

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0097
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 32 DP 6033, 11 Mitchell Road BROOKVALE NSW 2100
Proposed Development:	Use of premises as an Artisan Food and Drink premises (brewery)
Zoning:	Warringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Gabrielle Brock Mitchell
Applicant:	Quakers Hill Brewing

Application Lodged:	06/02/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Industrial
Notified:	24/02/2020 to 09/03/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 49,500.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for the change of use of the premises to a artisan food and drink industry. The business will be operated by Quakers Hat Brewing of who currently run a Micro Brewery in Mona Vale.

The works associated include the following:

- Micro-brewery,
- Cool room,
- Toilet facilities,
- Tap Room,
- Storage areas,
- Minor changes to the entrances.

Parking

In addition, the proposal includes four (4) off-street parking spaces within the subject site.

Patron Numbers

The new premises proposes to have a maximum of ninety (90) patrons (70 seated and 20 standing).

Hours of Operation

The hours of operation are as follows:

Brewery

- 6am - 6pm (Monday to Friday)

Taproom

- 6pm - 11pm (Monday to Wednesday for private functions)
- 12pm - 10pm (Thursday to Sunday)

Staff

It is proposed to have two (2) staff within the Brewery, and three (3) staff in the Taproom (with casual staff as required)

Waste Management

A dedicated waste storage area will be onsite with commercial contractors collecting waste on an as-need basis.

Signage

The proposal also includes one Business Identification Signs with the following dimensions:

- 5.0m x 1.1m - Wall Sign
- 5.0m Height, 1.2m x 1.3m flag - Pole Sign

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers,

State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 5.4 Controls relating to miscellaneous permissible uses
 Warringah Development Control Plan - A.5 Objectives
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D3 Noise
 Warringah Development Control Plan - D18 Accessibility and Adaptability
 Warringah Development Control Plan - D20 Safety and Security
 Warringah Development Control Plan - D23 Signs

SITE DESCRIPTION

Property Description:	Lot 32 DP 6033 , 11 Mitchell Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The site is legally described as Lot 32 within Deposited Plan 6033, also known as 11 Mitchell Road, Brookvale. The site is located within the IN1 General Industrial zone as mapped by the Warringah Local Environment Plan.</p> <p>The site is characterised by a regular rectangular-shaped allotment with a total size area of 599sqm. The frontage to Mitchell Road is approximately 12.2m with north and south side boundaries of approximately 49.0m.</p> <p>Vehicle access is from Mitchell Road, with the stormwater draining to the street frontage.</p> <p>The site is located within close proximity to Warringah Road, and within walking distance to Warringah Mall. Public transport nearby consists of Bus lines that service the City, Chatswood and Palm Beach.</p> <p>The site is located within a industrial setting with an varied mix of industrial, retail, and takeaway food and drinks premises. The immediate neighbours to the north comprise of a single-storey industrial premises for motorcycles and to the south a two storey building used as a business/office premises and a sex services premises.</p>

Map:



SITE HISTORY

A search of Councils records revealed the following relevant development applications:

- Development Application **DA2009/0262** for a fitout and use of the premises as a Dance Studio and associated Signage was refused by Council on the 1 June 2009.
- Development Application **DA6000/5757** for a Car Repair Station and installation of an oil separator was approved by Council on the 7 June 1996.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	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 industrial purposes for an extended period of time. The proposed development retains the industrial use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) –	None applicable.

Section 4.15 Matters for Consideration'	Comments
Provisions of any planning agreement	
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 the Operation Plan of Management and Traffic requirements of the proposal.</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 matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. The proposal will result in unreasonable impacts to the adjoining and nearby land that cannot be addressed by conditions, specially in regards to traffic, parking, and potential acoustic impacts.</p> <p>(ii) Social Impact The proposed development will have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development, in so far as the proposal represents an inappropriate operation with inadequate parking that will create adverse impacts to the surrounding area.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public	This assessment has found the proposal to be contrary to the

Section 4.15 Matters for Consideration'	Comments
interest	relevant requirement and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS

Clause 4 of the Environmental Planning and Assessment Regulation 2000, prescribes that 'designated development' is defined as 'development described in Part 1 of Schedule 3 (of the Environmental Planning and Assessment Regulation 2000).

Part 1, Schedule 3 – 6 Breweries and distilleries, are defined as being designated development having consideration of the following:

Breweries or distilleries producing alcohol or alcoholic products:

(a) that have an intended production capacity of more than 30 tonnes per day or 10,000 tonnes per year, or

Comment: The proposed general industry use as a brewery is a relatively small-scale operation which is not proposed to generate alcoholic products above 30 tonnes a day or 10,000 tonnes per year. An operational management plan has been prepared to accompany the development application which prescribes that the development will have the capacity to brew approximately 150,000 litres of alcoholic products annually and approximately 1000 litres per day which is below the capacity identified for this purpose.

(b) that are located within 500 metres of a residential zone and are likely, in the opinion of the consent authority, to significantly affect the amenity of the neighbourhood by reason of odour, traffic or waste, or

Comment:

The subject site, 11 Mitchell Road, Brookvale is located approximately 350 metres from the nearest adjoining residential dwelling at the northern side of Pittwater Road, Brookvale, and is therefore less than the required 500 metres to the neighbouring residential zone. In considering Part 1, Schedule 3 of the Environmental Planning and Assessment Regulation 2000 the consent authority must consider any adverse amenity impacts to the surrounding residential neighbourhood in respect to odour, traffic or waste.

Odour: No Odour Assessment Report has been prepared for the application as required by the Northern Beaches Council as part of any prospective development application. However, conditions could be applied to ensure that the proposed development will not give rise to any adverse odour impacts to the neighbouring dwellings or result in odour impacts that are unlikely to extend beyond the property boundaries. Council's Environmental Health section has not raised any objection to the proposal in this regard.

Traffic: A Traffic Report has been prepared by Varga Traffic Planning Pty. Ltd. which provides a assessment of the proposed traffic generating demand of both the brewery and tap room uses of the

development. Councils Traffic Engineers do not support the proposal in its current form due to insufficient information in regards to traffic and parking. However, if addressed accordingly the the proposed change of use may not have amenity impacts as a result of traffic implications.

Waste: A Waste Management Plan has been prepared by Quakers Hat Brewing which notes that the brewery will accumulate approximately 1 cubic metre of spent grains and hops sealed within grain storage bins and recycled through animal feed through local farmers. Other general waste will be removed from private waste contractors collected on a daily basis for waste collection removal. On balance, the proposed operation is not considered to result in any significant impact on the neighbourhood due to waste.

(c) that release effluent or sludge:

(i) in or within 100 metres of a natural waterbody or wetland, or

(ii) in an area of high watertable, highly permeable soils or acid sulphate, sodic or saline soils.

Comment:

The subject site is not located within 100 metres of a waterway; however it is identified as being within the 1 in 100 year Flood Hazard Map and is located within a Class 4 Acid Sulfate Soil Zone.

The proposal has been assessed as compliant with Council's LEP and DCP requirements in terms of flooding and no objection has been received in relation to Acid Sulfate Soils.

A wastewater treatment plan has been prepared by the operators of the brewery which outlines measures for removal of spent grains and hops from the fermenters and restoration of the pH balance from waste water without the addition of further chemicals.

Accordingly, the proposed application does not activate any of the criteria outlined within Schedule 3 and is therefore not considered designated development.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>

Internal Referral Body	Comments
Environmental Health (Industrial)	<p>General Comments</p> <p>The location and design and proposed use of the development does not not raise any concerns for Environmental Health that cannot be addressed by reasonable conditions.</p> <p>Recommendation Approval - subject to conditions.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>No objection subject to strict conditions to achieve fit out compliance.</p> <p>Recommendation Approval- subject to conditions</p>
NECC (Development Engineering)	<p>There are no objections to the proposed development, subject to conditions.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed change of use to a Brewery with internal fitout of the premises is not considered to increase flood risk. Therefore, there are no objections to the proposed change of use subject to conditions.</p>
Traffic Engineer	<p>The application is for a proposed change of use of the premises to an artisan food and drink industry to accommodate a maximum of 90 patrons. The hours of operation of the brewery are from 6am – 6pm, Monday to Friday and the taproom 6pm – 11pm Monday to Wednesday for private functions, and 12pm – 10pm Thursday to Sunday. There are 4 parking spaces proposed within the site.</p> <p>Although the requirement for a comparison of a similar site to determine the requirements for parking demand, particularly for a development anticipated to attract up to 90 patrons, has been indicated in the Statement of Environmental Effects report, the applicant has failed to provide adequate information.</p> <p>However, Council has approved similar developments in the area, hence the approved parking rates utilised in the approved development applications will be adopted for this review.</p> <p>The consultant has broken down the total floor area to the following:</p> <ul style="list-style-type: none"> • 275m² of brewery; and • 122m² of taproom. <p>The parking requirement has been based on the brewery component only, which is classified as an 'Industry' use. Under an 'Industry' classification, the total parking requirement has been estimated to the total of 4 onsite car spaces. The provision of no parking spaces has been considered for the retail component which is proposed to attract up to 90 patrons.</p>

Internal Referral Body	Comments
	<p>Council's review of the proposed development indicates that 275m² GFA will be associated with the brewery, and the remaining 122m² (to be used as a taproom) shall be classified as a specialty shop / retail. Therefore, the proposed development is required to provide 11 parking spaces and the reliance on the street parking for whole retail component is not acceptable.</p> <p>It should be noted that the overlapping period between operation of the brewery and taproom exacerbates the parking concern and has not been taken into consideration. The operations of the brewery ceases at 6.00pm on weekdays, while the operation of the taproom commence at 12.00pm on Thursdays and Fridays. The parking accumulation survey provided does not include any survey for the hours between 12pm and 3pm on Thursdays and Fridays.</p> <p>The reliance on street parking would be subject to the parking availability and could be considered acceptable on merit for a minor shortfall.</p> <p>No parking plan has been provided within the development application. It is to be demonstrated that all vehicles will be able to ingress and egress in forward direction.</p> <p>The applicant has also failed to provide the information on how loading and unloading /servicing of the proposed brewery will be managed within the site. Given that the proposal is for a change of use with altered operation, reliance on the existing use is not considered acceptable.</p> <p>In view of the above, the proposal is not supported on traffic grounds.</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 New South Wales Police, Northern Beaches Licensing Office has provide their response in regards to the application.</p> <p>In summary, the proposal is not supported by the NSW Police due to the concerns in relation to the type of business proposed (liquor outlets) and inadequate information on how the operation will be undertake and the ability of the proposed businesses (liquor outlets) to manage and mitigate the risks of this type of business. The NSW Police provide statistics that demonstrated the correlation between liquor outlets and alcohol related crime in the Brookvale area.</p> <p>As a result, the NSW Police have <i>“recommended that the Operational Plan of Management be revised and resubmitted. This document</i></p>

External Referral Body	Comments
	<p><i>should clearly and precisely articulate how the business proposes to operate and how the operators/ staff will address the risks and mitigate them. Within this document, the operator should address the “operational issues/ risks and proposed strategies they will be employing to reduce the risk.”</i></p> <p>As a consequence, the New South Wales Police, Northern Beaches Licensing Office do not support the application.</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

The subject site had a previous use as a vehicle repair station (as approved by Council on the 7 June 2006). The application does not include any report required by clause 7(2) of SEPP 55 – Remediation of Land specifying the findings of a preliminary investigation of contamination of the land carried out in accordance with the contaminated land planning guidelines.

In these circumstances Council is prohibited from giving consent to the carrying out of the proposed development by clause 7.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

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

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage is consistent and complimentary to the existing and desired future character of the industrial area.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage is consistent with business identification signage within this particular industrial estate and the broader industrial area.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	There are no environmentally sensitive areas, heritage, natural, conservation, open space areas, waterways, rural landscapes or residential areas impacted by the proposed development.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	There are no views affected by the proposed development.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The outcome for the signage is not of a scale to cause unreasonable impacts upon the existing views of the skyline and vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not impact on any other advertising.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The quantity and scale of the signage is consistent with expectation of the land use within the Industrial zone. The signage complies with the size, height and area of clause D.3 Signs of the Warringah DCP, and is in scale with the existing building. The location of the signage is orientated towards Mitchell Road and are considered appropriate and compatible with the scale, proportion and characteristics of the site for which the proposed signage is to be located.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage provides visual branding for Quakers Hat Brewing and will provide visual interest within the industrial setting.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The signage is considered minor in nature and will not create a proliferation of signage.	YES
Does the proposal screen unsightliness?	There is no unsightliness screened by the proposal.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No, the signage is consistent with the surrounding height and scale of built form and existing signage.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other	The proposed signage is considered compatible with the character of the industrial estate.	YES

characteristics of the site or building, or both, on which the proposed signage is to be located?		
Does the proposal respect important features of the site or building, or both?	The signage will not conceal the appearance of the building within the streetscape.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is complimentary to the building and will not dominate the appearance of the building.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	There are no safety devices or lighting proposed.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The proposed signage is not illuminated.	YES
Can the intensity of the illumination be adjusted, if necessary?	The proposed signage is not illuminated.	YES
Is the illumination subject to a curfew?	The proposed signage is not illuminated.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The new signage will not compromise safety within the adjoining public road being Mitchell Road.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage does not conceal or obscure sightlines for vehicles or pedestrians entering or leaving the site.	YES

Accordingly, the proposed signage is not considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

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.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11.0m	5.0m	No Change	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

5.4 Controls relating to miscellaneous permissible uses

The total gross floor space is 370m². Accordingly, the maximum floor area permitted for an industrial retail outlet is 33% or 122.1m². The proposed gross floor area for the industrial retail outlet (tap room) is 122m² which is approximately 32.9% and therefore less than the maximum floor area requirement and acceptable.

Warringah Development Control Plan

Built Form Controls

No change is proposed to the existing and approved built form. Internal fitout works and removal of the verandah roofing.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B8 Merit assessment of front boundary setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	No	No
D8 Privacy	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D18 Accessibility and Adaptability	No	No
D20 Safety and Security	No	No
D23 Signs	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

A.5 Objectives

A detailed assessment of the proposal has found that the proposed use to an artisan food and drink industry is not consistent with the following provisions of the WDCP 2011:

- *provide a high level of access to and within development.*

Comment:

The proposal fails to demonstrate adequate and safe access to and from the development from the street. There is a lack of detail surrounding the practical access from the front of the building through the car park area. A high level of safe access is required due to the significant intensity of the change in use, however the plans provided are insufficient to adequately address this requirement.

The proposal **does not** satisfy this objective.

- *To achieve environmentally, economically and socially sustainable development for the community of Warringah.*

Comment:

The proposal raises issues in relation to the lack of information to ensure the proposed development is of a suitable setting for the development, and does not adversely impact the amenity of adjacent land. Hence, the proposal is not considered to be an environmentally sustainable development. It is noted that the NSW Police raised a significant level of concern in relation to the social impacts of the development. There are no issues in relation to economic sustainability.

The proposal **does not** satisfy this objective.

In summary, the proposal is inconsistent with the objectives of the zone to respond to the surrounding neighbourhood, ensure development is a good neighbour, achieving a high level of access and maintaining a sustainable intensity of development.

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

C2 Traffic, Access and Safety

Description of non-compliance

The Traffic Report submitted does not demonstrate that the location of vehicular and pedestrian access meets the objectives of this Clause.

No parking plan was provided, nor any details to demonstrate that all vehicles will be able to ingress and egress in forward direction.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To minimise traffic hazards.*

Comment:

Intensifying the use of the site to an artisan food and drink industry, that contains a micro-brewery and industrial retail outlet (taproom) for up to 90 patrons, significantly increases the potential traffic hazards particularly in the mid afternoon periods where the brewery ceases at 6.00pm while the operation of the taproom commences at 12.00pm on Thursdays and Fridays. During this section of the day the increase in the concentrated traffic movements where there is a reliance on the public street for parking has not been demonstrated. There has been no details provided for on how loading and unloading /servicing of the proposed brewery will be managed within the site, nor a parking plan to demonstrate how all vehicles will be able to ingress and egress from the subject site.

Therefore, there is insufficient information on what specific measures will be provided to ensure traffic hazards will be minimised despite the significant intensification of the subject site.

The proposal **does not** satisfy this objective.

- *To minimise vehicles queuing on public roads.*

Comment:

The demand for kerbside parking created by traffic associated with the artisan food and drink industry could narrow the available carriageway and requires vehicles to queue when waiting for

turning vehicles, or other traffic and pedestrian movements that could restrict vehicles from passing. The proposed change of use does not propose any additional parking facilities (four spaces) and relies on the existing assets within the public road reserve to cater for parking and additional pick-up set-down activity. There has been no details provided for on how loading and unloading /servicing of the proposed brewery will be managed within the site, nor a parking plan to show demonstrate how all vehicles will be able to ingress and egress from the subject site.

Therefore, there is insufficient information to ensure traffic hazards, via vehicles queuing on the road, has been minimised despite the significant intensification of the subject site.

The proposal **does not** satisfy this objective.

- *To minimise the number of vehicle crossings in a street.*

Comment:

No change is proposed to the existing entry and exit crossings from the premises along Mitchell Street.

Therefore, no further consideration of this objective is relevant the application.

- *To minimise traffic, pedestrian and cyclist conflict.*

Comment:

Traffic and pedestrian activity surrounding the subject site during the mid afternoon periods has not been detailed or addressed within the Traffic report. While this time covers a relatively short period of the day the intensity of pedestrian and vehicle movement can easily create conflict to the free flow of through traffic and access for neighbouring residential land. There has been no details provided for on how loading and unloading /servicing of the proposed brewery will be managed within the site, no parking plan to demonstrate vehicle movement in the site or how these two aspects will work in conjunction with the safe pedestrian access of the patrons accessing the site through this parking/delivery area.

Therefore, there is insufficient details in regards to the traffic and pedestrian management of the proposal.

Therefore, no further consideration of this objective is relevant the application.

- *To minimise interference with public transport facilities.*

Comment:

The subject site location is not on a main transport route for bus services to Manly, Dee Why or the city. There are no transit lanes along the road frontages of the site. These bus stops are along Windbourne Road and Pittwater Road.

The proposal satisfies this objective.

- *To minimise the loss of "on street" kerbside parking.*

Comment:

The proposal (for up to 90 patrons) will increase the demand for "on street" kerbside parking due to the occurrence of patrons visiting the brewery for the retail component, and to meet and socialise in the Tap Room. While this does not create a "loss" of on street parking it reduces the availability of kerbside parking for surrounding residents that rely on convenient availability to service their needs, particularly in this area which has a high demand for street parking due to the industrial zoning.

The proposal **does not** satisfy this objective.

As a result, the proposal fails to comply with the requirements of this control and will be included as a reason for refusal in the recommendation of this report.

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

C3 Parking Facilities

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Industry	1.3 spaces per 100m ² GLFA	3.575 spaces	4 spaces	-
Industrial Retail Outlet	6.1 spaces per 100m ² GLFA	7.4 spaces	0 spaces	7 spaces
<p>(Note: There is no specified car parking rate for a Industrial Retail Outlet under the WDCP, therefore the required</p>				

car parking is calculated using an appropriately similar use, a shop.)				
Total		11 spaces	4 spaces	-4 spaces

The development is a permitted use within the IN1 General Industrial zone and is proposing to use an existing building for the purposes of an artisan food and drink industry, accommodating a maximum of 90 patrons.

The site has a limited area for carparking spaces. The lack of on-site parking is a consequence of the original approval and is considered that any development proposed for the site may not comply.

Council's review of the proposed development indicates that 275sqm of GFA will be associated with the micro-brewery classed as industry, and the remaining 122sqm of GFA is to be used as a taproom, which shall be classified as Industrial retail. There is no specified car parking rate for a Industrial Retail Outlet under the WDCP. Therefore, the required car parking for the artisan component of the change of use (being 7 car spaces) is calculated using a similar use within the WDCP, being a shop.

Therefore, the proposed development is required to provide 11 parking spaces in total. The proposal provides only 4 car spaces, a deficiency of 7 car spaces. Whilst the four car spaces would satisfy the Industry Brewery component of the change of use, there has been no parking provided for the artisan component. No parking for the artisan component is not supported, and the reliance on the street parking for whole artisan retail component is not acceptable.

The documentation provided by the applicant, details patron numbers and states that the peak times would occur between 5.00pm to 10.00pm. As a result the Traffic Report concludes that the busiest times for the use avoids the peak traffic periods from 5.00pm onwards.

However, the Traffic Report submitted with the application does not address the overlapping period between operation of the brewery and taproom. The operations of the brewery cease at 6.00pm on weekdays, while the operation of the taproom commence at 12.00pm on Thursdays and Fridays. The parking accumulation survey provided does not include any survey for the hours between 12pm and 5pm on Thursdays or Fridays. This overlapping time frame may exacerbate the parking demand and has not been taken into consideration nor appropriately addressed.

This assessment aligns with Council's Traffic Engineer's comments which require additional information, specifically an additional parking accumulation survey that includes details between the hours between 12pm and 5pm on Thursdays and Fridays, a parking plan, and information demonstrating the loading and unloading of the brewery and how this will be managed within the subject site.

Therefore, in alignment with Council's Traffic Engineers due to the insufficient information the proposal is not considered acceptable. As a result, the proposal fails to comply with the requirements of this control and will be included as a reason for refusal in the recommendation of this report.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The four (4) existing car parks for the development are accommodated within the hardstand area within the front setback. The additional parking spaces will be line marked only and is visually consistent with the surrounding industrial area.

The development, satisfies this objective.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The existing hardstand car parking area is located within the front setback. However, the aforementioned line marked parking spaces will not be inconsistent with the visible pattern of the nearby industrial businesses.

The development satisfies this Objective.

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

D3 Noise

The development includes a Tap Room with proposed live music at the venue. It is considered that the Tap Room use and live music will generate an acoustic impact and additional noise upon the adjoining and nearby properties who also operate until outside normal day time business hours (principally the proximity of the subject site to the neighbouring business operation at No. 30 Chard Road which operates outside business hours).

Given the absence of an Acoustic Report, Council cannot be satisfied that the development will address the following objective of the clause which seeks to;

- *ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.*

Whilst Council's Environment and Health team have provided advice that this matter may be addressed via a condition of development consent, in order for Council's development assessment officers to be confident that acoustic impacts from the change of use is able to be mitigated, an acoustic report to assess the impact of the mechanical is required to be provided.

Therefore, the proposal fails to comply with the requirements of this control and will be included as a reason for refusal in the recommendation of this report.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the

Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D18 Accessibility and Adaptability

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure vehicular access points for parking, servicing or deliveries, and pedestrian access are designed to provide vehicular and pedestrian safety.*
- *To ensure convenient, comfortable and safe access for all people including older people, people with prams and strollers and people with a disability.*

Comment:

This control intends to ensure vehicular access points for parking provide safety for pedestrians and to ensure comfortable access to all peoples.

The site has vehicular and pedestrian access points at the front of the building. However, no details have been provided for the parking configuration on the site, or how loading and unloading /servicing of the proposed brewery will be managed within the site. Therefore, vehicular and pedestrian safety has not been demonstrated and the application cannot be supported.

Therefore, the proposal fails to comply with the requirements of this control and will be included as a reason for refusal in the recommendation of this report.

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

D20 Safety and Security

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that development maintains and enhances the security and safety of the community.*

Comment:

Council and the The New South Wales Police, Northern Beaches Licencing Office, have significant concerns in regards to the proposal maintaining and enhancing the security and safety of the staff of the operation, potential patrons, and the surrounding community.

The application is deficient in providing the required information to address the following concerns:

- How the service areas and access ways are to be either secured or designed to allow casual surveillance

- The security measures at the premises i.e. the installation of CCTV cameras or security guards
- The lighting of entrances and pedestrian areas
- The lighting to provide adequate lighting to reduce the risk of undesirable activity
- The potential conflict between pedestrians and vehicles
- Smoking and the requirements under current legislation
- The fire exists and evacuation procedures
- The measures in which staff will manage any disturbance that arises from the operations/ sale of alcohol and patrons coming to and from the premises.

In summary, the proposal is not supported by the NSW Police or Council due to insufficient information to address the significant concerns in relation to the security and safety of the whole community.

As a result, the proposal fails to comply with the requirements of this control and will be included as a reason for refusal in the recommendation of this report.

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

D23 Signs

Description of compliance

The application proposes two pieces of signage consisting of the following:

Sign	Requirement	Width	Height	M ²	Complies
Pole or pylon sign (erected on a pole or pylon independent of any building or other structure)	Shall not be less than 2.6 metres above ground level; Shall not exceed 6 metres in height above the existing natural ground level; Must have a maximum area of no more than 4sqm on any single face; Shall not project beyond the boundary of the premises; and No more than one pole/pylon sign per site is permitted.	1.3m x 1.2m	5m Pole	1.56sqm	Yes
Wall sign (painted onto a wall of a building or attached to the wall of a building, not being a sign elsewhere listed in this table)	Shall not extend within 200mm of the top and sides of the wall. Shall not cover any window or architectural projections; Must be of a size and shape that relates to the architectural design of the building to which it is	5m	1.1m	5.5sqm	Yes

	attached; Where illuminated, shall not be less than 2.7 metres above the existing natural ground level ground; and Shall not project more than 300mm from the wall.				
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An assessment of the application has also found the development to be consistent with the requirements of *State Environmental Planning Policy No. 64 - Advertising and Signage*.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

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;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

It is considered that the proposed development does not satisfy the appropriate controls and that all

processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/0097 for the Use of premises as an Artisan Food and Drink premises (brewery) on land at Lot 32 DP 6033, 11 Mitchell Road, BROOKVALE, for the reasons outlined as follows:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy 55 - Remediation of land.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Objectives of the Warringah Development Control Plan 2011.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety of the Warringah Development Control Plan.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C3 Parking Facilities of the Warringah Development Control Plan.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Accessibility of the Warringah Development Control Plan.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D20 Safety and Security of the Warringah Development Control Plan.

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

Signed



Catriona Shirley, Planner

The application is determined on 11/05/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments