

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2021/2065 |
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| Responsible Officer: | Alex Keller |
| 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') |
| Zoning: | Manly LEP2013 - Land zoned B2 Local Centre |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Delegation Level: | NBLPP |
| Land and Environment Court Action: | No |
| Owner: | Northern Beaches Council |
| Applicant: | Robinson Urban Planning Pty Ltd |

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| Application Lodged: | 02/11/2021 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Commercial/Retail/Office |
| Notified: | 11/11/2021 to 25/11/2021 |
| Advertised: | Not Advertised |
| Submissions Received: | 18 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 24,340.00 |
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Executive Summary

The proposed outdoor 'small-bar' is for a limited term use of a portion of space on public land (operational land and part road reserve) within Market Lane Manly and is referred to the *Northern Beaches Local Planning Panel* since the Development Application (DA) has received more than 10 objections and is located on Council owned property.

The small bar has been operating as a "pop-up style" small wine bar under an existing licence / lease arrangement for more than 12 months as part of local business initiatives to encourage 'street activation' / enliven the central business district (CBD) laneway areas / outdoor dining / pedestrian areas within Manly CBD. The CBD area is subject to an Alcohol Free Zone (AFZ) which is temporarily 'suspended' within the confines of the small bar area during its operating hours. The current operations also have a licence from *Liquor and Gaming NSW* which would be re-applied / revised pursuant to the

current development application being approved. Pursuant to the NSW *Liquor Regulation 2018* a 'small bar' can have a maximum capacity of 120 persons, which this development application proposes.

Principal assessment issues relate to hours of operation, noise (including live and recorded music), customer capacity, co-operation with adjacent businesses for food service, management of service considerations (deliveries, toilets, parking, laneway access, waste / recycling, pedestrian thoroughfare). The applicant has addressed these considerations by revising hours of operation, service parameters, operational management, site area, furniture /fencing / bar service position and reduced seating capacity. A Plan of Management, Acoustic report, Social Impact Statement, Access report and BCA report have been provided to address concerns related to these principal assessment issues.

Subject to conditions the proposal is supported by Council's Traffic, Waste, Engineering, Environmental Health, Property, Road assets and other 'internal referral' sections are satisfied the proposal can continue to operate in accordance with the revised smaller site area, which is a maximum of 148.1 square metres (sqm). The subject development application will assist to provide security of tenure / lease for the current operator "Market Lane Live". No objection has been raised by NSW Police or other Service providers with respect to the development application.

Issues raised by public submissions have been considered in detail and addressed either by conditions or whereby the applicant has adjusted operational components of the proposal to accommodate or respond appropriately to those concerns. Subject to conditions, including a '3 year time limit', the application for a "small bar" as a time limited operation with non-permanent structures is supported for approval.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks development consent for the fit-out and use of an area of public space within "Market Lane", Manly for use as an outdoor small bar. A **small bar** means "the premises to which a small bar licence relates", pursuant to the *Liquor Act 2007*. A small bar license has limited authorisation and restrictions pursuant to Division 3A of the *Liquor Act 2007*. In summary, these licence matters relate to the authorisation to sell alcoholic drinks for consumption, trading hours, miscellaneous conditions including maximum capacity, public access, and food availability. Additional restrictions may be placed by specific matters administered via *Gaming and Racing NSW*.

The subject development application includes structures for the small bar are that are all re-locatable but setup in a defined garden setting, surrounded by low picket fencing sections as a perimeter / boundary.

The small bar area is located to the east of the Manly Library Building, the proposal is intended for day and night use within a triangular shaped section on public land within Market Lane.

The proposed operations (as amended) include:

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

- Employees: up to 4
- Live music and amplified music at selected times (after 5pm for 'background' recorded music, and later times for live* music)
- Capacity: up to 120 persons (proximity 100 seating with 20 persons at 'standing' tables)
- Food: No food preparation on site. Cooked food supplied by adjacent restaurants in the laneway.
- Beverages: Variety of alcoholic and non-alcoholic drinks.
- Serving: Face-to-face bar service and for customers of the small bar QR code service (by participating adjacent restaurants). Cups / utensils either reusable or disposable as appropriate to the food / drink product / supplier.
- Waste: Commercial self-contained bin service for daily operations.
- Toilets: Closest available are at adjacent library building (operator managed access pass for out-of-hours times)
- Parking & Access: Reliant on local public parking / taxi / public transport. Level pedestrian access through and around wine bar perimeter retained as appropriate to operating hours.
- Entry / Exit: Defined single point of entry during operating times while bar service is open.
- The applicant has not proposed that QR 'food service' from participating adjacent restaurants be limited to a portion / percentage of the available tables within the wine bar area.

*The proposed live music (acoustic or amplified) schedule (subject to seasonal gigs & subject to venue opening / weather / available musicians) is:

- Monday – Thursday: 6pm – 9pm (after 5pm for 'background' recorded music, except when trading on a public holiday that falls on a weekday, then 12 midday to 10pm)
- Friday: 5pm – 10.00pm ('background' recorded music also on occasion)
- Saturday: 3pm 10.00pm ('background' recorded music also on occasion)
- Sunday: 3pm – 10pm ('background' recorded music also on occasion)
- (Note: Noise limiter device to be used to ensure amplifier / speaker volume is consistent with Acoustic Report recommendations)

(Note: Council's environmental Health Officer has recommended some adjustment to these times, by way of recommended conditions.)

A temporary 'pop-up' wine garden has been operating successfully in this location since January 2021, and Council, through an open tender, sought expressions of interest (on 12 May 2021) from local venue operators to enter into a longer-term arrangement to continue its operation. The site image below shows the general appearance and layout currently in operation. The wine bar has proven to be a popular venue during evenings / afternoons (weather permitting).



Image: Existing set-up of the small bar. The layout is to be adjusted as part of the current DA.

(Note: The capacity, layout and hours of operation has been revised / reduced from that in the *Statement of Environmental Effects* during the course of the DA assessment period in response to referral comments, submissions and operational considerations by the Applicant as part of the application process.)

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

Manly Local Environmental Plan 2013 - Zone B2 Local Centre

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

Manly Development Control Plan - 3.1 Streetscapes and Townscapes

Manly Development Control Plan - 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.4 Other Nuisance (Odour, Fumes etc.)
 Manly Development Control Plan - 3.8 Waste Management
 Manly Development Control Plan - 3.10 Safety and Security
 Manly Development Control Plan - 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor
 Manly Development Control Plan - 4.2.5 Manly Town Centre and Surrounds
 Manly Development Control Plan - 4.2.5.4 Car Parking and Access
 Manly Development Control Plan - 4.2.5.6 Late Night Venues
 Manly Development Control Plan - 5.1.1 General Character

SITE DESCRIPTION

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| Property Description: | Lot 2849 DP 822227 , 0 Market Lane MANLY NSW 2095 |
| Detailed Site Description: | <p>The subject site is a small triangular shaped section (248.1sqm) of public land, located within Market Lane, Manly (the site) which is to the east of the Manly Library Building. The site boundaries are defined by a perimeter low picket fence corresponding with the site plan below.</p> <p>The road reserve area does not have a registered Deposit Plan identifier. The site is partly also within Lot 2849 DP 822227 which also contains the Manly Library building. The area of the proposed wine bar is paved and level with some small street trees, minor street furniture structures and a metal framed fire stair structure (connected to Manly Library).</p> <p>The site is centrally located within the triangular shaped public space at the corner of Market Place and Market Lane and is bordered by commercial premises to the north and south-east. Vehicle access is available (subject to Council restrictions) along Market Lane between Whistler Street and Sydney Road</p> |

Map:



SITE HISTORY

A temporary 'pop-up' wine garden has been operating in this location since January 2021, and Council through an open tender sought expression of interest (on 12 May 2021) from local venue operators to enter into a longer-term arrangement to continue its operation there. The proposal is subject to meeting requirements under the Liquor Act and EP& A Act for development consent if the proposal is to remain.

The current owner and operator of the Market Lane Live pop-up bar was the successful tenderer as detailed in the SEE and DA documents. As part of the tender process, the operator is required to prepare and submit a DA to Council to continue this activity as a "small bar" in Market Lane, Manly.

This DA therefore seeks Council approval to install a temporary style outdoor wine bar for a fixed term within Market Lane, known as "Market Lane Live". The fixed term would be subject to review toward the end of the time period.

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 |
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| 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 | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for commercial / public land purposes for an extended period of time. The proposed development retains the outdoor use of the site in context of its |

| Section 4.15 Matters for Consideration | Comments |
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| | urban setting of Market Lane precinct and is not considered a contamination risk. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Manly Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a) (iiia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to Acoustic / noise information, waste handling, vehicle service access, internal layout, operational management, hours of operation, pedestrian access, food and beverage availability, day and night operations. The applicant has prepared additional information including a comprehensive response to public submissions, internal referral comments and reports. The additional information was received on 3 May 2022 and overall have resulted in a reduced intensity of use, reduced hours of operation and detailed management approach to noise, waste, access and overall operations. While these matters are generally able to be addressed or conditioned, opportunity was provided to allow the applicant to prepare and supply detailed information / response as requested. Overall the changes do not create any increased amenity impact, do not introduce any new elements (e.g. adverse trading hours) or matters that could not be addressed by conditions. The additional information does not require re-notification pursuant to Council's <i>Community Participation plan</i>.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application in so far as the proposal does not seek to occupy a fixed building. (All new structures for the wine bar operation are relocatable)</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 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 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent including requirements for safe access and general safety / clearances, trip hazards and the like.</p> |

| Section 4.15 Matters for Consideration | Comments |
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| <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> | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. A Social Impact Statement has been provided to address this element of the Act. This acts as a basis for consideration of Community Impact consideration of the type of proposal (e.g. liquor licensed premises), its local urban surroundings, and local planning strategies to encourage 'activation' of the Manly CBD area. The nature of the proposal (being akin to a 'pop-up' wine bar) being retained in an outdoor garden setting, visibility / audibility of the proposal, and the like.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| <p>Section 4.15 (1) (c) – the suitability of the site for the development</p> | <p>The site is considered suitable for the proposed development, subject to condition, including Council's considerations for use of public space, operational services (waste, vehicle access, public accessibility, scale and intensity, day and usage, and land use urban strategies / plans / policies applicable to Manly CBD.</p> |
| <p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p> | <p>See discussion on “Notification & Submissions Received” in this report.</p> |
| <p>Section 4.15 (1) (e) – the public interest</p> | <p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest, subject to conditions. The applicant has provided a detailed response to public submission issues and these are reviewed and concurred with as a considered response to address the issues. These matters are detailed within this report, with conditions applied as appropriate.</p> <p>The application is recommended to be limited to 3 years duration for reasons that it would allow Council to cease the use of the operation if needed, for the land (i.e re-development strategy / civil works etc), or issues arose that the use should not be appropriate to continue, in the public interest. The "sunset clause" condition does however allow for the applicant to request to apply to review / extend the 3 year limitation on an appropriate future time line.</p> |

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 11/11/2021 to 25/11/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 18 submission/s from:

| Name: | Address: |
|--------------------------------------|---|
| Ms Susan Patricia Robertson | 16 Thornton Street FAIRLIGHT NSW 2094 |
| Mr Andrew Livingston Grant | 10 / 48 A Queenscliff Road QUEENSCLIFF NSW 2096 |
| Irene Daniels | Address Unknown |
| Vikrant Joshi | Address Unknown |
| Dolores Mottram | 25 Surfers Parade FRESHWATER NSW 2096 |
| Lauren Anne Waddell | 5 / 30 Foam Street FRESHWATER NSW 2096 |
| Stuart Laurence | Address Unknown |
| Lu Sierra | Address Unknown |
| Robinson Strata Management | PO BOX 280 FRESHWATER NSW 2096 |
| Mr Matthew Donald Grant | 41 Parkes Street MANLY VALE NSW 2093 |
| Ms Barbara Ellen Maxfield | 1 / 59 - 61 Lauderdale Avenue FAIRLIGHT NSW 2094 |
| Clarke & Humel Property | 17 Sydney Road MANLY NSW 2095 |
| Mr Michael John Carr | 1 / 59 - 61 Lauderdale Avenue FAIRLIGHT NSW 2094 |
| Mr John Mann | 712 / 54 West Esplanade MANLY NSW 2095 |
| Baxter & Jacobson Architects Pty Ltd | Level 2 37-39 The Corso MANLY NSW 2095 |
| Constantine Nicola | C/- Suite 604, Level 6, 180 Ocean Street DARLING POINT NSW 2027 |
| ASK Australians Pty Ltd | C/- Mr P Schweinsberg Villa 1 6 Tarragal Glen Avenue ERINA NSW 2250 |
| Ms Ashleigh Wyn Hooker | 6 / 10 Belgrave Street MANLY NSW 2095 |

The following issues were raised in the submissions are summarized below:

- Position, layout and capacity of the venue.
- Pedestrian access and crowd management.
- Noise, music and operating hours.
- Hygiene, rubbish, safety and toilets.
- Service of alcohol and food.
- Impact or imposition to adjacent businesses / offices.
- Hours of operation and out of hours use.
- Visual amenity and use of public land / facilities.

The above issues are addressed in detail as outline specifically in the submissions received as follows:

- **1. Concern that the proposal is not confined to the boundaries of the land that the operation relates.**

Comment:

The proposal is partly within the Lot boundary for Manly Library and partly within the space of un-numbered road reserve area for Market Lane and Market Place. The area is clearly defined by the DA and drawings provided and the application has required some minor adjustment to the proposed shape / area to meet / better respond to operational or referral or submission issues. The area is well defined in physical form by the surrounding picket fence to identify the "site" area. this issue has been suitably addressed by conditions and documentation provided and does not warrant refusal of the application. The library land and road reserve area is not identified as 'community' classified land and is permissible within the area of Manly zoned "B2 Local Centre" (noting that the AFZ is temporarily suspended during operations within the fenced area). Subject to conditions, the use of the site area (that also includes time limits) for the type of 'street activation' is not inconsistent with the 'Manly 2015 Masterplan'.

- **2. Concern that the development partially blocks public roadways used for delivery access including garbage and pedestrian movements.**

Comment:

This issue has been addressed in detail by the applicant to ensure service vehicle access of up to 5.5m width along the main thoroughfare remains to have the normal pickup window up until 9am, until at which time Council bollards are already to limit access (but can be opened / lifted out for emergency). The applicant has provided suitable details regarding the layout noting also that the structures are temporary nature / removable placements. Outside the perimeter area minimum pedestrian safe clearances will be maintained. This is addressed by conditions whereby Council requires marginally wider space of 6.0m which can be achieved as the wine bar structures are all portable.

- **3. Concern that the development interferes with the free flow of pedestrian traffic and would disallow the congregation of locals and tourists to the area.**

Comment:

The applicant has addressed this issue with a suitable response. This includes allowance that the venue perimeter will be open at selected points (fence partitions) to encourage persons to use the space and to pass though, casually sit or relax within the space during non-operating times, and therefore to ease any pedestrian movement congestion in the public space along the outer picket fence line.

- **4. Concern that the proposal creates a visual obstruction for surrounding businesses in Market Place.**

Comment:

This issue relates to perimeter fence height and the applicant has addressed this issue by lowering the style of fence from 1.2m to 0.85m. The solution also involves removing selected sections during the day to retain a sense of openness adjacent other businesses. The bar container / serving container will be in a different position to the present (interim) location, to the side of, rather than directly in front of the north-eastern lane shopfronts. The new server will be an "Airstream" style 'retro' customized caravan shape.

- **5. Concern that planting of mature trees will block surrounding business advertising.**

Comment:

Previous street trees in the vicinity had shown poor health and the proposal includes selected replacement and new plants to create a 'garden laneway' atmosphere that is pleasant to be in by night and day with suitable trees, subtle lighting and a more attractive environment. Without the wine bar area the space is a relatively bare urban laneway for pedestrians walking by the adjacent businesses. Large potted plants may also be suitable as they can be moved / repositioned. The trees are not of a type with dense canopy / hedge style that block-out all visibility of the surroundings. This issue is subject to conditions and does not warrant refusal of the application.

- **6. Concern that music volume and times of music playing affects surrounding businesses.**

Comment:

Music playing (live or recorded) within standard business trading hours during the work week (9am-5pm) is not proposed, including use of recorded 'background' music. On the weekend and public holidays, trading hours from midday may include live or recorded music, however this is only after midday. Live music currently does not commence before 6pm on weekdays or 3pm on weekends which is outside normal business hours and suitable for weekend activity. Live music currently concludes at 10pm with music systems / equipment turned off at that time. The use of live music is also subject to availability of artists / musicians and therefore is not necessarily daily or weekly all the time. An acoustic study / report has been prepared and the proposal will be subject to the recommendations within the report. Music volume is easily controlled by staff and adds to the ambiance of the surrounding casual dining experience and is intended to enhance the wine bar as a relaxing, pleasant venue. This issue has been addressed by the applicant as well as being subject to conditions and does not warrant refusal of the application.

- **7. Concern that development prevents surrounding restaurants and cafes utilising their own outdoor dining and instead forces patrons to use the dining area inside of the venue.**

Comment:

The applicant intends that the proposal is situated so that it do not inhibit/restrict/interfere/overall space with any approved outdoor dining space belonging to any other business in Market Lane. All patrons of the surrounding businesses are invited to make use of the chairs/tables at any time by a co-operative business approach. This is proposed at zero cost to the surrounding businesses (i.e. they will not be charged any outdoor dining fees to have their patrons use the tables) enabled by means such as using QR codes on tables in the small bar for service communication to their adjacent business. This enables surrounding businesses to increase their service capacity. The applicant has suitably addressed this issue and as such this issue does not warrant refusal of the application.

- **8. Concern that maintenance of the enclosure is not frequent, and rubbish is left behind by the public.**

Comment:

The applicant proposes having a day and night set of bins that we can rotate through the development space, so that the general public can have access to sufficient bins for rubbish from the local takeaway businesses right throughout the day. These would be managed by our closing and opening staff to ensure they are swapped prior to service and returned to the venue when closed. This could be in connection with council as a joint effort or adjusted to suit council operations and preferred waste management in the precinct. Waste is produced by all

businesses and it is understood a wider strategy is being worked on that involves the whole of the laneway area whereby other items such as crates, pub kegs, delivery trays and the like at the rear of adjacent business are better managed / concealed to improve the amenity of the area. The small bar does not produce significant volumes of waste and has reusable items, recyclables and biodegradable waste that can be appropriately managed on a daily basis. Until Council's broader waste strategy for the laneway area is adopted (that requires input from various other businesses) the small bar has the capacity to safely and hygienically manage and separate its associated waste with minimal impact on the surrounding laneway. This issues is addressed by conditions, including current operational management, to suitably align with Council's broader waste strategy initiatives for Market lane when complete.

- **9. Surrounding restaurants will need to retrieve their cutlery and crockery from the space.**

Comment:

The application is not dissimilar to any approved outdoor dining space for any business, in that they will need to routinely pickup their service tableware as part of normal customer service. Regular communication involves communication to ensure cutlery and crockery are retrieved regularly to maintain venue cleanliness and availability for customers. The use of reusable tableware is preferred to disposable waste. This issue is suitably addresses by operational management conditions and does not warrant refusal of the application.

- **10. Concern that the makeshift fencing does not meet urban design or streetscape furniture standards and is an eyesore.**

Comment:

The development application proposes a different and more attractive style of portable picket fencing that will enhance the outdoor garden setting of street amenity. The fencing serves to provide an appropriate definition around the wine bar area for patrons since the application includes the service of alcohol. This issue is suitably addressed by the applicant and does not warrant refusal of the proposal.

- **11. Concern that family diners that wish to dine out in the space are compelled to do so within an alcohol licensed zone.**

Comment:

The venue currently operates under a temporary site specific change to the existing alcohol free zone (AFZ). This is well defined by the perimeter picket fence and signage is displayed to that effect that the alcohol free zone is suspended during the following periods of Monday to Friday 4pm to 10pm / Saturday to Sunday 12pm to 10pm. Outside of these hours the site remains an AFZ. No one is compelled to dine within the space as it only a wine bar that permits outside customers to be eat within its premises if they wish too even though they are patrons of and adjacent restaurant.

- **12. Concern that the proposal includes garbage bins adjacent or in replacement of bike racks and are too close to the dining area from smells and unsightliness.**

Comment

The proposed garbage area will be an enclosed storage unit that will not be identifiable as a bin storage area. The bins will be emptied on a daily schedule to prevent any sensory issues to surrounding diners, passers-by, or businesses. Visually, it was our intension to propose out of sight solutions for the bins that would aim to reduce the unpleasant views of overflowing

garbage bins. Both an enclosure within the development site as well as an outside enclosure for multiple bins which local businesses can utilise as well for casual waste. Part of the bin solution is flexible to Council waste requirements and overall strategy for the area which the proposal intends to be consistent with. The routine change over of bins by the operator (by private contractor) assist to ensure minimal odour issues and appropriate capacity at all times with the bins neatly stored in the nominated location. This issue is suitably addressed by operational management of the proposal (including overnight cleaning of the venue) and does not warrant refusal of the proposal.

- **13. The proposal seeks to reduce existing public bike rack space in Market Lane for waste bin area.**

Comment

The proposal does not seek to reduce the number of bike spaces. Options for bike / bin locations have been considered as suitable solutions. The proponent recognizes that bike racks are used on a daily basis and the placement of bins will be out of the way of passing pedestrian and bike traffic / bike racks. This issue is addressed by conditions and does not warrant refusal of the application.

- **14. The waste management plan proposes the use of throw away plates which adds to existing environmental issues.**

Comment

All takeaway containers that are ordered through the venue are biodegradable and aligned with Northern Beaches Councils waste management efforts & environmental requirements. Recyclable, biodegradable or reusable (tableware) containers are used. This issue is addressed and does not warrant refusal of the application.

- **15. Concern that the development relies on the use of public toilets, funded by Council. These toilets are closed after hours therefore the proposal is not contributing to their management, cleaning and upkeep.**

Comment:

The library toilets are kept open until 10pm each service day. These toilets are regularly monitored by the proponent staff as it is realised they are convenient to the site use. Therefore, staff members will check on the cleanliness of the toilets throughout the venue's operational periods to assist in keeping them appropriately clean. Further cleaning schedules are managed through the Council's routine operations. All patrons require a swipe card (request from bar staff) to access the toilets to ensure they are only utilised by 'Market Lane Live' patrons and the toilets are secure between uses. The tables and chairs within the site are open to be used during the day by the public and the proponent will ensure this area is maintained, and in a clean state for the outdoor public environment. This issue is addressed by the applicant and subject to conditions. The issue does not warrant refusal of the application.

- **16. The service container currently obstructs office views and foot traffic from shop fronts such as Clarke and Humel, Tahei Decor and Oakberry.**

Comment

The development application does not propose for the bar container to be in its present location. The proposed location does not obstruct any shop fronts toward the east corner will have the least impact on all surrounding businesses. The service caravan to replace the existing interim

container is similar size custom design *Airstream* aimed to give an interesting "retro" look to the serving point. This issue is addressed by the proposed change and does not warrant refusal of the application.

- **17. Concern that there are already existing open-air bars Manly including Donny's in Market Lane, is there should not be a need for another open-air bar.**

Comment:

Donny's Bar in Market Lane has a very limited outdoor seating capacity. Market Lane Live supports numerous surrounding businesses with its trade such as Momo Bar, Bare Naked Bowls and others. The applicant has purported that by using "Market Lane Live's" ordering system alone, some businesses have already noticeably benefited by increased food sales, not including what their customers purchase directly. Most other alfresco areas are 'attached' to a particular shop front / awning and in this location the wine bar is open on all sides and not covered by an awning / wall. The predominant dining spaces in Manly are indoors / semi-enclosed therefore having limited street activation appeal. This issue has been addressed by the applicant and does not warrant refusal of the application.

- **18. Concern that street furniture is not maintained and has wear and tear from being outdoors.**

Comment:

The applicant has included with the development application images for the introduction of upgraded and more durable furniture designed to withstand the elements. Such furniture will display less wear & tear and be aesthetically suitable to the area. Therefore, this issue has been addressed by the applicant and does not warrant refusal of the proposal.

- **19. Concern that Fencing has been moved closer to the Clarke & Humel tenancy making delivery access difficult.**

Comment:

The perimeter fencing always maintains minimum clearance distances under standard code requirements to ensure appropriate access and ease of thoroughfare. This is to be further adjusted to widen any 'pinch points' with extra width which is easily achieved for the portable surrounding fence. This issue is addressed by conditions and does not warrant refusal of the application.

- **20. Concern that rubbish has been left at the back of Clarke & Humel by other tenancies because of the encroaching perimeter.**

Comment:

The applicant has advised that rubbish bins addressed in this comment are referring to the adjacent premises to *Clarke & Humel (Oakberry)* and not any bin use of the proposed business. The proposal seeks to ensure appropriate layout and access to bins and provide suitable response to align with the broader issue in the whole of market lane where bins / trays / pallets / kegs and the like need to be better accommodated / service managed. The proposal has addressed this issue as relevant to the wine bar operations and with suitable conditions this issue does not warrant refusal of the application.

- **21. Concern that the service container leaves a small space for loitering of intoxicated patrons once the venue ceases trade in the evening.**

Comment

The proposed DA does not have the service container in its existing location, and the new location will provide a better adjacent space with a more suitable "Airstream" van. However presently, all patrons have a 30minute grace period to leave the venue and its immediate surrounds upon closing. Staff ensure all persons have been moved on from the immediate vicinity. Donny's Bar which is less than 30 metres from the Market Lane precinct monitors the local amenity until 1am when it closes. Donny's Bar has direct vision of the space and to this date have received/recorded no incidents in relation the state issue being a problem or occurring. This issue has been addressed by the applicant and does not warrant refusal of the application.

- **22. Concern that the addition of the more permanent structures does not encourage a family-friendly atmosphere and will detract from what crowds currently gather in the open space – families, mums & bubs, networkers etc. The site is losing its charm for a family friendly area and instead being used for more alcohol service.**

Comment

There are no proposed permanent structures forming part of this DA. No item proposed is fixed, and all designed as portable / removable. In the absence of the proposed wine bar the location is dominated by the steel library stair and is a relatively bare open space of hard paving. The wine bar is tables will be accessible during the day and persons able to walk through or stop and site outside the library when the service bar is closed. The proposal adds to the evening use and activation of the area as well as in the afternoon which is consistent with the intent of seeking ways of activating the Manly town centre and its laneways. This issue is addressed by the applicant and does not warrant refusal of the application.

- **23. Concern that the repositioning of the new service caravan impedes on the Clarke & Humel tenancy & their rubbish collection.**

Comment

The service caravan will be set on an angle in the corner of the venue boundaries, not directly in front of the rear of the Clarke & Humel tenancy. Clark & Humel's rear entrance will not be impeded and will have proper access for rear entry access and rubbish collection without interference. Sydney Road is used for rubbish collection vehicles to / from the area. This issue has been addressed by the applicant and does not warrant refusal of the application.

- **24. Concern that proposed operating hours of 12pm – 10:30pm encourage excessive alcohol consumption as well as amplified noise in an area surrounded by businesses and residents. It would be reasonable to alter these opening hours from 5:30pm – 10:30pm with live music commencing from 6pm to allow for commercial and residential enjoyment of the area.**

Comment

Currently the venue only opens at 12 midday on weekends and from 4pm during the week, with live music not starting before 6pm on those days during the week. Having a standard set of operating times allows for trade on randomly placed public holidays which may fall on a weekday. The applicant has provided that operational hours, especially that of live music should remain outside of business hours. Thus, it is already proposed that live music will not occur during

business hours. Any 'background music' will be kept to an appropriate volume and not commence before 5pm on business week days. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **25. Concern that the proposed capacity of 200 seems too high and takes away from the community feel of the space. The space should be smaller with a minimum 5m space between Clarke & Humel and 10m from the access route of Market Lane to Sydney Road to allow for delivery and garbage removal access.**

Comment

As part of the DA process the capacity has been reduced to 120 persons as per the Small Bar License in connection with the DA. With regard to pedestrian and vehicle access, these measures have been addressed in the DA and comply with the Code and standards of Council requirements for suitable clearance, access for delivery and access along the laneway surrounds subject to conditions. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **26. Concern that DA proposal of a 2m space between the fence line and Tahei Décor shopfront is too small. The current space is 3.7m which is already restricting pedestrian. We have been in contact with Oakberry and Tahei regarding their concerns and have come to an agreement to ensure the fence line does not impede their shopfront visibility or create access issues. As MJC Group 2021 | Suit 5, 12 Sydney Road, Manly flow. The business would like 4m between any proposed fence line and their shopfront.**

Comment

The applicant is in agreement to ensure the fence line does not impede their shopfront visibility or create access issues the fence line sections in front will be removed during the day (non-operating hours) to open up the visibility and allow persons to walk through easily. At other times during trading will then be pulled closed and in the evenings, only once the venue is in operation to define the licensed boundaries. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **27. Concern that fence wine bar whole area was fully enclosed all around during the day and too high.**

Comment

The proposal has reduced the fencing height / style to 850mm across the boundary of the adjacent shop fronts, including near shops such as Oakberry's. This fence line sections will be retracted during the day to allow for casual pedestrian use and persons to easily walk, through or stop and sit at one of the tables. During trading hours and in the evenings the low fence panels will be positioned back into place to define the licensed boundaries. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **28. Concern that double glazed soundproof windows in the surrounding offices should be installed for office / business premises to further prevent noise interference with trade**

from live music.

Comment

No live music is proposed during business hours and an acoustic report has been prepared to ensure appropriate levels of music (recorded or live) and appropriate times so that the wine bar has no unreasonable noise impact on surrounding premises. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **29. Concern that Local surrounding businesses do not have access to the pop-up bar to sell their menu.**

Comment

The applicant has addressed this concern by way of noting that all surrounding businesses were approached on multiple occasions prior to the opening of the pop-up in 2020, and still are invited to this day. All venues that expressed their interest were included in the popups launch and digital QR menu marketplace which is on every table. Some other venues, including Market Lane Café, were not interested in being involved, and these communications were documented by the applicant. If those businesses seek to, the applicant is willing to include them similar to other participating businesses. The applicant has addressed this issue and subject to conditions regarding 3rd party service does not warrant refusal of the application.

- **30. Concern that an audit should be conducted for the surrounding businesses to determine the financial benefit to surrounding businesses**

Comment

The applicant has addressed this concern by way reviewing business operations being conducted to outline the benefit to local surrounding restaurants, suppliers, and musicians. This proving to be a highly financially beneficial activation for those businesses. Communications have been opened with members of the public to submit feedback/survey on the venue and received and overwhelmingly positive response encouraging operations to continue.

- **31. Concern that surrounding businesses have not been provided with solutions to bin storage in the past. The venue needs to manage their own bins within their venue space.**

Comment

The applicant has sought to achieve an appropriate and well managed bin service for the wine bay that ensures garbage, recyclables and cardboard are accommodated without interfering with the laneway amenity or Council bin services. A broader strategy for the whole of market lane will take a lot longer to achieve and require numerous other stakeholders. For the purpose of the wine bar the waste requirements are small and easily managed on a day-to-day basis. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **32. Concern that the proposed DA does not outline proposed hours of operation.**

Comment

The hours of operation are proposed to be detailed under the heading "description of the proposal" within this report. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **33. Concern that the application has not provided details on how the space will be utilised throughout the day.**

Comment

The applicant has addressed this issue by way of ensuring that space can be utilised as it currently is during the day by retracting various fence panel sections. All members of the public can use the space for casual outdoor seating, social meeting, relaxing, networking, mothers' groups etc. There are no restrictions as the space is not exclusive. The serving bar will be shut during the day when not trading. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **34. Concern that once the Wine Bar space opens, young adults (not 18+) are kicked out of the space when enjoying their lunch. The space should be accessible to everyone.**

Comment

Under the NSW *Liquor Act*, minors are required to be in the company of an adult guardian when in a licensed premises that is operating / serving liquor. However, it is proposed the applicant have a restricted area (similar to other licensed bars) being the closer surrounds of the bar service area appropriately identified, which restricts minors going to the bar area without the company of their guardian. However, the entire rest of the space is open and available to all public at any time when not in use. During set-up times there is reasonable time for staff to allow for casual users of the area to leave or stay according to the change over of the bar area operations. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **35. Concern that the space should be able to be booked by local community and arts groups. The rest of the time it should be utilised as a public space.**

Comment

The applicant has addressed this issue by being in agreement that others could arrange to utilize the space for community or art events as they have done so in the past hired out the space privately for similar / short event / meeting (since arrangements have to be made for bins, suitable table arrangements, access and the like. On the whole though space is freely open to the public throughout the day.

- **36. Concern that there has been a handover of this venue (public land) to a private company.**

Comment

The applicant has addressed this by way of provision that this is a fully transparent tendered use of the public space, and the intent is for activation of open space for the public to enjoy that is consistent with Council's adopted strategies for Manly to encourage various ways to maintain an active interesting CBD for the community. There is no restriction on access at any time, and the activation is not anti-competitive or against any surrounding business. It does not provide coffee and it does not provide food, even though the tables may be 'shared' with customers who are also customers of the wine bar when the bar is serving. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **37. Concern that the toilets available are inadequate for the number of patrons and may cause inappropriate use of other public spaces nearby along the laneway if toilets are not able to be used.**

Comment

The applicant has addressed this the venue capacities have reduced since initial development application. The capacity of the venue will not exceed 120 persons. The adjacent and most convenient toilets in the library provide far more than what would be required for the amount of people under the BCA. Use of these toilets is easily manage by use of a swipe card and routine checks by staff for basic cleaning / tidy during use. Other toilets are also close by at the Whistler Street carpark and reasonably close at Gilbert Park and Manly Beach 200m away (1 minute walk). The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

- **39. Concern that There are inadequate fire extinguishers for the proposed capacity levels.**

Comment

The applicant addressed this issue by way of operational management plan to ensure that appropriate fire extinguishers are provided where necessary, and in line with fire regulation / safety compliance.

- **40. Concern that the capacity of the venue may be exceeded and the capacity is unclear.**

Comment

The application has been adjusted to limit the maximum capacity to not exceed 120 persons, which is consistent with the Small Bar maximum of 120 patrons imposed via the Liquor Regulation 2018. The capacity of the premises are in full view and the operational management plan in place to ensure licensing and capacity limits remain compliant. The applicant has addressed this issue and subject to conditions does not warrant refusal of the application.

REFERRALS

| Internal Referral Body | Comments |
|--|--|
| Building Assessment - Fire and Disability upgrades | <p>Supported without conditions.</p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p> |
| Environmental Health (Industrial) | <p>Supported with conditions.</p> <p><u>General Assessment Comments</u></p> <p>Applicant seeks approval for the fit out and use of a temporary wine bar in Market Lane.</p> <p>The SEE advises the following relevant information for this referral assessment</p> <p><i>A temporary 'pop-up' wine garden has been operating successfully in this location since January 2021, and Council through an open tender sought expression of interest (on 12 May 2021) from local venue operators to enter into a longer-term arrangement to continue its operation.</i></p> <p><i>MNT Investments Pty Ltd (the owner and operator a number of other local venues comprising Donny's Bar, Insitu and Cumberland) were the successful tenderer. As part of the tender process, the operator is required to prepare and submit a DA to Council to continue this activity.</i></p> <p><i>2. Use as a temporary wine bar as follows:</i></p> <ul style="list-style-type: none"> <i>a) Capacity for up to 200 persons (both seated and standing)</i> <i>b) Operating hours open to the public are:</i> <ul style="list-style-type: none"> <i>(i) Sunday to Thursday: 10.00 am and 10.00 pm</i> <i>(ii) Friday and Saturday: 10.00 am and 10.30 pm</i> <i>c) Morning set-up to occur between 9.00 am and 10.00 am Monday to Sunday</i> <i>d) End of close pack-up to occur between 10.00 pm and 10.30 pm Sunday to Thursday and 10.30 pm and 11.00 pm Friday and Saturday</i> <i>e) Live music is to occur from 5.00 pm onwards Monday to Friday only</i> <i>f) One-year trial period with an option to extend for a further two-year period on completion of a successful trial period.</i> <p>The SEE also advises the following regarding noise:</p> <p><i>Noise impacts from the proposed temporary outdoor wine bar under a</i></p> |

| Internal Referral Body | Comments |
|----------------------------|--|
| | <p><i>one (1) year trial system will not cause a nuisance to the nearest residential accommodation as a result of its restricted hours of operation and patron capacities. A PoM has also been prepared to ensure the venue is managed responsibly.</i></p> <p>While the application will be under a one year trial system (with possible extensions) the noise would not be considered as temporary given the length of time, the number of days a week trading and that a similar setup has already been ongoing in the short term. There are a number of potential acoustic impacts from the development including noise from patrons and noise from music that need to be considered.</p> <p>Environmental Health recommends that an acoustic assessment be undertaken by a suitably qualified and experienced consultant in order to assess the acoustic impacts and if required propose acoustic controls to limit amenity impacts of the development. The acoustic assessment should include but not limited to an assessment of noise from patrons and music. The assessment and report is to be in accordance with the NSW EPA Noise Policy for Industry and other relevant guidelines. Given that there is currently a temporary approval for Market Lane that is similar to the proposed development it may be an opportune time to undertake the acoustic assessment while the event is occurring.</p> <p><u>General review comments - 18 November 2021</u></p> <p>Significant number of complaints received since May 2021. All regarding noise from patrons, live music and the event operating past 10pm in contravention of their temporary/trial permit issued by Open Space & Recreation Planning team.</p> <p><u>Revised Comments May 2022</u></p> <p>The proposed capacity of the venue has been reduced to 120 patrons.</p> <p>Applicant has also provided an Acoustic Report by WSP Australia Pty Ltd dated 16 May 2022 (reference: PS131027-A) that includes a number of recommendations.</p> <p>The applicant has also limited the live music to the following times:</p> <ul style="list-style-type: none"> Monday – Thursday: 6pm – 9pm (after 5pm for 'background' recorded music except when trading on a public holiday that falls on a weekday, then 12 midday to 10pm) Friday: 5pm – 10.00pm Saturday: 3pm 10.00pm Sunday: 3pm – 10pm <p>Supported - Subject to Conditions</p> |
| Environmental Health /Food | |

| Internal Referral Body | Comments |
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| Premises, Skin Pen.) | <p>Supported with conditions</p> <p><u>General Assessment Comments</u></p> <p>Applicant seeks approval for the fit out and use of a temporary wine bar in Market Lane.</p> <p>The SEE advises:</p> <p><i>A temporary 'pop-up' wine garden has been operating successfully in this location since January 2021, and Council through an open tender sought expression of interest (on 12 May 2021) from local venue operators to enter into a longer-term arrangement to continue its operation.</i></p> <p><i>MNT Investments Pty Ltd (the owner and operator a number of other local venues comprising Donny's Bar, Insitu and Cumberland) were the successful tenderer. As part of the tender process, the operator is required to prepare and submit a DA to Council to continue this activity.</i></p> <p>The applicant has advised the following relevant information to this referral assessment in the SEE:</p> <ul style="list-style-type: none"> • The existing temporary bar will be removed with a new temporary caravan used for drink service. • That there will be no food preparation on site with surrounding food premises to service the venue. • Waste and recycling from the venue will be stored within the dedicated waste area adjacent to the Manly Library Building. • That the patrons will have access to the sanitary facilities located within the Manly Library foyer. An access pass will be provided to management for out of hours access to these facilities. The applicant has provided a BCA report prepared by Philip Chun Building Code Consulting dated 21 October 2021 (Reference: 21-217486_BCA_R02) that has assessed the number of sanitary facilities required and has advised The nearby Library facilities are understood to contain this number of facilities and signage is needed directing patrons to these toilets. The client needs to confirm with Council that the sanitary facilities are available at all times the pop up bar is operational. <p>As the temporary caravan is selling drinks this is classed as food for sale and therefore the caravan is subject to the requirements under the Food Act 2003. The caravan will also need to be adequately fitted out so that it can be easily and effectively cleaned and does not provide harbourage for pests. Typically mobile food would be subject to a Section 68 approval on Council land however, as this is more semi-permanent in nature and subject to a DA, Environmental Health recommends that the fit out of the caravan be conditioned to ensure it meets the relevant legislation and standards. A separate Section 68 Approval however may still need to be completed.</p> |

| Internal Referral Body | Comments |
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| | <p>A potential concern with the outdoor dining is the potential to increase pests/provide pest harbourage. Environmental Health recommends that the Plan of Management be updated with the following to prevent pest harbourage:</p> <ul style="list-style-type: none"> • 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. |
| NECC (Stormwater and Floodplain Engineering – Flood risk) | <p>Supported with conditions.</p> <p><u>General assessment comments:</u> The proposed development is for temporary use of a public area as a restricted entry bar area. The preparation of an emergency evacuation plan considering flood risk is recommended to be conditioned. Subject to conditions, the development is compliant with Council's flood prone land controls.</p> |
| Property Management and Commercial | <p>Supported with conditions.</p> <p><u>General assessment comments:</u> Property has no objections to the proposal, subject to the imposition of the recommended conditions of consent.</p> |
| Road Reserve | <p>Supported, without conditions.</p> <p><u>Previous general assessment comments:</u></p> <ol style="list-style-type: none"> 1. The Pop-up wine bar proposal and associated plans provide an scaled footprint of approximately 290 sqm. The "architectural" plans at 1:100 scale are not "survey accurate" and do not give an indication of the boundaries of adjacent properties, in particular the footprint would appear to encroach on the Manly Library Building lot (Lot 2849 DP 822227). 2. The footprint proposed is greater than existing. The northern side of Market Lane proposes a pedestrian thoroughfare of 2.0m (Clarke & Humel side) whereas the current fencing is approximately 2.4m from the building facade. Given the level of pedestrian circulation in this thoroughfare, 2.5m is considered the minimum requirement. 3. Similarly, on the western boundary (adjacent to the library) the picket fence is currently approximately 1.1m from the library colonnade columns/pylons. Existing bike parking restricts pedestrian access below the colonnade and the proposed bin hide (@9sqm) will require the removal and/or relocation of existing bike racks. The proposed perimeter fence is @1.6m (scaled off plans) from the colonnade pylons - this should be increase to 2.5m to ensure adequate two way pedestrian thoroughfare. 4. On the eastern boundary of the site, provision of a 5m wide |

| Internal Referral Body | Comments | | | | | | | |
|---|--|-------------------|-----------------------------------|--|---|------------------------------------|--|--|
| | <p>zone for service and emergency vehicle access is available however with extended shop awnings and the location of the existing fence leaves a gap of approximately only 2m is available. This is insufficient. In the event of emergency access is required, restaurant owners would be required to move seating and retract awnings or obtain access via other means eg Sydney Road. Comments from Transport Network Team are sought in relation to this requirement and the minimum clear zone required for vehicle access.</p> <p>5. There are no structural details of the proposed bin hide structure. The details of the proposed structure will need to be submitted to Council for review and approval prior to obtaining a Construction Certificate.</p> <p>6. An appropriate lease, encompassing both the "operational" land of Manly Library and the public road reserve will need to be developed.</p> <p>7. As such, it is recommended that amended plans for the proposal footprint are submitted for review and approval, to ensure the footprint accommodates pedestrian and service vehicle access.</p> <p><u>Revised Road Reserve Comments as at 6 May 2022</u></p> <p>The amended plans (Revision B dated 28/04/2022) address the above number issues:</p> <p>2. Provision of 2.5m wide clear zone along the northern side of market lane (localised pinch point of 2.0m is accepted)</p> <p>3. The clear distance of 2.75m - 3.00m from library colonnade to picket fencing is accepted. The bin hide has been removed from the plans.</p> <p>4. Transport Network to comment on service and/or emergency vehicle access</p> | | | | | | | |
| Strategic and Place Planning (Heritage Officer) | <p>Supported without conditions.</p> <table><tr><th>HERITAGE COMMENTS</th></tr><tr><th>Discussion of reason for referral</th></tr><tr><td>The proposal has been referred to Heritage as the subject site is within a conservation area</td></tr><tr><td>C2 Manly Town Centre Conservation Area Item 106 - Group of Commercial Buildings - All numbers, The Corso</td></tr><tr><th>Details of heritage items affected</th></tr><tr><td>Details of the item as contained within the Manly inventory is as follows:</td></tr><tr><td>Manly Town Centre Conservation Area</td></tr></table> | HERITAGE COMMENTS | Discussion of reason for referral | The proposal has been referred to Heritage as the subject site is within a conservation area | C2 Manly Town Centre Conservation Area Item 106 - Group of Commercial Buildings - All numbers, The Corso | Details of heritage items affected | Details of the item as contained within the Manly inventory is as follows: | Manly Town Centre Conservation Area |
| HERITAGE COMMENTS | | | | | | | | |
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| C2 Manly Town Centre Conservation Area Item 106 - Group of Commercial Buildings - All numbers, The Corso | | | | | | | | |
| Details of heritage items affected | | | | | | | | |
| Details of the item as contained within the Manly inventory is as follows: | | | | | | | | |
| Manly Town Centre Conservation Area | | | | | | | | |

| Internal Referral Body | Comments |
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| | <p><u>Statement of Significance</u> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential building</p> <p><u>Physical Description</u> The Manly TCCA has a mixed character and comprises three key zones. The triangular zone north-west of The Corso, bound by Belgrave Street and Sydney Road, including Market Square, generally comprises small scale commercial buildings. The street alignments, particularly the laneways around Market Square tend to be narrower, creating a more enclosed character, particularly when compared with the adjoining areas, such as The Corso, which has a much more open character, as well as the Belgrave Street streetscape, incorporating the larger civic buildings at the southern end (Manly Council Chambers, Manly Courthouse and Manly Police Station), and their orientation towards Gilbert Park and the Civic Square and proximity to Ivanhoe Park.</p> <p>Group of Commercial Buildings <u>Statement of Significance</u> The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort.</p> <p><u>Physical Description</u> The Corso is the NE-SW link between Manly Beach and Manly Cove. It acts as a low scale horizontal corridor which steps down from the harbour to the ocean. The architecture is generally of the early twentieth century with a number of late 19th century buildings remaining as evidence of the former streetscape. The atmosphere of The Corso is of a 19th century place. Its special qualities include the contrasts of horizontal (low scale architecture) and vertical (planting) dimensions, and urban and natural elements. Of particular importance is the spatial continuity of the streetscape - including horizontal and vertical planes and negative space - from pedestrian level.</p> <p>Other relevant heritage listings</p> |

| Internal Referral Body | Comments | | |
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| | Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | |
| | Australian Heritage Register | No | |
| | NSW State Heritage Register | No | |
| | National Trust of Aust (NSW) Register | No | |
| | RAIA Register of 20th Century Buildings of Significance | No | |
| | Other | N/A | |
| | Consideration of Application | | |
| | The proposal seeks consent for use of space within Market Lane to continue a temporary pop up bar. The proposal includes some physical works such as new fencing, seating, trees, pergolas, stage and a caravan bar. Given the small scale nature of the physical works it is considered to not impact upon the heritage items or the conservation area or their significance. Heritage also raises no objections to the use of the space as a bar. | | |
| | Therefore Heritage raises no objections and requires no conditions | | |
| | Consider against the provisions of CL5.10 of MLEP. | | |
| | Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No | | |
| Further Comments | | | |
| COMPLETED BY: Brendan Gavin, Principal Planner | | | |
| DATE: 2 November 2021 | | | |
| Strategic and Place Planning (Urban Design) | Supported, without conditions. A temporary ‘pop-up’ wine garden has been operating in the location since January 2021, and Council through an open tender sought expression of interest (on 12 May 2021) from local venue operators to enter a longer-term arrangement. The proposal seeks consent for a new temporary outdoor wine bar comprising: <ul style="list-style-type: none">· New temporary perimeter fencing and entrance way | | |

| Internal Referral Body | Comments |
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| | <ul style="list-style-type: none"> · Removal of existing temporary bar and replacement with a new temporary caravan for · drink service · New temporary external seating comprising a mixture of seating types such as barrel · tables, adult and children size picnic tables and custom-made bench seating · New potted plants and greenery, as well as family activities such as giant jenga and · connect four · New temporary stage platform and festoon lighting · Removal of three (3) bicycle racks to make way for temporary storage and a bin store · Signage <p>The applicant has provided revised drawings in response to some concerns raised previously. The revised documentation has largely satisfied urban design issues.</p> |
| Traffic Engineer | <p>Comments on latest plans 11/5/22</p> <p>The amended plans issue b dated 28/4/22 and the Response to Request for Additional Information dated 29/4/22 have been reviewed. Contrary to the statement in the Response to Request for Additional Information Market Place IS accessible by cars (and other motor vehicles). Access is required each day between 5am and 8am for delivery trucks and at other times as needed. While bollards are erected at 8am each day to prevent vehicular access, it is a frequent occurrence that these bollards are opened to provide vehicular access for necessary activities such as building maintenance, development works, works by council or utility authorities and, most importantly, access for emergency vehicles. While the predominant use of Market Lane is by pedestrians it is not merely a case of ensuring adequate space is available for pedestrian traffic.</p> <p>While the amended plans are an improvement and it is noted that there are no fixed items which could not be moved to enable vehicular access when necessary such access is still reliant upon fences, tables and chairs or other items being moved to enable a vehicle potentially an emergency services vehicle to pass. To maximise ease of vehicular access and minimise the need to relocate moveable structures the eastern perimeter fence should be sited no less than 6m off the eastern property boundary of Market Lane. The 2.5m offset from the northern boundary is acceptable.</p> <p>subject to a condition relating to the location of the eastern perimeter fence the amended plans are acceptable</p> |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>Original comments 25/1/2022</p> <p><u>General assessment comments:</u></p> <p>The development application is for fitout and temporary use of part of Market Lane, Manly as a "pop up" wine bar. The EIS advises that the bar will cater for up to 200 persons with proposed hours of operation being 10am to 10:00pm (Sunday to Thursday) and 10pm to 10:30pm (Friday and Saturday) with a one hour period (from 9am) for set up each morning and a half hour pack up period at the end of each day. The development application is for a one year trial period with an option to extend for a further two years following successful completion of the trial.</p> <p>It is noted that the revised information detailed in the MJC Group's response to submissions dated 20th December advises that the capacity has now been revised to cater for up to 120 persons with the hours of operation now proposed to be: Monday to Thursday (4pm-10pm), Friday (4pm-10:30pm), Saturday (12pm to 10:30pm) and Sunday (12pm-10pm).</p> <p>The reduced capacity and hours of operation are preferred to those submitted in the original DA and assist in reducing the level of impact of the proposal there are however further concerns which have not been adequately addressed in the provided material, these are detailed below:</p> <p>Although bollards are opened for access to Market Lane and Sydney Road each day between 5am and 8am there are still periods when access is required outside of those hours eg for development works, maintenance and emergency services. There is concern that the proposed width of Market Lane that will remain trafficable will be insufficient. It is known that numerous kerbside dining leases have been issued for other premises fronting Market Lane, it is unclear how these lease areas are impacted by the development application, which leases will remain active and what widths of lane will remain trafficable once existing leases and this proposed DA are operational. Further details showing the dimensions of existing approved footpath leases and the remaining trafficable width of Market Lane once this DA is operational are required.</p> <p>There is concern that the remaining width of Market Lane on the northern side of the pop up bar is insufficient to cater for vehicular access and will result in congested conditions for pedestrians. The clear width on the northern side should be increased to 3m to allow more space for pedestrian access, to allow for seating for premises not linked to the wine bar and to permit vehicular access if required.</p> <p>On the eastern side of the pop up bar the presence of existing kerside dining leases and extended shop awnings reduces the effective width of the lane for trucks and other large vehicles. It is noted that some shop awnings extend approx 2.5m beyond the property frontage. A clear width of 6m between the property frontages on the eastern side</p> |

| Internal Referral Body | Comments |
|------------------------------|---|
| | <p>of Market Lane and the pop up bar's fencing is considered necessary to ensure that adequate width remains available for emergency or maintenance vehicle access when required.</p> <p>Market Lane has traditionally been a location where cyclists know that bicycle parking is available in high numbers. The pop up bar will remove access to a significant number of bicycle parking spaces that were previously sited under the library's external staircase. These will need to be relocated to an accessible location for cyclists which does not interfere with pedestrian or vehicular access to other parts of Market Lane. No information has been provided on where this bicycle parking will be re-sited.</p> <p>Amended plans and information addressing the above concerns should be provided to enable further consideration to be given to the proposal.</p> |
| Waste Officer (Council Land) | <p>Supported with conditions.</p> <p><u>Revised Waste Management Assessment 17.5.2022</u> Recommendation - Acceptable, subject to conditions. Waste Services Officer</p> <p>Waste Management Assessment. <u>Original / previous comments from Councils' Waste Education Co-Ordinator</u> (in italics)</p> <p>SoEE clause 3.3 Food and beverage service</p> <p>No food preparation is to occur on site. The surrounding food premises are to service the venue, to better support local businesses in the area. Occasional food collaborations may take place throughout the year or on seasonality.</p> <p><i>Applicant is to provide a list of food premises that will be engaged to provide the food service to the Market Lane Live venue. An explanation is required as to how food will be ordered and delivered to patrons of Market Lane Live. 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" and "Outdoor Dining and Footpath Merchandise Policy". An explanation is required as to how compliance with the above to two mentioned policies will be maintained and this must appear in the Plan of Management. An explanation is required as to how patrons arriving at Market Lane Live with pre-purchased food will be dealt with. Particularly in relation to food packaged in containers that do not meet the requirements of the above two mentioned policies.</i></p> |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>The primary drinks offering will be locally sourced beers, ciders, kombucha's and seltzers from breweries located within the Northern Beaches. A wide variety of cocktails, wine and non-alcoholic beverages will also be made available. As well as free water. Drinks service will take place from the new temporary caravan.</p> <p><i>Clarification sought on glassware to be used for drink service – noting single use plastic cups are prohibited under Council's Waste Minimisation for Functions and Events Policy.</i></p> <p><u>SoEE clause 3.4 Waste management</u></p> <p>All serving products will be either reusable or biodegradable materials including plates, cutlery, cups, straws, stirrers and napkins.</p> <p><i>Response: Packaging types to be provided to waste education for assessment before comment can be made.</i></p> <p><u>Original Comments From Councils' Waste Services Officer (Operations)</u></p> <ul style="list-style-type: none"> • Bins from this venue are no longer to be stored in the Manly Library bin enclosure. The proposal to construct a new dedicated bin enclosure at the front of Manly Library is acceptable to Waste Services. • 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 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 enclosure, empty them, return them to the enclosure and then lock the door on the enclosure. • No waste from the operation of "Market Lane Live" is to be placed in, or adjacent to, any of Councils' street litter bins. <p><u>Original Comments from Councils' Cleansing Services Manager (in italics)</u></p> <p>SoEE clause 3.4</p> <p>Management will keep the venue well presented at all times. Rubbish and empty bottles will not overflow from the supplied bins and Market Lane surface/pavers will be protected from any</p> |

| Internal Referral Body | Comments |
|------------------------|--|
| | <p>spills/damage. <i>Applicant is to demonstrate to Council how the pavers will be protected from damage.</i> <i>The proprietor is to clean (mechanical scrubbing) the pavers on an annual basis.</i></p> <p><i>The proprietor is to 'litterpick' the leased area at the end of trading on a daily basis and during the course of trading as necessary.</i> <i>The proprietor is to remove any litter caused by the operation of Market Lane Live in the surrounding area outside of the leased area.</i></p> |

| External Referral Body | Comments |
|--|--|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. |
| NSW Police – Licensing (Clubs, Hotels, Pubs) | <p>The development application proposal was referred to NSW Police - Licensing. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p> <p>Note: Separate to the development application, the premises is subject to <i>Liquor and Gaming NSW</i> licensing requirements that also involve consultation with NSW Police and may include specific requirements for the premises under that licence as appropriate.</p> |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for as open space (within road reserve area) purposes for a significant period of time with no prior land uses other than as a paved and landscape road reserve laneway area including general pedestrian thoroughfare. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the subject land use.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Other Service Infrastructure Authorities

The application was not required to be referred to Transport for NSW (TfNSW) and no other Infrastructure Authority referral issues are raised pursuant to the SEPP. *Sydney Water* requirements are addressed under separate administrative processes directly managed by *Sydney Water* that may also be nominated by conditions if appropriate.

Manly Local Environmental Plan 2013

| | |
|--|-----|
| 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: | 15m | 3m (Relocatable structures) | N/A | Yes |
| Gross Floor area (temporary occupancy) | 3:1 | 148.1 sqm (Open space area) | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|--------|------------------------------|
| | |

| Clause | Compliance with Requirements |
|--|------------------------------|
| 4.4 Floor space ratio | Yes |
| 5.10 Heritage conservation | Yes |
| 5.21 Flood planning | Yes |
| 6.1 Acid sulfate soils | Yes |
| 6.12 Essential services | Yes |
| 6.14 Requirement for development control plans | Yes |
| 6.15 Tourist and visitor accommodation | N/A |
| 6.16 Gross floor area in Zone B2 | Yes |
| 6.19 Development in St Patrick's Estate | N/A |
| 6.21 Noise impacts—licensed premises | Yes |
| Schedule 5 Environmental heritage | Yes |

Detailed Assessment

Zone B2 Local Centre

Merit consideration of the Zone B2 Local Centre pursuant to Manly LEP seek to land use planning matters associated with business and the economy:

(i) to encourage, provide and consolidate business opportunities for a range of uses in appropriate locations that support local employment, community services and economic growth in business centres, and

Comment

The proposal has been operating under a temporary arrangement with Council for more than 12 months and provides employment and economic activity within the CBD area. The use of the site has been adjusted to work in co-operation with surrounding businesses / or accommodate concerns raised. The proposal is consistent with this objective of the zone.

(ii) to recognise that tourism is a major industry and employer in Manly and to encourage its growth and continuing viability while protecting the needs of the local community,

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses in the zone and adjoining zones and ensure amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*

Comment:

- The proposal seeks a longer-term arrangement by way of development consent to continue the use of the site for the purposes of a 'small bar' in an open space street setting, in the general appearance of 'pop-up' garden style wine bar. The proposal seeks to provide a form of 'street activation' in an outdoor setting for casual consumption of alcoholic and non-alcoholic beverages. Food is available in co-operation with adjacent restaurants and regular style bar

snacks.

- The venue will include music entertainment at limited times. Wine bar style operations create employment demand for staff, local musicians, delivery staff and patronage to surrounding businesses in attracting customers to the CBD.
- The location of the site has convenient access to public transport and is accessible to pedestrians and bicycle travel. No reduction to the adjacent bike racks is proposed.
- Operational management of the wine bar has been revised to address potential conflict issues with noise, visual amenity, delivery, waste management and day vs night use of the Market laneway area.

In summary, the proposal is consistent with the objectives of the B2 Local Centre zone.

6.21 Noise impacts—licensed premises

The applicant has provided a details Acoustic Report to address noise impacts pursuant to this clause of the Manly LEP. The report has been reviewed by Council's Environmental Health and Building team and subject to conditions the operation is considered to be satisfactory in terms of operational management, intensity of use, acoustic impacts and the surrounding urban environment (including nearby residential and business uses).

Responsible Service of Alcohol (RSA) training is mandatory by Law within NSW for all liquor licenses and staff who have liquor service responsibilities. A Liquor Administration Board (LAB) certificate will be obtained through accredited NSW Office of Liquor, Gaming and Racing training course. All staff involved in the sale and/or supply of liquor will have completed the appropriate RSA training as part of commencing work at the premises for the wine bar.

In merit consideration of this clause, the proposal is consistent with this part of the DCP.

Manly Development Control Plan

Built Form Controls

The built form controls are not applicable to the site as it is situated within a road reserve / thoroughfare zone and part open space within Lot 2849. There are no permanent structures or prescribed built form requirements (i.e landscaping, wall setback and the like). However, a summary of the "built form layout" proposed is provided below:

| Built Form Controls - Site Area: 248.1sqm | Requirement | Proposed | % Variation* | Complies |
|--|-------------|----------------------------------|--------------|----------|
| 4.1.2.1 Wall Height (triangular shaped site) | North: 12m | 3m (relocatable "Airstream" van) | N/A | Yes |
| | South : 12m | 3m (relocatable "Airstream" van) | N/A | Yes |
| | West: 12m | 3m (relocatable | N/A | Yes |

| | | | | |
|---|----------------------------------|--|-----|-------------------------------------|
| | | "Airstream" van) | | |
| 4.1.2.2 Number of Storeys | | 1 ("Airstream" relocatable structure / servery van) | N/A | Yes |
| 4.1.2.3 Roof Height | Height: 2.5m | 0.5m (Curved shape to "airstream") | N/A | Yes |
| | Parapet Height: 0.6m | 0.0m | N/A | Yes |
| | Pitch: maximum 35 degrees | <1 degree | N/A | Yes |
| 4.1.4.1 Street Front Setbacks | Prevailing building line / 6m | Minimum 2.5m to 3.0m clearance for access to adjacent walls | N/A | Yes |
| 4.1.4.2 Side Setbacks and Secondary Street Frontages | 12m (based on wall height) | 3m (relocatable "Airstream" van) | N/A | Yes |
| | Windows: 3m | No windows facing adjacent building | N/A | Yes |
| | Secondary street frontage | Consistent with prevailing setback along adjacent building line | N/A | Yes |
| 4.1.5.2 Landscaped Area | Landscaped area | Council land / road reserve | N/A | Yes |
| | Native trees | Existing street trees in situ | N/A | Yes |
| Schedule 3 Parking and Access | Merit consideration | Adjacent public parking within CBD | N/A | Yes (See merit consideration) |



Image: Site layout concept in context with surrounding built form.

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 3.1 Streetscapes and Townscapes | Yes | Yes |
| 3.1.3 Townscape (Local and Neighbourhood Centres) | Yes | Yes |
| 3.2 Heritage Considerations | Yes | Yes |
| 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise) | Yes | Yes |
| 3.4.1 Sunlight Access and Overshadowing | Yes | Yes |
| 3.4.2 Privacy and Security | Yes | Yes |
| 3.4.3 Maintenance of Views | Yes | Yes |
| 3.4.4 Other Nuisance (Odour, Fumes etc.) | Yes | Yes |
| 3.5.5 Landscaping | Yes | Yes |
| 3.5.6 Energy efficiency/conservation requirements for non-residential developments | Yes | Yes |
| 3.6 Accessibility | Yes | Yes |
| 3.7 Stormwater Management | Yes | Yes |
| 3.8 Waste Management | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 3.9 Mechanical Plant Equipment | Yes | Yes |
| 3.10 Safety and Security | Yes | Yes |
| 4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres) | Yes | Yes |
| 4.2.1 FSR (Consideration of Exceptions including Arcades) | N/A | N/A |
| 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor | Yes | Yes |
| 4.2.5 Manly Town Centre and Surrounds | Yes | Yes |
| 4.2.5.4 Car Parking and Access | Yes | Yes |
| 4.2.5.6 Late Night Venues | N/A | Yes |
| 5 Special Character Areas and Sites | Yes | Yes |
| 5.1.1 General Character | Yes | Yes |
| 5.4.1 Foreshore Scenic Protection Area | Yes | Yes |
| Schedule 1 – Maps accompanying the DCP | Yes | Yes |
| Schedule 2 - Townscape Principles | Yes | Yes |

Detailed Assessment

3.1 Streetscapes and Townscapes

The design of development to have regard to townscape principles i.e. how it will appear when viewed from and in conjunction with surrounding buildings, spaces and streets.

Many areas of the former Manly Council area have a particularly important townscape character with an essentially unified townscape, giving rise to a particular individual character which should be maintained. This townscape character is derived as a result of the general scale and interest of the buildings and surrounds. This scale and interest exists even in areas with a limited number of heritage listed buildings with individual importance.

The determination of the townscape of a locality should examine this sense of place and the sense of unity from a variety of perspectives identified in design principles.

Within Part 3.1 Streetscape and Townscapes (include sub-clauses) the following DCP objectives are considered in context of the proposal:

Streetscape

- *To minimise any negative visual impact of walls, fences and carparking on the street frontage*
Comment:
Subject to conditions the proposal will not create any unreasonable impact on the surrounding streetscape, vehicle access or urban surroundings of Market Lane.
- *To ensure development generally viewed from the street complements the identified streetscape.*
Comment:
The urban setting, furniture, servery "Airstream" structure and layout of the wine-bar area is

suitable for the Market Lane surroundings, subject to conditions. The overall appearance, including night lighting is suitable for the Heritage Conservation Area of the existing streetscape with appropriate spacing between adjacent buildings / pathways.

- *To encourage soft landscape alternatives when front fences and walls may not be appropriate.*
Comment:
The proposed low style portable picket fencing is suitable for the garden setting and to assist in managing safety and security within the wine bar during operating hours. The proposal is consistent with this objective.

Townscape

- *To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape.*
Comment:
The proposal does not include permanent structures and relies on passing pedestrian traffic / local parking and convenient public transport. The proposal does not obstruct parking access or occupy parking or require change to existing bicycle facilities. The proposal is consistent with this objective.
- *To assist in maintaining the character of the locality.*
Comment:
The proposal has included appropriate outdoor furniture, seating and structures to provide an attractive street venue. The use of low picket style fencing, a garden style setting, temporary structures that allow the through movement during the day and a defined area during operating hours is suitable for the existing urban location. The style of structures is suitable for the Heritage Conservation Area and consistent with other outdoor dining operations within Manly. The proposal is consistent with this objective.
- *To recognise the importance of pedestrian movements and townscape design in the strengthening and promotion of retail centres.*
Comment:
The proposal is consistent with Council's strategic planning to encourage revitalizing and continuation of small events across the Northern Beaches including delivering activation and events in public places. It also fulfils Council encouraging opportunities to support the local businesses, activate open spaces, encourage safe social interaction, drive a vibrant local economy and promote Manly as a destination. This is consistent with key desired elements within the *Manly 2015 Masterplan*. Appropriate operational management details have been provided and the proposal is consistent with this objective.
- *To minimise negative visual impact, in particular at the arterial road entry points into the Council area and the former Manly Council area, so as to promote townscape qualities.*
Comment:
The general layout has been adjusted to ensure no unreasonable negative visual impact / interference with adjacent business premises and road access for Council or emergency vehicles remains satisfactory along Market Lane. Subject to conditions, the proposal is consistent with this objective.

3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)

The proposal is considered in context of the objectives of this clause as follows:

- *To protect the amenity of existing and future residents and minimise the impact of new development, including alterations and additions, on privacy, views, solar access and general amenity of adjoining and nearby properties including noise and vibration impacts.*
- *To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.*

Comment:

a) The subject proposal will not create any unreasonable loss of sunlight, privacy, views, noise and vibration impacts and other nuisance (odour, fumes etc.) for neighbouring properties and the development property. This is addressed in term of the higher density area, development adjacent to smaller developments and development types that may potentially impact on neighbour's amenity such as licensed premises. Suitable conditions are recommended for amenity considerations.

b) Development will not create any unreasonable scenic amenity impact on the area of Market Lane. In particular, the area, structures, bulk and design of the development should be considered acceptable to the surrounding public and private viewpoints.

c) The use of material and finishes is suitable for the urban amenity for neighbours in terms of reflectivity and styling. The proposal is consistent with Council's Administrative Guidelines regards DA materials and finishes in the context of the heritage conservation area.

In merit consideration of this clause, the proposal is consistent with this part of the DCP.

3.4.2 Privacy and Security

A Merit assessment of Privacy and Security, including acoustic impacts, considerations is provided as follows:

"The Manly LEP clause 6.21 provides for consideration of noise impacts from licensed premises being either new premises and places; or alterations and additions to existing premises. While 'licensed premises' are not defined in the LEP or DCP, the definition adopted from the Liquor Act refers to any premises (or places) that are licensed under the Liquor Act 2007. In this regard any DA where a licence is required for the sale of liquor must consider this clause.

The types of development that may be licensed include Restaurants, Cafes, Clubs, Hotels, Pubs, Entertainment Venues, and Community Facilities and the like. The types of licenses may be granted and held under the Liquor Act 2007 for such premises include hotel licenses, club licenses, small bar licenses, on-premises licenses and others. In relation to Licensed Premises the Liquor Act 2007 provides and regulates the liquor license approvals process administered by the Office of Liquor, Gaming and Racing. With particular reference to potential noise impacts from Licensed Premises, the the Standard Noise Criteria is applied by the Office of Liquor Gaming and Racing.

- *In relation to the assessment process applicants are encouraged to lodge the DA and liquor license application simultaneously. While the Office of Liquor, Gaming and Racing will not issue an approval for a liquor license until development consent has been granted by Council, effective consideration of matters such as noise impacts may be better resolved when dealt with concurrently.*
- *Noise Control reports are to be submitted with DAs for licensed premises for the management of*

patron noise (including patrons exiting the premises) and other offensive noise (including amplified music and plant and equipment noise emissions) emitted over the life of the development. The Noise Control report is to demonstrate to the satisfaction of Council that the activities carried out and related to the operation of the premises will meet the following requirements:

- i) The La10* noise level emitted from the licensed premises must not exceed the background of noise level in any Octave Band Centre Frequency (31.5Hz to 8kHz inclusive) by more than 5dB between 7am and 12 midnight at the boundary of any affected residence.*
- ii) The La 10* noise level emitted from the licensed premises must not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz to 8kHz inclusive) between 12 midnight and 7am at the boundary of any affected residence.*
- iii) The noise level from the licensed premises must not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am or as otherwise required under conditions of development consent.*
- iv) Balconies, verandahs, any roof top areas and any external access thereto must be closed to patrons between the hours of 10pm to 8am daily to minimise noise nuisance".*

Comment:

The proposal has been submitted with a detailed *Acoustic Report* pursuant to the above requirements and a *Plan of Management*. Additional details of the proposal in addressing the provisions of *Clause 3.4.2 Privacy and Security* are including by way of revised hours of operation / site layout plans and community impact statement provided to address submission issues. The hours of operation and acoustic impacts have been reviewed by Council's Environmental Health team with appropriate conditions recommended to ensure the operations are consistent with Clause 6.21 of the WLEP and particular requirements of the DCP relating to licensed premises.

During the assessment period review and consideration was made of the proposal to adjust the seating capacity and reduce the overall intensity of use. Additional consideration was made with respect to the use of recorded music ('background music') and live music within the wine bar area while in operation. Outside of operating hours sections of the side fencing will be slid open to allow casual use of the space for the general public to sit, walk through, relax or temporarily work.

The premises will be staffed by trained personnel when the wine bar is serving and therefore will be aware of operating requirements / conditions and issues to be aware of with respect to surrounding residences, adjacent business operations, supervision / service of customers and use of the space.

In summary, the proposals is consistent with this clause, subject to conditions.

3.4.4 Other Nuisance (Odour, Fumes etc.)

The proposal does not require any grease trap or food cooking preparation facilities, as it is principally occupying a limited 'hard stand' open space with temporary / portable structures. Staff will 'litter sweep / cleanliness check' the wine-bar area surrounds to ensure hygiene / litter is appropriately disposed of prior to, and on completion of daily operating hours. The proposal will operate its own bins for beverages served and any food service managed / coordinated by adjacent restaurants (if wine bar customers wish to also have a meal at their table within the wine bar, then this is managed by their own wait staff and use of QR code options. Suitable lighting is proposed to ensure no unreasonable glare to nearby premises.

Requirements of this clause are considered to appropriately addressed and manageable as part of the Plan of Management and recommended conditions. The proposal is consistent with the requirement of this clause.

3.8 Waste Management

The development application has included a detailed waste management strategy to satisfy the objectives of this clause. In summary, the proposal involves use of sustainable food and beverage service, including reusable cups / glasses and plates. This includes food service provided to customers within the wine bar co-ordinated with adjacent restaurants. The wine bar does not provide a meal / dining service but use of the tables for wine bar customers is permitted for outdoor dining.

Recycling of bottles, cardboard, paper will be available with separate bin containers / sorting. Perishable items and food will be managed by commercial waste contractors.

Disposable food containers that are bio-degradable will be used. The waste strategy has been reviewed by Council's Waste Office and subject to conditions is supported. The operational management of the site includes regular hygiene checks of bin areas, litter collections, adjacent toilet facilities and handling of waste.

Subject to conditions the proposal is consistent with the objectives and requirements of this clause of the DCP.

3.10 Safety and Security

Merit assessment pursuant to *Part 3.10 Safety and Security* is addressed as follows:

- *To ensure all development are safe and secure for all residents, occupants and visitors of various ages and abilities.*

Comment:

The site is situated within the AFZ zone established for Manly and therefore the AFZ is 'active' within the site while the wine bar is not operating (closed) and 'de-active' once the hours of operation commence as specified. Appropriate signage is available to ensure the general public are aware of the business hours and AFZ restrictions.

- *To ensure that the design process for all development integrate principles of 'Safety in Design' to eliminate or minimise risk to safety and security.*

Comment:

The site has suitable fencing for the 'garden style' outdoor setting and has good visibility though and within the defined area of the wine bar. The surrounding area of Market Lane has a range of businesses and level open access for pedestrians. The location of the proposal is close to the Manly Police station and as a public thoroughfare has a high level of passive supervision. Vehicle access is limited near the site and Whistler street has low traffic speed with regard to considerations of pedestrian safety / youth or children and families walking through the Market lane precinct.

- *To contribute to the safety and security of the public domain.*

Comment:

The surrounding urban setting does not have any unreasonable safety risks (high ledges, steep uneven ground, ongoing construction / excavation or the like in close proximity. The proposal will use a Plan of Management, have a well defined entry point during operating hours and the wine bar is supervised by trained staff (including RSA) to ensure safe and security of staff, customers and the public domain.

In merit consideration of this clause, the proposal is consistent with this part of the DCP.

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

In addition to LEP clause 1.2(2)(d) and relevant LEP Zone Objectives in the Land Use Table include the following:

- *To ensure there is adequate provisions for car parking access and loading in future development and redevelopment in all business zones.*

Comment:

The proposal has been provisionally operating as a 'pop-up' style use, under an existing lease arrangement for over 12 months and during that time matters relating to vehicle access along Market Lane (Council service vehicles, delivery, emergency access and the like) have been maintained. The proposal has been adjusted to ensure adequate space is allocated for 24 hour access for service vehicles in accordance with Council requirements or will satisfy recommended conditions. As part of this, the proposed layout of the site has been adjusted to provide a more suitable long term layout. Notwithstanding this, all structures are portable / temporary and can be relocated if required. The availability of carparking in the surrounding area and hours of operation is co-ordinated with the *Plan of Management* and recommended conditions to ensure no unreasonable impact on normal weekly business hours / parking demand on weekdays.

On the weekends usage is limited to the afternoon / evening period and relies on the existing availability of public parking within the wider CBD area, local pedestrian traffic, tourist trade, access to transport / bicycle / taxi and the like. The central location of the proposal within the CBD will not create an unreasonable impact on carparking or loading, subject to conditions.

- *To minimise conflicts between pedestrian and vehicular movement systems within the business areas.*

Comment:

The proposal has been reviewed by Council's Traffic engineer, road assets and waste services and is considered satisfactory, subject to conditions to ensure minimal conflict between pedestrian and vehicular movement systems (including limited access times along Market Lane, clearance requirements should access be required for Council / emergency vehicles. The proposal will also enable through access by sliding open sections of the perimeter fence to allow free pedestrian movement during non-operating times. During operating time the access / entry point will be clearly defined to ensure control / supervision of the customer area with regard to RSA requirements.

In merit consideration of this clause, the proposal is consistent with this part of the DCP.

4.2.5 Manly Town Centre and Surrounds

- *To consolidate, promote and strengthen both retail activity in the Manly Town Centre as well as townscape in accordance with the townscape requirements of this plan.*

Comment:

The DCP residential controls permit the use of other businesses and activities within the business precinct. The proposal has been reviewed in context with the Manly 2015 Masterplan and is considered to be consistent with particular reference to the "Village Centre" and opportunities associated with

"Laneways and Connections" as well as seeking "expanded commercial opportunities" (p43). While the large scale redevelopment of the "Village Centre" has not been commissioned the proposed wine bar would not create any obstruction to future consideration and review of the Manly CBD strategies as the proposal is recommended for a limited time line of 3 years, enabled by a "sunset" condition. This would also permit the use / consent time line to be renewed or extended by modification at an appropriate future date for a further term.

It is considered that the styling and variety of furniture and decorative items, including fencing and use of an "Airstream" style serving bar, as well as lighting and garden setting is suitable for the Market Lane space and does create any unreasonable access issue or detract from the streetscape surroundings. A depiction of the style of portable items / setup to be used is illustrated below.

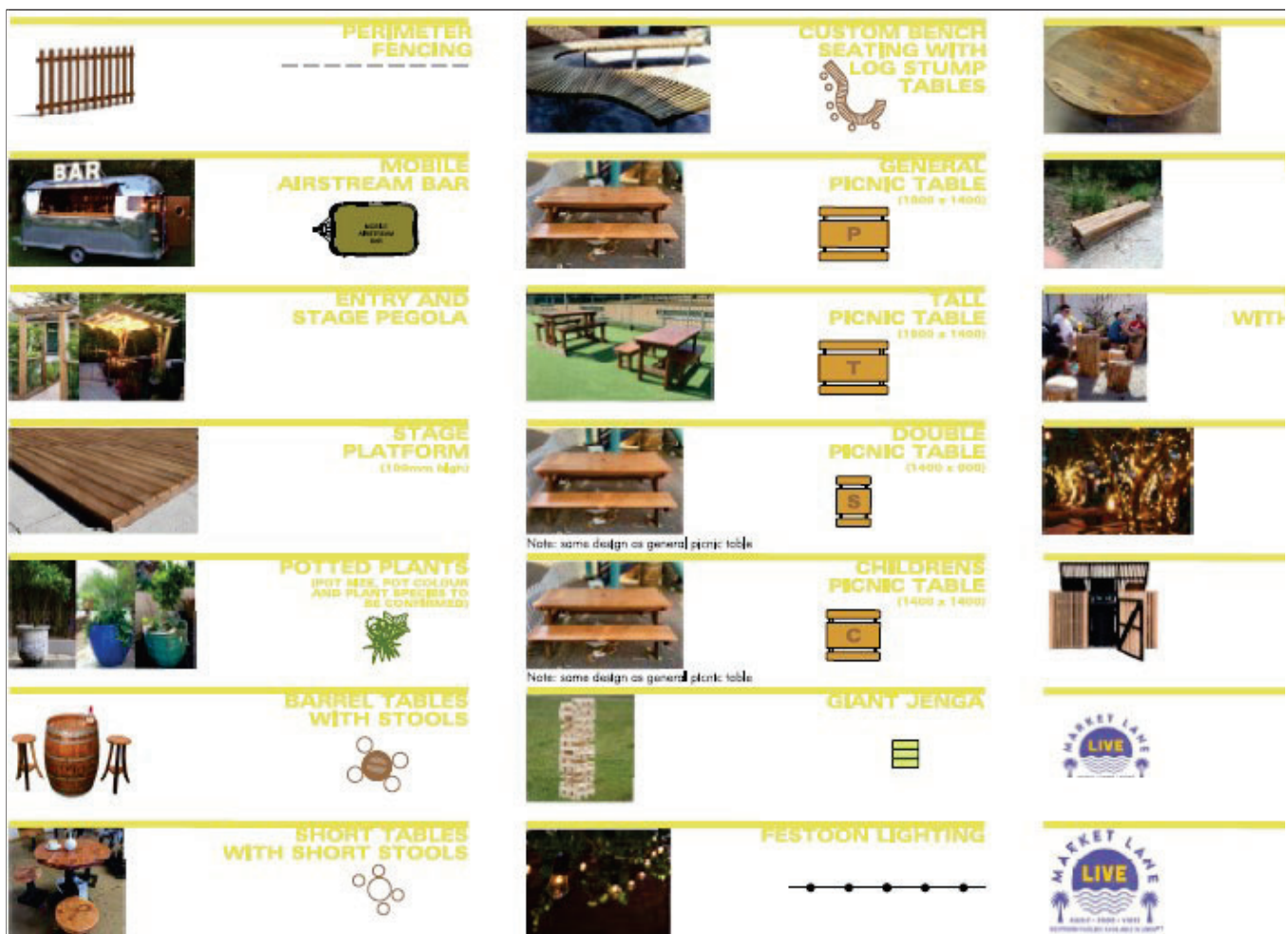


Image: Indication of the range of seating styles, lighting, and ancillary structures for the small bar.

In merit consideration of this clause, the proposal is consistent with this part of the DCP.

4.2.5.4 Car Parking and Access

The Manly DCP allows that:

in exceptional circumstances and having regard to the merits of the application, Council may be prepared to allow a reduction in the any parking rate/ requirements in Manly Town Centre (including residential and commercial) where the applicant has demonstrated that:

(i) in the case of all uses other than dwellings, the dimensions or topography of the site would physically

prevent the provision of some or all of the required spaces;

(ii) the required access interferes with the continuity of retail frontage or interrupts the frontage of the property in other ways such that there would be a conflict with any other provisions of this DCP in particular the townscape objectives; or

(iii) the movement of vehicles to and from the site would cause unacceptable conflict with pedestrian movements, special servicing arrangements for pedestrianised areas or contribute to congestion at key intersections.

Comment:

The proposal has been subject to review by Council's Traffic Engineer and detailed consideration of the above requirements have been made. The applicant was required to respond to initial concerns and submission issues raised. Following further review of the proposal and adjustments made to the layout, setbacks, vehicle access requirements of Council, Market lane usage, pedestrian and bike facilities. Adjustments have been made to the proposal with being able to observe operations during site inspection and when the proposal is not operating during the day. Conditions recommended include a minor change to widen the vehicle laneway clearance by an additional 50cm which can be achieved and appropriate conditions to ensure Council / emergency service access will not be obstructed.

No change is proposed to the bicycle rack area and the site will be "opened" up to enable pedestrians to walk through, or sit and relax, during the day when the wine bar is closed. Subject to conditions, associated facilities of the bins, 'Airstream' and furniture items will be suitably located and spaces to avoid obstruction or interference with Council facilities, services or infrastructures.

While the proposal may continue to operate on a year to year basis it does not require permanent structures or the building work of and enclosed floor space. The carparking rate for a licensed floor area, pub (beer garden and the like) is 1 car space per 4sqm. In this case a licensed area of 248.1sqm attracts a car parking rate of 62 car spaces.

The proposal will provide no permanent car parking spaces or parking contribution.

Under the circumstances the following merit considerations are made with respect to a DCP variation:

- Assessment by Council's Traffic Engineering team support the proposal, subject to conditions.
- Temporary / portable nature of the proposal, including 'sunset condition' recommended for 3 years. (Noting that this may be extended / not extended on further application consideration.
- Proximity to central user-pay parking areas (operated by Council) available for use.
- Probability of use by customers that would park in other commercial carparks for shopping / restaurant / residential visit etc but may stay longer if they decide to also visit the wine bar as part of the same trip.
- Ease of accessibility for pedestrian traffic / "passer's by" that live locally.
- Ease of access from public transport / taxi / and bicycle users from the wider local area.
- Tourist trade.
- Generally being out of primary business trading times during the week for the CBD whereby car parking in Council's public parking is less frequented (evenings / weekend afternoons).
- Small scale of the 'wine bar' in relation to larger events held in Manly (food festivals / surf carnivals etc)
- The wine bar only permits dining by patrons that are customers of adjacent restaurant service (business co-operation).
- The provision of having to construct parking as part of the proposal would likely make the proposal in-operable / unviable
- The 'site' will be subject to a Council lease and therefore pays for use of the land which directly or indirectly financially assists with the provision and maintenance of council infrastructure in Manly CBD.

- The nature of uses that seek to promote "street activation" as supported by the DCP and Manly 2015 Masterplan characteristically would not be attributed to providing built / permanent car parking specific to that function, if being temporary / limited term in nature.
- The proposal is considered to have suitably addresses Clause 4.2.4.1 which states that *"Council may be prepared to allow exceptions to the parking rate/requirements required in this DCP in the following circumstances:*
 - (i) where it can be demonstrated that particular activities in mixed use developments have car parking demands which peak at different times;*
 - (ii) where visitors are likely to use more than one facility per trip;*
 - (iii) considering available car parking in the surrounding area, except in relation to Manly Town Centre where more particular exceptions are provided at paragraph 4.2.5.4 of this plan*

In summary it is considered that the proposal will not create an unreasonable impact on carparking availability or access within the Manly CBD, subject to conditions, the hours of operation, size and extent of the intended use.

4.2.5.6 Late Night Venues

The DCP objectives for Late Night Venues seek:

- *To achieve for Manly's entertainment precinct as a place of excellence in which all people can use and enjoy Manly's highly valued natural amenity qualities as a place:*
 - i) for leisure and entertainment;*
 - ii) in which late night venues can safely entertain and provide for the enjoyment of social and recreational pursuits;*
 - iii) without disturbing the peace of the community in terms of safety and security.*

Comment

The proposal will not trade as a 'Late Night Venue' since the operating hours generally finish by, or before 10:30pm (with isolated exception for New Years Eve). The applicant has provided a Plan of Management, Acoustic report and revised design layout to ensure consistency with creating a safe venue and social venue that is suitable for the surrounding urban environment. Conditions are included to ensure no unreasonable impact on surrounding land uses.

- *To regulate the activities and design of late night venues to minimize late night disturbances to the public and promote Manly as a safe place for all the community late at night such that:*
 - i) frontages to public spaces must be designed to minimize conflict between customers within the establishments and public using the public spaces;*
 - ii) the applicant demonstrate (see lodgement requirements at Council's Administrative Guidelines) that the premises will not detract from the safety and security of the Entertainment Precinct and as a place which is acceptable for families; and*
 - iii) obligations of any current Accord are addressed in minimizing anti-social behaviour and adverse effects of excessive alcohol consumption.*

Comment

The proposed small bar has been in operation under existing licence arrangements (begun

as a "pop-up" style initiative) and seeks the operational security than can now be provided by a development consent for a "small bar". The applicant has addressed the concerns of Council in terms of the Internal Referral sections (Waste services, Environmental Health, Engineering, and the like) to ensure the proposal does not detract from the safety and security or amenity of the Manly Central Business District (CBD) / entertainment precinct. Conditions of consent including a Plan of Management and additional leasing requirements will ensure responsible service of alcohol (RSA), appropriate hours of operation and management systems are ongoing for the outdoor small bar. Overall the proposal does not seek to trade within the hours that are the domain of a 'Late Night Venue'.

5.1.1 General Character

Merit consideration of the key components of Part 5.1.1 General Character for Manly are addressed as follows:

- *Manly Town Centre has a cohesive character resulting from a generally low scale of development on its principle streets. Construction to the property boundaries, slightly higher and distinctive corner buildings and a good level of pedestrian protection and amenity generated by footpath awnings and through-block arcades has produced strongly defined and comfortable urban spaces. These spaces range from the tight enclosure of the arcades through to the openness of the Ocean Beach promenade and the Esplanade. Developments which contradict these features have not been sufficient to remove this character.*

Comment:

The wine bar location is not readily visible from the immediate foreshore area along East Esplanade or Manly beach front and therefore no further detailed consideration of the foreshore scenic protection area is required.

- *The Town Centre Urban Design Guidelines provide more detailed analysis of Manly Town Centre from an urban design point of view and provides more detailed guidelines for certain precincts and areas within the Town Centre. These precincts include Whistler Street Triangle (Whistler Street (south) Market Lane).*

Comment:

The proposal has been considered in context of the Town Centre Guidelines and Manly 2015 Master Plan. Overall the position, seating space, setting and layout and visual styling of the proposal is suitable for the precinct. A garden setting with low fence style and 'retro' appearance including wooden tables assists to fit with the available space.

- *The physical elements of the Manly Town Centre Conservation Area reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.*

Comment

The proposal allows for casual movement and activation of the streetscape surroundings with appropriate portable structures and lighting to suit the outdoor setting.

In merit consideration of this clause, the proposal is consistent with this part of the DCP.

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 2021

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

OTHER MATTERS

Land Classification

- The subject site is operational land for the part within the Manly Library lot boundary. The remaining area (being most of the area to be used for the Wine Bar) is within undefined road reserve being Market Lane. The DA is not situated on council land identified as 'community land' classification pursuant to the Local Government Act. The identified area of the small bar that covers part of the Market Lane road reserve and part Manly library land is all zoned B2 Local Centre

Manly Precinct Management Plan

- The CBD area of Manly remains subject to the "Manly 2015 Masterplan" and the proposed development is situated within the relevant geographical boundaries of the Masterplan. The masterplan seeks to identify principal characteristics (social, economic, and urban environment) and offer strategic directions for the CBD area. The location of the proposed outdoor small bar is situated in the masterplan as a type of "Village Centre" and discusses the characterisation of the village centre as a place where "*village life takes place*" being the quieter spaces and the connecting active laneways and not necessarily the major thoroughfare of major pedestrian movement occurring along the Corso space. The present location of the wine bar proposal is within the location identified as the 'Whistler Street Triangle' in the master plan. While the master plan includes some major redevelopment / major urban revitalization projects the use of the space for a wine bar setting in the afternoon / evening (with restricted operating hours and usage) and a space where people can freely sit and still use (share) the seating area space at times during the day, while the bar is closed. Access is not prevented during operating hours but persons would be treated as patrons. As a commercial use presented as a alfresco / garden style wine bar' setting, the proposal is consistent with the master plan seeking to encourage activation of the pedestrian areas and laneway areas around the CBD, subject to conditions.

In summary, the proposed small bar and short term use (limited by DA conditions 'sunset clause', including timespan of up to 3 years, extendable only by future application) is considered to be consistent with the Manly 2015 Masterplan.

Liquor Act 2007 / Liquor Regulations 2018

- **'small bar'** means the premises to which a small bar licence relates and within Division 3A of the *Liquor Act*. A small bar licence *"authorises the licensee to sell liquor by retail on the licensed premises for consumption on the premises, or house-made cocktails in sealed containers for consumption away from the premises"*.
- Under the Liquor Act a small bar may have a capacity of 60 persons or a greater number as may be prescribed by the regulation. In this case, the regulations permits a maximum of 120 persons capacity for small bar.

Comment:

It is considered that all liquor sold within the premises of the wine bar should not be permitted to be taken outside the fenced area / perimeter ("take-away drinks") as this is currently the AFZ. Regardless of whether or not the AFZ remains for the wider CBD precinct it is recommended that the wine bar operator manages the "small bar" so that patrons do not seek to purchase alcohol to then go away from within the boundaries of the premises. This is addressed by condition and the applicant has not sought to allow 'take-away' purchases. There are sufficient other premises in the wider area (Liquorland, BWS, ALDI and the like) that provide appropriately regulated "purchase to take away" alcohol service.

The application for the small bar proposes a maximum capacity of up to 120 patrons pursuant to Section 39 of the *Liquor Regulations 2018*. To maintain characterisation as a 'small bar', and not principally be transformed into a defacto restaurant / "satellite" floor space for other takeaway food premises in Manly, it is recommended the food service be limited to 50% of the available table facilities within the bar area.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP

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

In conclusion, the proposal for an outdoor wine bar within Market Lane has raised the following principal issues in the public interest:

- Operation seeking to continue from an existing 'temporary' lease arrangement in the AFZ.
- Interference with pedestrian crowd flow and the public nature of the precinct.
- Limiting the transfer of alcohol or food between the site and other locations.
- Obstruction of vehicular movement including garbage removal trucks.
- Non-aesthetic elements not aligned with Council urban design plans.
- Noise disturbance within the local area for businesses and residents.
- Intrusive on local businesses shopfronts and deters other customers
- Cleanliness concerns when not in operation and utilised publicly.

The above concerns have been addressed by the applicant with additional information, adjustment to operating hours and changes to reduce / adjust the site layout to accommodate better solutions to assessment considerations raised with the applicant. As a result, the Internal Referrals sections of Council support the revised proposal, subject to conditions. The site is situated entirely on Council owned land being open pedestrianized area that is part road reserve Market Lane and part of Lot 2849 (being Manly Library).

Market Lane is identified for its potential with regard to 'active street frontages' for enhancing the commercial area and pedestrian areas along the laneway thoroughfares of Manly, pursuant to the *Manly DCP* and Manly 2015 Masterplan. The use of the subject space for an outdoor 'small-bar' garden style wine bar is considered to be suitable as a temporary / time limited use within the precinct, subject to conditions as recommended.

The proposed hours of operation, management and licence / lease requirements will ensure no unreasonable impact on surrounding land. Additionally, all structures are temporary / portable in nature. It is recommended the proposal be limited to 3 years to enable the subject use of Council land to cease, if operationally required by Council in a reasonable future time frame, or alternatively the use permitted to continue at future date (subject to application) should that option be sought by the applicant at an appropriate time.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/2065 for Use of premises (part Road Reserve and Lot 2849) as a Food and Drink Premises (for a 'Small Bar') on land at Lot 2849 DP 822227, 0 Market Lane, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| 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 to be limited to the following times
 - Monday – Thursday: 6pm – 9pm
 - Friday: 5pm – 10.00 pm
 - Saturdays & Sundays: 3pm – 10:00 pm
- 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.

- Notwithstanding compliance with the above, The LA10* noise level emitted from the premises shall not exceed the background noise level (as determined by an Authorised Council Officer) in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

For the purpose of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises. This is a minimum standard.

Reason: To maintain acoustic amenity of the surrounding area. (DACHPGOG5)

23. **Compliance with Plan of Management**

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

Reason: To protect the amenity of the surrounding area. (DACHPGOG5)

24. **Hours of Operation**

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

- 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)
- Friday : 4:00 pm to 10.30 pm. (except on Public Holidays that fall on a Friday then 12 midday to 10:30pm)
- Saturday : 12 midday to 10:30 pm
- Sunday : 12 midday to 10:00 pm
- No trading on Christmas Day.
- 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. **Hours of Operation**

- 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)
- Friday : 4:00 pm to 10.30 pm. (except on Public Holidays that fall on a Friday then 12 midday to 10:30pm)
- Saturday : 12 midday to 10:30 pm

- Sunday : 12 midday to 10:00 pm
- No trading on Christmas Day.
- New Year's Eve operations, may (at Council discretion) extend to 1am (being 1st Jan) only by prior written notice to Northern Beaches Council.

31. **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*.

32. **Set up hours**

The 'set-up' of tables and chairs or miscellaneous items shall not commence until after 9:00am on any day.

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

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

Signed

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

Rodney Piggott, Manager Development Assessments

Peter Robinson, Executive Manager Development Assessment