

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/2141
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<b>Responsible Officer:</b>	Dean Pattalis
<b>Land to be developed (Address):</b>	Lot 26 DP 6033, 39 Sydenham Road BROOKVALE NSW 2100
<b>Proposed Development:</b>	Alterations and additions to an existing industrial building and change of use to artisan food and drink industry (Distillery).
<b>Zoning:</b>	Warringah LEP2011 - Land zoned IN1 General Industrial
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Julian Marcel Noble
<b>Applicant:</b>	Baxter & Jacobson Architects Pty Ltd

<b>Application Lodged:</b>	13/01/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	19/01/2023 to 02/02/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 972,400.00
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### PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for alterations and additions to an existing industrial building and change of use to an artisan food and drink industry, being a craft distillery.

A business identification wall sign is also proposed at the front of the premises.

### 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 Local Environmental Plan 2011 - Zone IN1 General Industrial  
Warringah Development Control Plan - C3 Parking Facilities

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 26 DP 6033 , 39 Sydenham Road BROOKVALE NSW 2100
<b>Detailed Site Description:</b>	<p>The subject land is described as Lot 26 Section 3 of DP6033.</p> <p>The site is zoned IN1 General Industrial.</p> <p>The site is rectangular in shape with an area of 613.1m<sup>2</sup>, frontage of 12.19m to Sydenham Road and depth of 50.29m.</p> <p>The site is currently occupied by a single storey industrial building that operates as a sheet metalist and is known as 'AMR SheetMetal'.</p>

Map:



## SITE HISTORY

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

Application **DA2007/1281** for Use of Unit 1 as a private recreation facility (Approved 09/05/2008)

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;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&amp;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>

Section 4.15 Matters for Consideration	Comments
	<p><u>Clauses 36 and 94</u> of the EP&amp;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&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;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&amp;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&amp;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 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 19/01/2023 to 02/02/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Contaminated Lands)	<p><b>General Comments</b></p> <p>Environmental Health has reviewed the proposal and is relying the SEE which states The site displays no evidence of contamination and is suitable for its proposed change of use to artisan food and drink industry. On this basis the proposal is consistent with relevant objectives and matters for consideration under the Resilience &amp; Hazards SEPP.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>Environmental Health has reviewed this application and recommended appropriate conditions</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>

Internal Referral Body	Comments
Environmental Health (Food Premises, Skin Pen.)	<p><b>General Comments</b></p> <p>Environmental Health has reviewed the proposal and recommend the following conditions</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
NECC (Development Engineering)	<p><b>28/03/2023:</b></p> <p>The development proposes:</p> <ul style="list-style-type: none"> <li>• Change of use to artisan food and drink industry (Distillery)</li> <li>• Alterations and additions to an existing industrial building.</li> </ul> <p><b>Access:</b></p> <p>The site is located in the industrial area of Brookvale and there are two existing driveways, No changes are proposed.</p> <p><b>Stormwater:</b></p> <p>All stormwater to be drain to existing approved drainage system, in accordance with Council's Water Management for Development Policy.</p>
NECC (Flooding)	<p>The development proposes:</p> <ul style="list-style-type: none"> <li>• Change of use to artisan food and drink industry (Distillery)</li> <li>• Alterations and additions to an existing industrial building.</li> </ul> <p>The property is affected by the Medium Flood Risk Precinct but is located outside the 1% AEP flood.</p> <p>The proposed ground floor level is above the flood planning level (0.45m above the adjacent kerb invert level).</p> <p>There are no applicable flood related development controls.</p>
NECC (Riparian Lands and Creeks)	<p>Supported.</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Relevant LEP and DCP clauses; and</li> <li>• Northern Beaches Water Management for Development Policy</li> </ul> <p>On assessment the application meets the requirements of the relevant Environmental Planning Instruments and policies.</p> <p>Appropriate sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p>
Traffic Engineer	<p><u>Development details</u></p> <p>The development application is for distillery, showroom and tasting area.</p>

Internal Referral Body	Comments
	<p>The distillery will operate between the hours of 6am to 4pm Monday to Friday and have 1 -2 staff on the premises at these times.</p> <p>The development is proposed to offer hospitality for up to 120 patrons between the hours of 5pm and 12am on weekdays, 12pm to 12am on Saturdays and 12pm to 10am on Sundays. During hospitality hours a maximum of 5 staff will be employed.</p> <p>To cater for the above uses 5 on-site parking spaces will be available. Deliveries by small trucks can be accommodated on site</p> <p><u>Traffic comments</u></p> <p>The development will have little traffic and parking impact during business hours. The main traffic and parking impacts will occur afterhours during hours when hospitality is provided.</p> <p><u>Parking</u></p> <p>The applicant's traffic consultant has assessed the parking requirements for the development based upon assessing the parking requirements of the showroom and tasting facility as a shop which results in a parking requirement of only 12 spaces and therefore results in a shortfall at these times of 9 car spaces.</p> <p>As the development will cater for up to 120 patrons with 5 staff on duty it is considered that the actual parking demands are likely to be higher than 12 spaces and as there will only be 3 parking spaces available offstreet at those times there is potential for the development to have a high degree of impact upon on-street parking. The applicant's traffic consultant has conducted parking surveys which have demonstrated that there is generally a high level of parking availability after 6pm on weekdays and after 4pm on Saturdays. ie at times when the highest levels of patronage at the distillery are anticipated there will also be high levels of on-street parking available. It is also likely that there will be a high degree of multiple occupant car trips, public transport and ride-share use by patrons given that customers will be drinking and therefore less likely to drive. It is therefore considered that the development is unlikely to have a significant level of parking impact despite the shortfall in parking on site and any overflow can be absorbed by the available on-street parking.</p> <p><u>Traffic Generation</u></p> <p>the applicant's traffic consultant has estimated traffic generation of the development using trip rates from RMS guide to traffic generating developments for specialised retail and finds that the development will generate 9 PM peak hour trips on a weekday and 17 peak hour trips on a Saturday. This level of traffic generation will not impose</p>

Internal Referral Body	Comments
	<p>unsatisfactory impacts on the surrounding road network</p> <p><u>Conclusion</u></p> <p>The development can be supported subject to conditions from a traffic engineering perspective</p> <p><b><u>Planner Comment</u></b></p> <p><i>It is stated above by Council's Traffic Engineer that the parking surveys conducted in the Traffic and Parking Impact Assessment (prepared by Motion Traffic Engineers) shows a generally a high level of parking availability on Sydenham Road and Mitchell Road "after 6pm on weekdays and after 4pm on Saturdays". However, by observing the tally of vacant car spaces listed by time of day on Page 15 and 16 of the Impact Assessment, it is apparent that availability is high after business hours on weekdays as well as being more or less consistent throughout the day on Saturdays. This level of parking availability therefore aligns with the proposed operational hours of the hospitality venue component of the application.</i></p> <p><i>Further to the above, the planning assessment agrees with the assertion that a high degree of multiple occupant car trips, public transport and ride-share will be utilised by patrons given that customers will be consuming alcohol and therefore less likely to drive. The Impact Assessment also concludes that the proposed distillery, showroom and tasting area development is a modest net trip generator and the expected trips from the proposed showroom and tasting area during operational consumer hours are modest and can be accommodated within the local road network and intersections.</i></p> <p><i>Therefore, it is agreed that available on-street parking during the operational hours described above, shall be able to absorb any potential overflow of vehicles resulting from the numerical non-compliance of on-site parking.</i></p>
Waste Officer	Waste Management Assessment Supported - without conditions.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
NSW Police - Licensing (Clubs, Hotels, Pubs)	The proposal was referred to Northern Beaches Licensing Police who provided a response stating that the proposal is acceptable subject to compliance with recommendations which will be included as conditions of consent.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs 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 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 (Transport and Infrastructure) 2021**

##### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

##### Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

#### **SEPP (Industry and Employment) 2021**

Section 3.6 and 3.11 of Chapter 3 require Council to determine consistency with the objectives stipulated under Subsection 3.1 (1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 5.

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

In accordance with the provisions stipulated under Schedule 5 of Chapter 3, the following assessment is provided:

<b>Matters for Consideration</b>	<b>Comment</b>	<b>Complies</b>
<b>1. Character of the area</b>	The proposed signage is not	YES

Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	considered to be out of keeping with the desired future character of the local area.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage is considered to be consistent with the existing pattern of business identification signage along Sydenham Road.	YES
<b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal does not detract from any nearby environmental, heritage or residential areas.	YES
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	The proposed signage does not obscure view corridors.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage is not visually prominent upon the skyline of nearby vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not impinge upon other adjacent advertising opportunities.	YES
<b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signage is considered appropriate and in keeping with the existing pattern of signage along Sydenham Road.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal contributes to visual interest and industrial character along this section of Sydenham Road.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage is not considered to result in any visual clutter.	YES
Does the proposal screen unsightliness?	There is not considered to be any existing or proposed unsightliness located on the subject site.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed works do not protrude above the existing built form character or tree canopy of the local area.	YES
<b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is considered to be compatible with the existing shopfront character of the site.	YES
Does the proposal respect important features of the site or building, or both?	The proposed signage does not detract from any important features of the site.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is considered to be generally consistent with the existing signage character of Sydenham Road.	YES
<b>6. Associated devices and logos with</b>	An illuminated logo forms part of the	YES

<b>advertisements and advertising structures</b> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	proposed signage.	
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The proposed signage, as conditioned, shall not result in unacceptable glare or visual nuisance.	YES
Can the intensity of the illumination be adjusted, if necessary?	A condition of consent has been recommended for the intensity of illumination to be adjustable.	YES
Is the illumination subject to a curfew?	A condition of consent has been recommended for illumination to cease between 12am - 6am daily.	YES
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage will not impact upon traffic or pedestrian safety.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage does not obscure sightlines.	YES

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

## SEPP (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 industrial 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 industrial 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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	8.05m	-	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes

#### Detailed Assessment

##### **Zone IN1 General Industrial**

The proposed development being a distillery, comes under the definition of an artisan food and drink industry.

Under Warringah LEP 2011, an artisan food and drink industry is a type of 'light industry', which is permitted with consent in the IN1 General Industrial Zone. It is noted that the primary purpose of the proposed use is the production of alcoholic sprits with the ancillary and associated tasting / restaurant use on site.

##### **Warringah Development Control Plan**

#### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	Merit Assessment (east)	Nil	N/A	Yes
	Merit Assessment (west)	Nil	N/A	Yes
B7 Front Boundary Setbacks	4.5m	8.7m	-	Yes
B9 Rear Boundary Setbacks	Merit Assessment	Nil	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

### Detailed Assessment

### **C3 Parking Facilities**

#### Description of non-compliance

Appendix 1 WDCP 2011 states that industrial land uses must provide 1.3 spaces per 100 m<sup>2</sup> GFA (including up to 20% of floor area as office space component. Office space component above 20% determined at office rate).

According to the Traffic and Parking Assessment Report prepared by Motion Traffic Engineers Pty Ltd, the proposal generates a demand for twelve (12) on-site car spaces however only five (5) spaces are provided on site.

A merit assessment is therefore conducted.

A Planner Comment has also been included under the Traffic Engineering Referral section of this report to provide some additional clarification around certain components of the referral.

#### Merit assessment

#### *Objectives -*

- *To provide adequate off street carparking.*
- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*
- *To ensure that parking facilities (including garages) are designed so as not to dominate the*

*street frontage or other public spaces.*

Council's Traffic Engineer has reviewed the application in regards to parking and raised no objection to approval, subject to conditions. It is considered that there will be a high degree of multiple occupant car trips, public transport and ride-share use by patrons given that customers will be consuming alcohol and therefore less likely to drive. Furthermore, the applicant's traffic consultant has conducted parking surveys which have demonstrated that there is generally a high level of on-street parking availability at times when the highest levels of patronage at the distillery are anticipated.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported / is not supported, in this particular circumstance.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2022**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$9,724 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$972,400.

### **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 public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/2141 for Alterations and additions to an existing industrial building and change of use to artisan food and drink industry (Distillery). on land at Lot 26 DP 6033, 39 Sydenham Road, BROOKVALE, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA01-B	15 November 2022	Baxter & Jacobson Architects
DA02-D	28 November 2022	Baxter & Jacobson Architects
DA03-D	28 November 2022	Baxter & Jacobson Architects
DA10-D	4 April 2023	Baxter & Jacobson Architects
DA11-A	4 April 2023	Baxter & Jacobson Architects
DA12-C	15 November 2022	Baxter & Jacobson Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Traffic and Parking Impact Assessment (N221857A Version 1a)	December 2022	Motion Traffic Engineers Pty Ltd

Operation Management Plan	October 2022	Noble Craft Distillery Pty Ltd.
Building Code of Australia Compliance Report	30 November 2022	AI Consultancy
Acoustic Assessment	4 November 2022	Acouras Consultancy

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:

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
DA06-B	15 November 2022	Baxter & Jacobson Architects

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

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

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

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

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	31 January 2023
Northern Beaches Licensing Police	NSW Police Referral Response	2 February 2023

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

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

## 3. **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 Certifier 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 Certifier 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 Certifier 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 an 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 \$250,000. The Long Service Levy is calculated on 0.25% 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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

#### 5. **Parking Enclosure**

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure accessibility is maintained.

#### 6. **Patronage numbers and times of operation for hospitality**

hospitality is to be offered only during the following hours:

5pm to 12am Monday to Friday  
12pm to 12am Saturday  
12pm to 10pm Sunday

During hours during which hospitality is offered patronage is to be limited to 120 persons

Reason: to limit parking impacts

## FEES / CHARGES / CONTRIBUTIONS

### 7. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$9,724.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$972,400.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

### 8. **Security Bond**

A bond (determined from cost of works) of \$2,000 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 Certifier prior to the issue of the Construction Certificate.

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

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

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

### 9. **Stormwater Disposal**

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

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

### 10. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by a TfNSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the

footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees

- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

#### **11. Building Code of Australia Fire Safety Requirements**

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Compliance Report prepared by Ai Consultancy, dated 30/11/2022, including the Performance Solution to be prepared by Holmes Fire in their letter dated 2/12/2022,(Project 143944.00, version B), are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

#### **12. Access and Facilities for Persons with Disabilities**

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

13. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

14. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer.

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

Reason: To provide public and private safety.

15. **Plans of Kitchen Design, construction and fit out**

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

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

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

16. **Mechanical ventilation Plans**

Where Mechanical ventilation is required to be installed in the food premises ,prior to any Construction Certificate (CC) being issued, detailed plans must be submitted to and approved by the Principle certifier that demonstrate compliance with the following:

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

These plans are to be prepared by a suitably qualified person.

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

17. **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 Certifier 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**

18. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

Reason: To ensure Work zones are monitored and installed correctly.

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

19. **Road Reserve**

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

Reason: Public safety.

20. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

21. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for

approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

**22. Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

**23. Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

**24. Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

**25. Requirement to Notify about New Contamination Evidence**

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

Reason: To protect human health and the environment.

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

**26. Registration of food Business**

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

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

27. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

28. **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.

29. **Mechanical Ventilation certification**

Where Mechanical ventilation is required to be installed in the food premises it must comply with the following:

- Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings"; and
- 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.

30. **Noise Impact of Plant**

All sound producing plant, equipment, machinery or fittings associated with or forming part of the mechanical ventilation system and/or the refrigeration system, shall be sound insulated and/or isolated so that the noise emitted does not exceed 5 dB(A) above the background level (LA90) during the day when measured at the nearest affected residence. For assessment purposes, the above LAeq sound levels are to be adjusted in accordance with EPA Noise Policy for Industry for tonality, frequency weighting, and impulsive characteristics where necessary, at any time the plant is in operation, at the boundary of the site.

Note: The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1 - 1997.

A report and certification prepared by an appropriately qualified or accredited person shall be submitted to the Principal Council / Accredited Certifier demonstrating compliance with this condition prior to the occupation of the completed works.

Reason: To ensure that noise generated from the development does not result in offensive noise to any other party.

31. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to

the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

32. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement of the Environmental Planning and Assessment Regulation 2021.

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

33. **Site Occupancy**

That the number of (customers/visitors/guests/patrons) on the site at any one time be limited to 120.

Reason: To ensure that parking generated by the site is minimised.

34. **Amenity**

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

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

**35. Noise Impact On Surrounding Area**

The use of the premises shall not cause a sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries when measured in accordance with the Environment Protection Authority's Noise Policy for Industry.

Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines.

**36. Hours of Illumination**

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

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

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

**37. Illumination Intensity and design**

The level of illumination and/or lighting intensity used to illuminate the signage shall be minimised as well as adjustable and the design is to be such to ensure that excessive light spill or nuisance is not caused to any nearby premises.

Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties.

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

**Signed**



**Dean Pattalis, Planner**

The application is determined on 14/04/2023, under the delegated authority of:



**Adam Richardson, Manager Development Assessments**