls by staff.

The updated Plan of Management is to be submitted to Council for review and approval by Council's Environmental Health Team prior to the issue of the Construction Certificate.

Reason: To maintain amenity of the surrounding area and usage of Council owned land.

11. Compliance with Standards

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. License Agreement

Prior to commencement of operation, the applicant shall enter into a License Agreement with

Council under Division 1 of the Roads Act for Street Vending for the use of the space.

Reason: To ensure the requirements of the Roads Act 1993 as regards street vending are complied with.

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

13. Certification of Services (B3)

Certification that new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections are located above the FPL and waterproofing of electrical equipment and installation of residual current devices below the Flood Planning Level (B3)

A suitably qualified electrical engineer or contractor is to certify that all new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections are located above the Flood Planning Level and any existing electrical devices, wiring and the like located below the FPL are protected from water egress or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval.

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

14. Registration of Food Businesses

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

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

15. Construction and fit out of mobile Food Premises certification

Prior to the issuing of the occupation certificate, certification is to be provided to the Principal Certifying Authority by a suitably qualified person demonstrating that the design, construction and fit out of the mobile food premises is compliant with the requirements of the Food Act 2003, Standard 3.2.3 of the Australian and New Zealand Food Standards Code and the NSW Food Authority Guideline for Mobile Food Vending Vehicles.

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

16. Acoustic Report Certification

Prior to any occupation certificate being issued, a further acoustic assessment is to be undertaken by a qualified and experienced person(s) to confirm compliance with recommendations within the Acoustic Report by WSP Australia Pty Ltd dated 16 May 2022 (reference: PS131027-A) and compliance with any relevant acoustic conditions of the consent.

Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate in order to achieve compliance with noted conditions of this consent

Reason: To protect the acoustic amenity of neighbouring properties. (DACHPFPOC6)

17. Flood Management

An *Emergency Evacuation Plan* that appropriately mitigates the flood risk must be prepared by a suitable qualified professional for the development. The plan must include clear and simple triggers and directions to evacuate the site prior to flooding. The emergency assembly point must be a suitable sized location above the Probable Maximum Flood level. The triggers must consider the critical duration for flooding of the area and result in evacuation occurring before the site and evacuation route experiencing 150mm depth flooding.

Council's flood team and flood mapping are recommended to be consulted in preparing the plan.

Reason: To mitigate flood risk of the development.

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

18. **Flood Management**

Flood Emergency Response

The Emergency Evacuation Plan prepared by a suitable qualified professional must be adhered to at all times.

Reason: To mitigate the risks of flooding.

19. **Delivery Vehicles**

Delivery vehicles associated with the development are only permitted to drive, stand or park on Market Lane plaza area between the hours of 5am to 11am Mondays to Fridays. There is no access on weekends or Public Holidays, and subject to Council operations / maintenance services.

Reason: Compliance with Council's management / shared use for the pedestrianised area.

20. **Waste Storage Area**

The waste storage area adjacent to the Manly Library Building must be kept in a clean and healthy condition at all times. All waste is to be wholly contained within appropriate waste receptacles.

Reason: To protect amenity of the surrounding area and prevent pest harbourage.

21. **Operational commencement of the Plan of Management**

The requirements of the approved Plan of Management are to be fully implemented from the issue of the Occupation certificate.

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

22. **Noise Ongoing**

The Premises shall comply with the following:

- Capacity of venue limited to 120 patrons.
- Amplified music to be limited from one speaker.
- Amplified background music on Mondays to Fridays is to be limited to 5.00 pm onwards only (except when trading on a public holiday that falls on a weekday, then 12 midday to 10pm).
- Live music (including sound check) to be limited to the following times:

- o Monday – Thursday: 6pm – 9pm
- o Friday: 5pm – 10.00 pm

- o Saturdays & Sundays: 3pm –10:00 pm
- o Speaker to be fitted with an electronic limiter that limits the output to the noise spectrum within Table 3.1 of the Acoustic Report by WSP Australia Pty Ltd dated 16 May 2022.

Reason: To maintain acoustic amenity of the surrounding area.

23. Compliance with Plan of Management

The requirements of the Plan of Management are to be adhered to for all day-to-day operations (including matters that are managed outside trading hours).

Reason: To protect the amenity of the surrounding area.

24. Hours of Operation

The hours of operation are to be restricted to (with patron capacity limited to 120 persons):

- o Monday to Thursday : 4:00 pm to 10.00 pm (except on Public Holidays that fall on Monday to Thursday then 12 midday to 10:00pm)
- o Friday : 4:00 pm to 10.30 pm. (except on Public Holidays that fall on a Friday then 12 midday to 10:30pm)
- o Saturday : 12 midday to 10:30 pm
- o Sunday : 12 midday to 10:00 pm
- o No trading on Christmas Day.
- o New Years Eve operations may extend to 1am (being 1st Jan) by prior written notice to Council.

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.

(Note: see condition of consent "Noise Ongoing" regarding limitations on hours for live or amplified / recorded music)

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

25. Consumption of Beverages

The premises are to be managed to ensure patrons do not take drink purchases away (outside of) from the premises for consumption as 'take-away' drinks. This includes cups, cans, bottles or other containers for alcohol or non-alcoholic beverages.

Reason: Regulatory requirement and Waste handling.

26. Storage of Waste Bins

The 'Market Lane Live' proprietor must, at the proprietor's expense, construct a suitable bin enclosure within the leased area to contain all garbage and recycling bins used for the operation of *Market Lane Live*. The bin enclosure must be secured at all times and screen the bins from view by the public.

Bins from the Market Lane Live venue are no longer to be stored in the Manly Library bin enclosure.

Reason: To ensure appropriate, secure and ongoing storage of waste bins.

27. **Requirements for Waste Collection**

The proprietor of "Market Lane Live" must engage the services of a private waste collection contractor to remove waste from the venue on a daily basis.

Recyclable materials must be separated from the waste stream for separate collection and not sent to landfill. It is expected that waste will be separated into paper/cardboard recycling, container recycling (bottles, cans etc) and landfill.

Bins will remain secured in the bin enclosure at all times to prevent use by the public. The bins are not to be placed out in any public area for collection. The contractor responsible for servicing the bins will retrieve the bins from the bin enclosure, empty them, return them to the bin enclosure and then lock the door on the enclosure.

Reason: To ensure public amenity of the area is maintained. To maximise recycling of waste materials generated by the operation of Market Lane Live.

28. **Food Service Requirements**

Market Lane Live, and all food premises providing food service to Market Lane Live, must comply with Council's "*Waste Minimisation for Functions and Events Policy*", "*Single Use Plastics Policy*" and "*Outdoor Dining and Footpath Merchandise Policy*". The sale or distribution of single use plastic or polystyrene items and plastic packaging, including bottled water is prohibited during the life of the lease.

- Prohibited single-use plastic includes "bio-plastic", "biodegradable plastic", "degradable plastic" or "compostable plastic" products; and
- Reusable items are best practice and should be implemented where possible.

Reason: To minimise waste and prevent pollution of the local environment.

29. **Cleaning of the Leased and Surrounding Area**

i) The *Market Lane Live* proprietor is to litter-pick the leased area at the end of trading on a daily basis and during the course of trading as necessary.

ii) The *Market Lane Live* proprietor is to remove any litter caused by the operation of Market Lane Live in the surrounding area outside of the leased area.

iii) The *Market Lane Live* proprietor is to clean (mechanical scrubbing) the pavers within the leased area on an annual basis.

Reason: To ensure ongoing cleanliness of the leased and surrounding area

30. **Food Service to the Small Bar**

Food service for restaurant or take-away style full meals / dinner service or the like, by arrangement (i.e QR code or other) with participating outside restaurants / food premises is to be limited to 50% of the Small Bar table / seating facilities for patrons. Light snacks (available from within the premises or adjacent) are permitted for all patrons at all tables and subject to *Registration of Food Business* requirements. The cooking of food within the Small Bar area is not permitted.

Reason: Ensure principal land use remains consistent as a *small bar*.

31. **Set up hours**

The set-up of tables and chairs or miscellaneous items shall not commence until 2 hours prior to commencement of the hours of operation on any day, as stipulated in condition 24.

Reason: To ensure access and egress for delivery / routine Council vehicles to paved pedestrian mall / laneway areas is not prevented.

Right to Review by the Council

You may request Council to review this determination of the application under Division 8.2 of the Environmental Planning & Assessment Act 1979. Any Division 8.2 Review of Determination application must be lodged on the NSW Planning portal within 3 months of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

NOTE: A fee will apply for any request to review the determination.

Right of Appeal

If you are dissatisfied with this decision Division 8.3 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

Signed On behalf of the Consent Authority



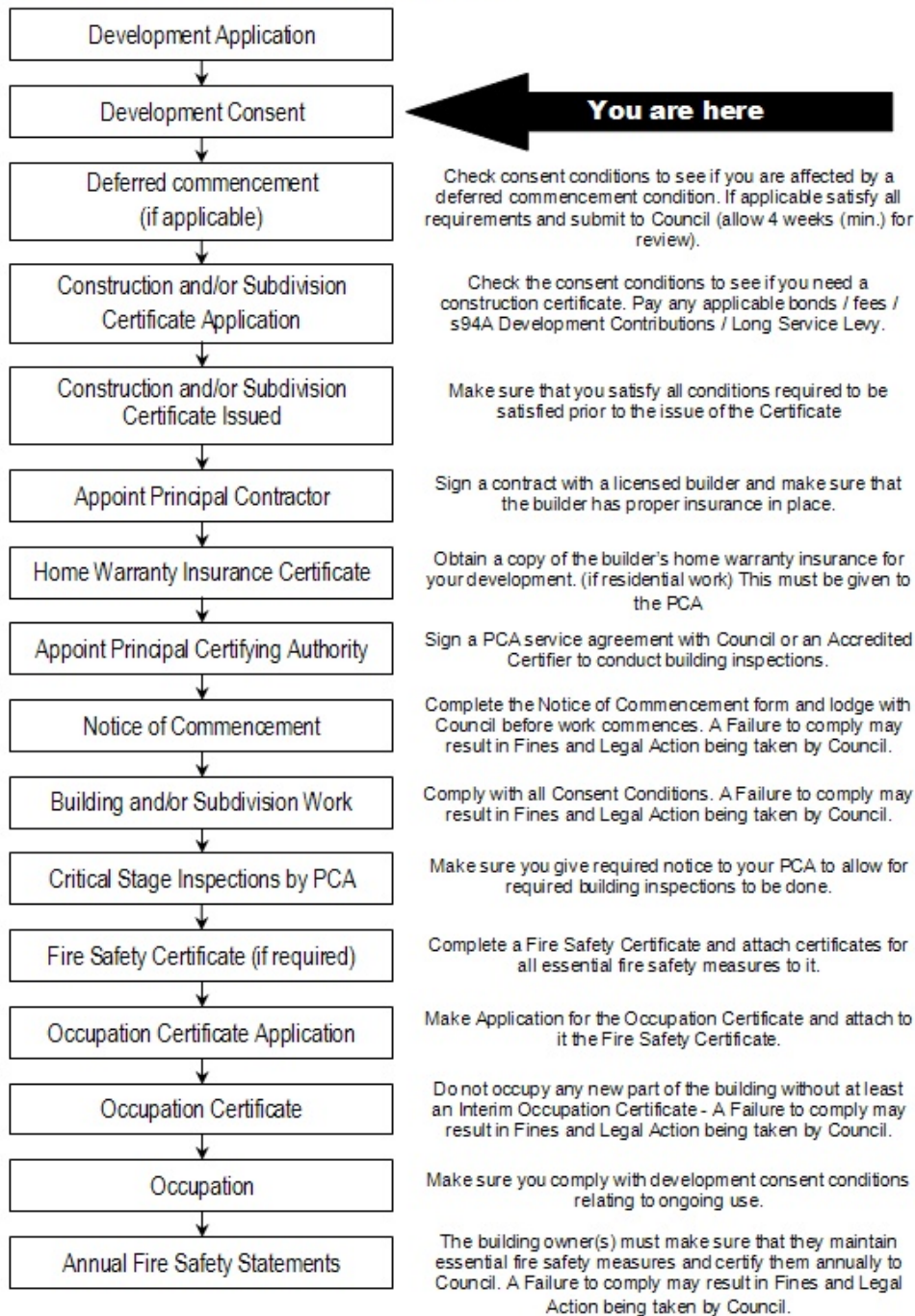
Name Rodney Piggott, Manager Development Assessments

Date 01/06/2022

GENERAL ADVICE

Advisory Notes (General)

Where are you in the development process?



Note: The advice within this document is provided in good faith as a guide to assist applicants understand the broad process and will not detail every step or every requirement for demolition, building construction works or subdivision required or business operating requirements under New South Wales or Commonwealth Legislation. If you require clarification or have any questions, please contact your Certifier or Council's Planning and Development Enquiries Team.

The attached Notice of Determination includes conditions of consent which must be complied with.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action.)

Building Certification

The Environmental Planning and Assessment Act 1979 provides that:

- Building work cannot occur unless a construction certificate has been issued;
- Occupation of building works cannot occur unless an occupation certificate has been issued
- Subdivision cannot be registered until a subdivision certificate has been issued
- Mandatory Inspection for building work must be completed

Please refer to process chart for more detail.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action.)

Certification Services

Construction Certificates / Occupation Certificates / Subdivision Certificates / Strata Certificates, can be issued by Council or an accredited private certifier (Note Council must be the Principal Certifying Authority (PCA) for subdivisions).

Council is well placed to provide Certification Services. Council can issue Construction Certificates and act as your Principle Certifying Authority at competitive rates. Please visit our web site www.northernbeaches.nsw.gov.au or speak to our Customer Service Officers if you have any further questions about our Certification Services or if you wish to use Council as your certifier.

Charges Associated with the Development Consent

All bonds, fees, Development Contributions or the Long Service Levy detailed within the Notice of Determination are required to be paid prior to the issuing of any Construction Certificate.

Bonds are released after:

1. 'Final Occupation Certificate' has been received by Council; and
2. Final inspection by a Council Officer where:
 - the development is complete
 - damage has not been caused to council assets during the works
 - conditions of development consent have been met.

The bond will be released to the person or business who paid the bond to Council (The name that appears on the original receipt)

Acceptable Form of Security Bonds

Council will accept bank guarantee (in a form acceptable to Council) in lieu of cash and is required prior to the issue of a construction certificate.

Modifications to the consent

If you seek to make any changes to the development (which may include internal / external configuration of the building, variation to facades, site layout or any changes to the proposed operation or use), the modifications may require the submission and approval of an application to modify the development consent prior to the issuing of a Construction Certificate and prior to the works being

carried out. The proposed changes should be discussed with the PCA.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action.)

Other Matters not detailed within the Notice of Determination

The Notice of Determination does not stipulate every requirement that must be completed to satisfy New South Wales and Commonwealth legislation.

You should check, as may be relevant, with other authorities including but not limited to:

- Workcover NSW for work safety and asbestos requirements
- Sydney Water – Quick Check Agent for the provision of water and sewer services
- Energy & Gas suppliers for utility services
- Department of Fair Trading for advice about builders and licensing
- Building Professionals Board for advice about private certifiers
- NSW Roads and Maritime Services for works on state roads only
- Human Rights and Equal Opportunity Commission for access issues
- NSW Land and Property Information for Land Title matters
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact :Telstra's Network Integrity Team on Phone Number 1800810443.

(1) if the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted

to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and

(2) The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

Model

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

Trade waste agreement

A Trade Waste Agreement must be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Trade wastewater is defined as 'discharge water containing any substance produced through industrial or commercial activities or operation on the premises'.

Waste collection

Liquid and solid wastes generated on the site must be collected, transported and disposed of in accordance with the requirements of the Protection of the Environment Operations Act 1997. Records must be kept of all waste disposal from the site.

Material to be removed from the site must be source separated on site to maximise recycling, and the material disposed of to an appropriate disposal and recycling facility in accordance with the approved Waste Management Plan.

Aboriginal Heritage

If in undertaking excavation or works and any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Warringah Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

On-Site Sewage Management System

This approval does not authorise the installation or operation of a new or modification of an existing on-site wastewater management system. An On-Site Sewage Management System must not be installed or operated unless an 'Approval to Install an On Site Sewage Management System' is obtained from Warringah Council.

Cost of Works

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

Relocation of stormwater drainage

Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

Tree preservation

Where tree work has not been approved by this Development Consent the developer is notified that a general Tree Preservation Order applies to all trees in the Northern Beaches Local Government Area. This order prohibits the ringbarking, cutting down, topping, lopping, pruning, transplanting, injuring, or wilful destruction of such trees except without the prior written consent of Council.

Storage bins on footpath and roadway

Approval is required from Council prior to the placement of any storage bin on Council's footpath and/or roadway.

Protection of Public Places

(1) If the work involved in the erection or demolition of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- (b) building involves the enclosure of a public place,

a hoarding and site fencing must be erected between the work site and the public place.

(2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

(3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

(4) Any such hoarding, fence or awning is to be removed when the work has been completed.

(5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained.

Road Opening Permit

The developer/applicant is to obtain a "Road Opening Permit" from Council and pay all appropriate charges prior to commencement of any work on Council property. The developer/applicant shall be responsible for all public utilities and services in the area of the work, and as such shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

Special Permits

Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council. A minimum of forty-eight (48) hours notice is required for all permits except work zones, which may require additional assessment time.

- Permit for on-street mobile plant

Restrictions apply to the hours of operation and the area of operation for on street mobile plant equipment (for example cranes, concrete pumps, cherry pickers). Separate permits are required for each occasion and each piece of equipment. It is the responsibility of the applicant, owner and builder to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

- Hoarding Permit

Permits are required to erect Class A, Class B and Class C hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

- Storage of building materials and building waste containers (skips) on Council's property

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given.

- Kerbside restrictions, work zones

Existing kerbside restrictions apply. An application must be made to Council for the alteration of existing kerbside restrictions or the provision of a construction zone.

Other permits may include out of construction hours permits.

Licensing requirements for removal of bonded asbestos

Anyone who removes, repairs or disturbs bonded asbestos must hold a bonded or a friable asbestos licence, or a demolition licence in accordance with Workcover requirements and the Occupational Health and Safety Act 2000.

Pool Access

Access to pools are required to be restricted by a child resistant barrier in accordance with the regulations prescribed in all relevant Acts, Regulations and Australian Standards including:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2012;
- (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

It is your responsibility as a land owner to ensure any fencing is maintained.

Dewatering

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Department of Water and Energy. The bore license must be obtained prior to commencement of dewatering works.

Requirement to Notify about New Contamination Evidence

Any new information revealed during works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to Council and the Principal Certifying Authority.

Flood Evacuation Plan

If your site is on flood prone land you may wish to consider the preparation of a flood evacuation plan.

Generally a Flood Evacuation Plan would be prepared by suitably qualified Engineer (e.g. Hydraulic) with a number of years experience in flood management and who is eligible for Membership to the Australian Institute of Engineers.

Some matters that you may wish to consider (but not limited to) include:

- (i) a route of evacuation to higher ground and / or point of shelter
- (ii) depth of water for a Possible Maximum Flood event surrounding the building
- (iii) details of 'last chance' evacuation water levels / times for evacuation prior to floodwaters surrounding the building
- (iv) provide details of flood warning systems and protocols
- (v) details of how this information will be distributed and people educated for users of the site.

You may seek to discuss this with the State Emergency Service of NSW.

Utility Service Requirements

Where development requires the installation of, or the relocation of utility services being (but not limited to) gas, water, electricity and telecommunications, the installation of, or the relocation of utility services shall be conducted in accordance with the requirements of the relevant service provider / authority (unless stipulated by any other condition of the consent or will result in damage to threatened or endangered species defined under the Threatened Species Conservation Act 1995).

Plant & Equipment Kept Within Site

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This does not prevent any requirement to comply with the Protection of the Environment Operations Act.

Lighting

Illumination of the site is to be arranged in accordance with the requirements of Australian Standard 4282 - 1997 Control of the obtrusive effects of outdoor lighting so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises.

Silt and Sediment Control

During any onsite demolition, excavation and construction works, the site should be maintained in accordance with "The Blue Book - Managing Urban Stormwater (MUS): Soils and Construction".

In managing the site provision shall be made throughout the period of works to prevent transmission of soil to the public road, drainage system, any riparian lands or off site in any manner. Upon completion of the development, any measures to prevent the transition of soil off site to remain in place until the site is stabilised.

A failure to prevent the transmission of silt and sediment and / or causing, water pollution, air pollution, noise pollution or land pollution may result in a breach of the Protection of the Environment Operations Act and orders, penalties and prosecutions may occur.

Maintenance of Sediment and Erosion Control Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain.

Reason: To avoid erosion and sedimentation impacts that will result in an adverse change in watercourse or riparian land condition

Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: soils and construction (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

Dividing Fences Act 1991

The construction and maintenance of side boundary fences is to be agreed upon by all adjoining property owners of the fence. Works are to be in accordance with the Dividing Fences Act 1991.

OTHER MATTERS

Child Care Centres

A license to operate a child care centre must be obtained from the NSW Department of Community Services prior to the commencement of the use of the child care centre.

Disability Access

This decision does not ensure compliance with the Commonwealth Disability Discrimination Act 1992. Applicants are strongly advised to investigate their requirements under that Act

Food Premises

Food premises are required to comply with the requirements of the Food Act 2003, the Food Standards Code and Australian Standards.

The proprietor of a food business must notify the NSW Food Authority of the details of the business. Notification may be done either online at www.foodnotify.nsw.gov.au or by lodging a completed NSW Food Authority notification form to the NSW Food Authority or Council.

Wheel washing facility

All trucks leaving the site, having had access to unpaved or contaminated areas, shall depart via a wheel wash facility in order to prevent mud, dust or debris from being deposited on Council's roads. The wheel wash facility shall be constructed prior to any truck movements occurring. Water from the wheel wash facility must not cause pollution. Any direction of Council with regard to cleaning trucks or the clean up of road pavements adjoining the site shall be complied with immediately.

Monitoring State of Roadways

The applicant shall monitor the state of roadways leading to and from the site and shall take all necessary steps to clean up any adversely impacted road pavements as directed by Council.

Storage of Dangerous Goods

Prior to the storage of any "dangerous goods" on the premises, a copy of a license obtained from the Chemical Safety Branch of Work Cover Authority must be submitted to Council.

Storage of Flammable and Combustible Liquids

Flammable and combustible liquids must be stored in accordance with Australian Standard 1940 The Storage and Handling of Flammable and Combustible Liquids.

Noise and Vibration

The premises, including operation of vehicles, shall be conducted so as to avoid offensive noise or vibration and cause no interference to adjoining or nearby occupants. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

Hairdressing/Beauty Treatment/ Skin penetration Requirements

The premises must comply with the following requirements before the commencement of business:

- i) A hand wash basin with warm water delivered through a common spout must be provided in the treatment area. The hand wash basin must be provided with liquid soap and paper towel.
- ii) The wall behind the hand wash basin from the floor to a height of 450mm above the top of the washbasin and from the centre of the washbasin to a distance of 140mm beyond each side of the wash basin, must be finished with a material that is durable, smooth, impervious to moisture and capable of being easily cleaned (eg tiles).
- iii) The premises must be provided with washing, drainage, ventilation and lighting that are adequate for the carrying out of hairdressing/beauty treatment/skin penetration procedures.
- iv) The floor coverings must be smooth and impervious.

- v) All furniture, shelves and fittings must be constructed of, or covered with a material that is smooth, impervious to moisture and capable of being easily cleaned.
- vi) Adequate lockers must be provided for the storage of employees clothing and personal effects.
- vii) The premises must be provided with facilities that are adequate for the purpose of storing of hairdressing/beauty treatment/skin penetration appliance and utensils.
- viii) The premises must be provided with a sink sullied with hot and cold water for washing equipment.

Food Premises Construction Requirements

The food premises must comply with the following specific construction requirements:

Solid walls must be provided in all food handling areas (solid includes brick, cement and foam filled preformed panels);

- ix) Walls in food preparation and wash up areas must be finished with a smooth and impervious surface to a height of at least 2 metres.
- x) Hand wash basins must be provided with warm water delivered through a common spout with taps that are hands free operation;
- xi) Coving with a radius of 25mm must be provided between all floor and wall joints in food handling areas;
- xii) The open space between the top of the coolroom and the ceiling must be fully enclosed and kept insect and pest proof;
- xiii) The coolroom must be able to be opened from the inside with out a key and fitted with an alarm that can only be operated from within the coolroom;
- xiv) The doors to the toilet air lock and toilet compartment must be tight fitting and self closing;
- xv) The rear external door must be self closing or be provided with a fly screen that is self closing;
- xvi) Where cooking or extensive heating processes or such other processes as may be specified are carried out in food preparation areas, an approved mechanical ventilation system shall be installed and operated in accordance with AS 1668 part 1 & 2.

Legionella Control

Cooling towers, warm water systems, water cooling systems must be registered with the Council. Details of registration are to be provided to the Council prior to operation.

Pool/Spa Safety

Owners of properties with swimming pools and spa's must meet safety compliance and registration requirements. Provisions also apply when renting/selling properties. Details are available from the Division of Local Government.

Grease Trap

Contact Sydney Water to determine what trade waste provisions you are required to provide to your food premises. Should a grease trap be required by Sydney Water, it must be located in an area that is easily accessible for the removal of waste water and must not be installed in any kitchen, food preparation or food stage area. The design and location of the grease trap should also not impede on any commercial right of way or pedestrian access.

Bandicoot/Penguin

Long-nosed Bandicoots & Little Penguins – Best Practices for Residents Residents are encouraged to follow a number of *Best Practices* to assist with the protection and management of the endangered populations of Long-nosed Bandicoots and Little Penguins:

- Long-nosed Bandicoots, Little Penguins and other native animals should never be fed as it may cause them nutritional problems, hardship if supplementary feeding is stopped, and it may increase predation.
- Feral cats or foxes should never be fed or food left out where they can access it, such as rubbish bins without lids or pet food bowls, as these animals present a significant threat to Long-nosed Bandicoots, Little Penguins and other wildlife.
- The use of insecticides, fertilisers, poisons and/or baits should be avoided on the property.

Garden insects will be kept in low numbers if Long-nosed Bandicoots are present.

- When the North Head Long-nosed Bandicoot Recovery Plan is released it should be implemented where relevant.
- Dead Long-nosed Bandicoots or Little Penguins should be reported by phoning Manly Council on 9976 1500 or Department of Environment and Conservation on 9960 6266.
- Please drive carefully as vehicle related injuries and deaths of Long-nosed Bandicoots and Little Penguins have occurred in the area. Care should also be taken at night in the drive way when moving cars as bandicoots will seek shelter beneath vehicles.
- Cat/s and or dog/s that currently live on the property should be kept indoors at night to avoid disturbance/death of native animals. Ideally, when the current cat/s and/or dog/s that live on the property no longer reside on the property it is recommended that they not be replaced by new dogs or cats.
- Report all sightings of feral rabbits, feral or stray cats and/or foxes to N B Council.