

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2019/0312
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<b>Responsible Officer:</b>	Kent Bull
<b>Land to be developed (Address):</b>	Lot 7118 DP 1059397, 0 Sandy Bay Road CLONTARF NSW 2093
<b>Proposed Development:</b>	Modification of Development Consent DA91/2015 granted for alterations and additions to an existing cafe
<b>Zoning:</b>	Manly LEP2013 - Land zoned RE1 Public Recreation
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Department of Land & Water Conservation
<b>Applicant:</b>	Clonnys At Clontarf Pty Ltd

<b>Application lodged:</b>	28/06/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	02/08/2019 to 16/08/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### EXECUTIVE SUMMARY

The modification application seeks consent to modify DA91/2015, granted for the alterations and additions of an existing restaurant, café, takeaway food and drink premises, which was approved by the Manly Independent Assessment Panel on 18 June 2015. As such, this application is referred to the Northern Beaches Local Planning Panel for determination.

In addition to other amendments, the modification seeks an overall reduction to the approved building footprint. The application seeks to modify conditions for the revised architectural plans, landscape plans and hours of operation. A total of ten (10) conditions have been requested to be deleted, these include conditions requiring a gross pollutant trap, a rainwater tank, restrictions on a new mechanical exhaust system and the bin storage area.

The notification of the application resulted in no submissions being received.

The assessment concludes that the proposed design is an appropriate modification to the original approval and will ensure the amenity of the subject site is maintained, without any unreasonable impacts on surrounding reserve and neighbouring properties. It is therefore recommended that the application be supported subject to conditions.

## 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 - 5.10 Heritage conservation

Manly Local Environmental Plan 2013 - 6.4 Stormwater management

Manly Development Control Plan - 3.3.1 Landscaping Design

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

Manly Development Control Plan - 3.8 Waste Management

Manly Development Control Plan - 3.9 Mechanical Plant Equipment

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 7118 DP 1059397 , 0 Sandy Bay Road CLONTARF NSW 2093
<b>Detailed Site Description:</b>	<p>The subject site is known as Clontarf Reserve, Sandy Bay Road, Clontarf and is legally referred to as Lot 7118 in DP 1059397. The site consists of one (1) allotment located on the western side of Sandy Bay Road.</p> <p>The site is irregular in shape and measures approximately 120m north to south and approximately 180m east to west. The site has a surveyed area of 1.5ha. The site is generally level and slopes gently towards the foreshore area to the west.</p>

The site is located within the RE1 Public Recreation zone and accommodates an existing single storey restaurant, cafe and food and drink premises known as 'Clonnys at Clontarf'. A public car park area is located to the south east of this premises. Clontarf Reserve also features an enclosed swimming enclosure to the western foreshore as well as public facilities including barbecues, an enclosed playground, public toilets and showers. The site also contains a number of established canopy trees including Norfolk Island Pines and Moreton Bay Fig Trees.

Land Owners consent was provided by Crown Lands on 7 August 2019. The proposed works are located within the area of the lease and licence agreement signed by the Applicant with Council.

Clonnys at Clontarf is located within Clontarf Park, a local heritage item listed and described in Schedule 5 of the Manly Local Environment Plan 2013, but it should be noted that the restaurant premises is not individually listed as a heritage item. Clonnys at Clontarf is also located in the vicinity of the three (3) heritage items. See Clause 5.10 (Heritage Conservation) for further discussion.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by low density dwellings within a landscaped setting.

Map:



#### **SITE HISTORY**

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

18 June 2015

Development Application No. 91/2015 for the alterations and additions to an existing restaurant, cafe, takeaway food premises including partial demolition, internal fit-out, removal of trees, landscaping and signage - Clonnys at Clontarf was granted consent by the Manly Independent Assessment Panel on the 18 June 2015.

30 November 2015

Section 96 (2) application to Development Application No. 91/2015 to modify approved alterations and additions to an existing restaurant, cafe, takeaway food and drink premises including partial demolition, internal fit-out, removal of trees, landscaping and signage - involving reduction in kitchen/kiosk area, change to roof form, enclosure of restaurant area and addition of outdoor seating beneath eaves - Clonnys at Clontarf - Part 2 was granted consent by Manly Council's Development Assessment Unit on the 30 November 2015.

8 July 2019

Construction Certificate No. CC2019/0739 for Development Application No. 91/2015 and Section 96 (2) application to Development Application No. 91/2015 issued on 8 July 2019.

**APPLICATION HISTORY**

28 June 2019

Subject development application received by Council.

10 July 2019

Request for further information letter sent to the Applicant indicating that Council required Owners Consent from Crown Lands.

24 July 2019 - 21 August 2019

Various email correspondence between the Applicant and the Development Assessment Officer clarifying matters concerning land owners consent, site inspections, conditions and notification sign evidence.

1 August 2019

Photo evidence provided by the Applicant and received by Council that the notification sign had been in place at the beginning of the notification period.

7 August 2019

Land Owners Consent provided by the Applicant and received by Council.

9 August 2019

Site inspection undertaken by the Development Assessment Officer. Applicant present during

inspection. Notification sign was in place at the time of the site inspection.

#### 21 August 2019

Photo evidence provided by the Applicant and received by Council that the notification sign had been in place for the duration of the notification period.

#### 21 August 2019

Applicant provides email confirmation that the Statement of Environmental Effects incorrectly requests for the revision of condition "ANS05", rather it should refer to condition "ANS06".

### **PROPOSED DEVELOPMENT IN DETAIL**

The application seeks the Modification of Development Consent DA91/2015 granted for alterations and additions to an existing cafe. In particular, the modifications include:

- Extend awning along the north eastern elevation to provide shading to the kiosk and restaurant areas (82m<sup>2</sup> of roof area);
- Hardstand area along the north eastern side of the building to the entry and kiosk areas for all-weather access and integrated with existing paved pathway from the car park area;
- New verandah concrete slab (650mm width extension);
- Verandah seating area increased by re-positioning the external walls of the restaurant;
- Modified entrance lobby on the northern side of the building;
- New "annex" on the southern side of the building (46m<sup>2</sup>) to be used as a childrens play area and kitchen scullery;
- Provision of new 1.8m high screened bin and storage area to the rear (south eastern elevation) of the building and deletion of the approved covered bin and storage areas; and
- Revised provision of landscaping to reflect amended building layout.

The application also proposes the following changes to the conditions of consent within DA0091/2015:

- Modify conditions:  
DA1 - to reflect the revised architectural plans;  
ANS06 - to reflect the revised landscape plan; and  
43 (6BS01) - to reflect the extension of the hours of operation to commence trading from 6am.
- Delete conditions:  
ANS08 - requirement for gross pollutant trap;  
ANS09 - requirement for a positive covenant and restriction on the use of land relating to the gross pollutant trap;  
ANS10 - prior to the issue of an Occupational Certificate requirements relevant to gross pollutant trap;  
ANS11 - requirement to amend landscape drawings;  
8 (2DS07) - the proposal seeks to retain the existing rainwater tank and does not propose a new rainwater tank;  
11 (2NL03) - the proposal seeks to retain the existing mechanical exhaust system and does not propose a new mechanical exhaust system;  
12 (2NL05) - the proposal seeks to retain the existing mechanical exhaust system. The supporting Mechanical Plant Noise Assessment Report concludes that when the existing mechanical plant and equipment are operating together that it was not audible at the nearest residential premises;  
14 (2WM03) - the proposal seeks a screened bin enclosure and storage area that is to be ventilated

to external air via natural ventilation;

28 (4DS03) - as the proposal relates to a commercial development the condition requiring the installation of residential rainwater tanks is not applicable; and

40 (5MS01) - requirement for a certificate from a practicing mechanical engineer shall be submitted to Council following the completed installation of the mechanical exhaust ventilation system;

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

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA0091/2015, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA0091/2015.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA0091/2015 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with:	The application has been publicly exhibited

<b>Section 4.55 (2) - Other Modifications</b>	<b>Comments</b>
(i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Environmental Plan 2013 and Manly Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
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	None applicable.
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&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>No Additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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 in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;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 in the original consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS



Existing Use Rights are not applicable to this application.

## **BUSHFIRE PRONE LAND**

The site is not classified as bush fire prone land.

## **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject development application has been publicly exhibited 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**

<b>Internal Referral Body</b>	<b>Comments</b>
Building Assessment - Fire and Disability upgrades	<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 (Food Premises, Skin Pen.)	<p>General Comments</p> <p>There are no significant food related changes in this MOD however the scullery and storeroom would need to comply with the appropriate food premises standards.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p> <p>Planner Comments 29/08/19:</p> <p>Additional comments were sought from Council's Team Leader of Environmental Health regarding the request to delete condition 14 (2WM03) which relates to the bin storage area. The advice received was that the deletion of the condition would not be beneficial for future health inspection under the Food Act 2003. Council's Team Leader of Environmental Health agreed to modifying the condition to achieve consistency with Australian Standard AS4674.</p>
Landscape Officer	<p>The landscape component of the modification proposal is acceptable, providing no alteration to the landscape outcome of the approved development application.</p> <p>Council's Landscape section have assessed the application against the landscape controls of Manly DCP 2013, section 3: General Principles of Development, and section 4: Development Controls and</p>

Internal Referral Body	Comments
	Development Types.
NECC (Bushland and Biodiversity)	The proposed modification will not result in additional impact to native vegetation and is therefore supported.
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP.</p> <p>The subject land is located within the Sydney Harbour Foreshores &amp; Waterways area boundary. Based on internal assessment, it is determined that the proposed modifications meet the requirements of the Sydney Harbour REP and DCP, and relevant clauses of the Manly LEP and DCP.</p> <p>The subject land is also located with the Coastal Zone.</p> <p>12 Development on land within the coastal vulnerability area</p> <p><i>Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <ul style="list-style-type: none"> <li><i>(a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i></li> <li><i>(b) the proposed development:</i> <ul style="list-style-type: none"> <li><i>(i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i></li> <li><i>(ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i></li> <li><i>(iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i></li> </ul> </li> <li><i>(c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i></li> </ul> <p><u>Comment:</u> The proposed modifications meet Clauses 12 and 15 of the Coastal Management SEPP (Clauses 13 and 14 do not apply as the land is located within the SREP area). As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p>
NECC (Development)	Development Engineering has no objection to delete the condition

Internal Referral Body	Comments
Engineering)	<p>ANS08, ANS09, ANS10, 8 and 28.</p> <p>No additional engineering condition is required.</p>
Parks, reserves, beaches, foreshore	<p>Parks &amp; Recreation are currently developing a master plan for Clontarf Reserve. It is important that the Clonny's redevelopment appropriately integrates with the masterplan for the overall reserve.</p> <p>Parks staff have reviewed the proposed finishes in the modification and are satisfied that for the most part, the proposed changes and the standard of these changes will fit in with the overall finishes planned for the surrounding reserve.</p> <p>The only suggestion that would be made is that the outdoor patio and hardstand areas that wrap around the northern and western sides of the building have a consistent finish. Currently only a section on the northern side will be paved, with the rest being constructed in concrete. Given the high profile status of the reserve, and the extensive work that will be undertaken on it as a result of the master-planning process, consideration should be given to a consistent hardstand finish for Clonny's which will ensure a high standard of presentation.</p> <p>Planner Comments 29/08/19:</p> <p>Clarification was sought from Council's Senior Landscape Architect of Park Assets - Planning, Design &amp; Delivery, following concerns raised by the Applicant regarding a recommended hardstand finishes condition for the proposal. Council's Senior Landscape Architect confirmed that the existing concrete hardstand between the West Court and North Patio could remain subject to the condition being amended to require the North Court Hardstand Area to have a flooring material equivalent to travertine pavers.</p>
Property Management and Commercial	<p>The proposal is for a modification to development consent for alterations and additions to the existing restaurant building.</p> <p>The proposed works are located within the area of the lease and licence agreement signed by the applicant with Council, and as such Property has no further comment to make regarding the proposal. It is noted that two proposed sets of gates located within the lease area on the south eastern side of the property open out onto the park area. As such, it is recommended that the leasee extend their public liability insurance to cover these gates when they are open into the park.</p>
Strategic and Place Planning (Heritage Officer)	<p>Further to a review of the available documents and site visit, The site of proposed development is not a listed heritage item in its own right, however, it is located in the vicinity of heritage item, the protected foreshore area.</p> <p>Given the nature of the proposal and the item, the impact on heritage values is assessed as acceptable.</p> <p>Based on the above, I have no objections to this proposal from heritage perspective.</p> <p>Proposal is acceptable without conditions.</p>

Internal Referral Body	Comments
	Kind Regards Zoran Popovic  Heritage Advisor

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.

## **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 Assessment Report for Development Application No. DA0091/2015 indicated that on the basis of the history of the use of the site (recreational area), that it was considered unlikely the land is contaminated.

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 as a recreational area for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

### **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 regards 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
<b>1. Character of the area</b> 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 kiosk signage and cafe wall signage northern elevation is compatible with the existing character of Clontarf Park for the purpose of a restaurant, cafe, takeaway food and drink premises.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	As 'Clonnys at Clontarf' is the only restaurant/kiosk facility within the Clontarf Park there are limited examples of commercial signage within the immediate area. The nearest commercial food and drink premises is Clontarf Marina located approximately 200m north along Sandy Bay Road. Noting the above, the proposed signage is not considered to be inconsistent with the locality of Clontarf.	YES
<b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage that measures a total of 2.2m <sup>2</sup> are be affixed to the existing restaurant and take away premises which has been in operation since the 1980s. While 'Clonnys at Clontarf' is not individually listed as a heritage item, the restaurant and take away premises is located within Clontarf Park which is a listed as an item of environmental heritage under Schedule 5 of the Manly Local Environment Plan 2013. The application has been reviewed by relevant officers within Council to ensure that the proposal does not 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.	YES
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	The signage is affixed to the northern facade and is not indicated to protrude beyond the built form when viewed from east street side elevation or the western water side elevation. As such, the proposal does not obscure or compromise important views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	As above, the signage is affixed to the northern facade and is not indicated to protrude beyond the built form when viewed from east street side elevation or the western water side elevation. As such, the proposal does not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	As above, the signage is affixed to the northern facade and is not indicated to protrude beyond the built form when viewed from east street side elevation or the western water side elevation. As such, the proposal is considered to respect the viewing rights of other advertisers.	YES
<b>4. Streetscape, setting or landscape</b>	The scale, proportion and form of the signage	YES

Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	being two signs with a total area measured at 2.2m <sup>2</sup> , is considered to be appropriate for its setting within Clontarf Park.	
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage is considered to contribute to the visual interest of Clontarf Park.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal limits signage to the northern elevation and seeks to reduce the overall extent of existing and approved signage for the restaurant and take away premises.	YES
Does the proposal screen unsightliness?	The proposed signage being located on an area of blank facade and below an existing gabled roof provides an element of visual interest.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	As above, the signage is affixed to the northern facade and is not indicated to protrude beyond the built form when viewed from east street side elevation or the western water side elevation. Further, the signage will be below the tree canopies of surrounding canopy trees including Norfolk Island Pines and Fig Trees.	YES
<b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposal is considered to be compatible with the scale, proportion and other characteristics of the Clontarf Park and the restaurant and take away premises on which the proposed signage is to be located.	YES
Does the proposal respect important features of the site or building, or both?	The proposal is considered to respect important features of the site such as the surrounding parkland and trees, while also not dominating the northern elevation of the building.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage shows innovation and imagination in its relationship to the site and building by being limited to the northern facade of building and thereby reducing the extent and visual impact of proposal.	YES
<b>6. Associated devices and logos with advertisements and advertising structures</b> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	There are no safety devices, platforms, lighting devices or logos contained as an integral part of the signage or structure.	YES
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The signage is not indicated to be illuminated, therefore, it does not result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, or detract from the amenity of any residence or other form of accommodation.	YES
Can the intensity of the illumination be	The signage is not illuminated.	N/A

adjusted, if necessary?		
Is the illumination subject to a curfew?	The signage is not illuminated.	N/A
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The signage is affixed to the northern facade and is not indicated to protrude beyond the built form when viewed from east street side elevation or the western water side elevation. As such, the proposal does not reduce the safety for any public road, pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	As above, the signage is affixed to the northern facade and is not indicated to protrude beyond the built form when viewed from east street side elevation or the western water side elevation. As such, the proposal does not obscure sightlines from public areas within Clontarf Park and therefore does not reduce the safety for pedestrians, particularly children.	YES

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

## **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The subject property is located within the Foreshores and Waterways Area therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of

waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), Clause 26 (relating to maintenance, protection and enhancement of views) and Clause 27 (relating to boat storage facilities) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary. Further, Schedule 2 (Development to be referred to Foreshores and Waterways Planning and Development Advisory Committee) does not require the proposed development (restaurant, cafe, takeaway food and drink premises) to be referred to the Foreshores and Waterways Planning and Development Advisory Committee.

## **SEPP (Coastal Management) 2018**

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

### **12 Development on land within the coastal vulnerability area**

*Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:*

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
  - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
  - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
  - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal*



hazards.

Comment:

Council's Coast and Catchments Division has provided comments indicating that the proposed modifications meet Clauses 12 and 15 of the SEPP Coastal Management (2018). In this regard, the proposed works are considered acceptable to withstand current and projected coastal hazards. Further, the proposal is not considered likely to alter coastal processes to the detriment of the natural environment or other land, or reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development or within Clontarf Reserve. The proposal is considered acceptable in that no further measures have been recommended to manage risk to life and public safety from coastal hazards or to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

**13 Development on land within the coastal environment area**

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

Comment:

This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

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

Comment:

This clause does not apply to land within the Foreshores and Waterways Area within the meaning of

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

#### **14 Development on land within the coastal use area**

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
    - (iv) Aboriginal cultural heritage, practices and places,
    - (v) cultural and built environment heritage, and
  - (b) is satisfied that:
    - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
    - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
    - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
  - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

#### Comment:

This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

#### **15 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

#### Comment:

Council's Coast and Catchments Division has provided comments indicating that the proposed modifications meet Clauses 12 and 15 of the SEPP Coastal Management (2018). In this regard, the proposed development is not considered likely to cause increased risk of coastal hazards on the subject site or other land.

As such, it is considered that the application does/does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

#### **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	Approved	Proposed	% Variation	Complies
Height of Buildings:	N/A	5.03m	5.03m	N/A	Yes
Floor Space Ratio	N/A	FSR: 0.023:1 (339m <sup>2</sup> )	FSR: 0.0152:1 (228m <sup>2</sup> )	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes
6.21 Noise impacts—licensed premises	Yes
Schedule 5 Environmental heritage	Yes

#### Detailed Assessment

##### 5.10 Heritage conservation

Council's Heritage Advisor has reviewed the proposal and provided comments indicating that the impact on heritage values is acceptable and that no objections are raised from a heritage perspective.

As described in Schedule 5 of the MLEP 2013, Clonnys at Clontarf is located within Clontarf Park, but it not individually listed as a heritage item.

<u>Ref Item</u>	<u>Address</u>	<u>Level of Significance</u>
I42	Clontarf Park Holmes Avenue and Sandy Bay Road	Local

Clonnys at Clontarf is located in the vicinity of the following heritage items:

<u>Ref Item</u>	<u>Address</u>	<u>Level of Significance</u>
I43 Norfolk Island Pine commemorative tree ( <i>Araucaria heterophylla</i> )	Holmes Avenue, Clontarf Park	Local
I44 Middle Harbour Submarine Syphon (NSOOS)	Holmes Avenue, Clontarf	Local

145 Middle Harbour Syphon (NSOOS)

Reserve

Monash Crescent (The Spit) State  
East Side

#### 6.4 Stormwater management

Council's Development Engineer has reviewed the proposal and provided comments indicating that no objection is raised to the deletion of conditions ANS08, ANS09, ANS10, 8(2D207) and 28(4DS03).

The conditions to be deleted have been listed below:

Condition ANS08 reads:

*A Gross Pollutant Trap is to be provided within the site above the Mean High Water mark in an accessible location to treat stormwater from the site prior to being discharged into either the Council stormwater pipe or the Harbour. The GPT should have the following features:*

- *A removable trash screen or basket;*
- *A weir located adjacent to the outlet pipe;*
- *A sediment zone, a minimum of 200 mm high, located below the invert levels of the inlet and outlet pipes;*
- *Easy accessibility for removal of trash and sediment; and*
- *Weepholes in the base of the GPT together with a granular sub-base underneath.*

*The location and details of the GPT, which accord with Manly Council and Roads & Maritime Services requirements shall be submitted to Council for approval by a Council Engineer, prior to issue of the Construction Certificate.*

*Reason: To ensure stormwater services comply with legislative and Council requirements.*

Condition ANS09 reads:

*A Positive Covenant and Restriction on the use of land in favour of Manly Council is to be registered on the Title prior to the issue of any Occupation Certificate. Working of the covenant and restriction on the use of land shall be guided by Appendix 8 of the Manly Specification for On-site Stormwater Management 2003, substituting 'on-site stormwater detention system', with 'required Gross Pollutant Trap'. The purposes of the Covenant is to ensure that the registered proprietor takes responsibility for the control, care and maintenance of the Gross Pollutant Trap. The Restriction ensures that the system is not altered in any manner, shape or form.*

*(a) Obligation to Maintain: The Registered Proprietor shall maintain on a regular basis the Gross Pollutant Trap including clearing of silt, debris and rubbish, in perpetuity. This is to ensure the effective operation of the trap, in preventing pollution of the harbour and foreshore area by site stormwater.*

*Reason: To ensure site stormwater pollutant loads are captured by the Gross Pollutant Trap as required by Roads & Maritime Services; and the private trap is maintained in perpetuity.*

Condition 8(2D207) reads:

*Detailed plans and specification of the design of the rainwater tanks must be provided prior to the issue of the Construction Certificate complying with the requirements: -*

- *Australian/New Zealand Standard AS/NZS 3500:2003,*

- *NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).*
- *Council's rainwater tank policy.*

*Reason: To protect public health and amenity.*

Condition 28(4DS03) reads:

*Rainwater tanks must be installed on residential properties by a suitably qualified and licensed plumber and in accordance with the following:*

- *Australian/New Zealand Standard AS/NZS 3500:2003,*
- *NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).*
- *Council's rainwater tank policy.*

*Reason: To protect public health and amenity.*

## **Manly Development Control Plan**

### Built Form Controls

As the site is located within the RE1 Public Recreation zone of the Manly LEP 2013, the proposal is not subject to the development controls listed under Clause 4.1, Clause 4.2 and Clause 4.3. The proposed modifications result in the reduction of the overall scale and building footprint in comparison with Development Application No. 91/2015 and the subsequent Section 96 (2) application. Further, Council's Principal Planner for Property Commercial & Tourist Assets has also provided comments indicating that the proposed works are located within the area of the lease and licence agreement signed by the Applicant with Council.

### Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
3.1 Streetscapes and Townscapes	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	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 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.5 Landscaping	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5.6 Energy efficiency/conservation requirements for non-residential developments	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.8 Waste Management	No	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

#### Detailed Assessment

##### **3.3.1 Landscaping Design**

Council's Senior Landscape Architect of Park Assets - Planning, Design & Delivery has reviewed the proposal and provided comments indicating that the landscape component of the modification is acceptable. Council's Natural Environment Officer for Bushland and Biodiversity has also supported the proposal indicating that the modification would not result in additional impact to native vegetation. It is therefore recommended the request to modify condition ANS06 to reflect the revised landscape plan be supported. Further, it is recommended that deletion of condition ANS11 requiring the amendment to landscape drawings also be supported.

Condition ANS11 reads:

*The Landscape drawings are to be amended to include native plant species to provide new and/or improved low dense clumping habitat to provide for potential foraging and nesting habitat for native species. The planting schedule must comprise species such as Lomandra sp., Dianella sp. Banksia spinulosa, Caustis sp., Xanthorrhoea sp., Isolepis sp., Juncus sp., Adiantum sp., Calochlaena sp., Callistemon sp., Grevillea juniperina, Gleichenia sp., Grevillea 'Robyn Gordon' and tussocky natives grasses (e.g. Kangaroo Grass). Plans are to be suitably amended prior to issue of the Construction Certificate.*

*Reason: To improve the ecological value of the site and to enhance habitat for native species.*

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

Condition 43 (6BS01) that states the approved hours of operation being the following:

*The hours of operation of the premises (i.e. hours open for business) must not exceed 8am to 8pm, 7 days per week for the take away food and drink premises/kiosk; and 8am to 11pm, 7 days per week for the restaurant and café, without the prior approval of Council.*

*Reason: To ensure amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality.*

The modification seeks to revise this condition to reflect an extension of the hours of operation to commence trading from 6am. The amended hours of operation are not anticipated to have an unreasonable impact on any residential areas within the vicinity of the subject site. It is therefore recommended that the revised hours of operation be supported and the condition be amended to read as follows:

*The hours of operation of the premises (i.e. hours open for business) must not exceed 6am to 8pm, 7 days per week for the take away food and drink premises/kiosk; and 6am to 11pm, 7 days per week for the restaurant and café, without the prior approval of Council.*

*Reason: To ensure amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality.*

Subject to compliance with this condition, the proposed hours of operation are considered as acceptable.

### **3.8 Waste Management**

The modification seeks to delete condition 14 (2WM03) that reads:

*Garbage rooms or grease arrester rooms must be constructed of solid material: cement rendered and steel trowelled to a smooth even surface. The door to the garbage room is to be designed and constructed to ensure the room is vermin proof and can be opened from the inside at all times. The garbage room is to be ventilated to the external air by natural ventilation or an approved air handling exhaust system.*

*Reason: To keep garbage rooms in a clean and sanitary condition to protect public health.*

Comments were sought from Council's Team Leader of Environmental Health regarding this request. The advice received was that the deletion of the condition would not be beneficial for future health inspection under the Food Act 2003. Council's Team Leader of Environmental Health agreed to modifying the condition to achieve consistency with Australian Standard AS4674.

Condition 14 (2WM03) is therefore recommended to be modified to read:

#### ***Garbage and Recycling Facilities***

*All waste and recyclable material generated by this premises must be stored in the approved screened bin enclosure. All walls of the screened bin enclosure shall be rendered to a smooth surface, covered to prevent stormwater intrusion, well ventilated, kept free of vermin, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.*

*Reason: To keep garbage rooms in a clean and sanitary condition to protect public health. To also prevent pollution of the environment and to protect the amenity of the area.*

Subject to compliance with this condition, the proposal is considered to satisfy the objectives of this clause and is supported on merit.

### **3.9 Mechanical Plant Equipment**

Council's Environmental Health Officer has reviewed the proposal and provided comments indicating that the modification is acceptable. It is therefore recommended that the deletion of conditions 11

(2NL03), 12 (2NL05) and 40 (5MS01) which relate to a new mechanical exhaust system be supported. It should also be noted that the submitted Mechanical Plant Noise Assessment report Ref nss 23051-Final, prepared by Noise and Sound Services, dated 20 June 2019 concludes that when the existing mechanical plant and associated equipment are operating together that it was not audible at the nearest residential premises.

Condition 11 (2NL03) reads:

*Details of the proposed mechanical exhaust systems, detailing compliance with the relevant requirements of Clause F4.12 of the Building Code of Australia and Australian Standard 1668 Parts 1 and 2 are to be submitted to Council or the Principal Certifying Authority for approval prior to the issue of a Construction Certificate.*

*Reason: To ensure compliance with legislation and to protect public health and safety.*

Condition 12 (2NL05) reads:

*Mechanical plant situated on the roof area of the premises must be acoustically treated to ensure noise emissions are not audible at the nearest residential premises. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.*

*Council may require the owner or occupier of the premises to engage the services of a suitably qualified professional to undertake an acoustic assessment of the premises in the event concerns regarding the emission of 'offensive noise' are raised and/or justified by Council.*

*Reason: To protect the acoustic amenity of neighbouring properties.*

Condition 40 (5MS01) reads:

*At the completion of the installation of the mechanical exhaust ventilation system, a certificate from a practising mechanical engineer shall be submitted to Council or the Principal Certifying Authority prior to the issue of the Occupation Certificate indicating compliance with Australian Standard AS 1668.*

*Reason: To ensure the mechanical exhaust ventilation system complies with Australian Standard AS1668.*

## **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.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

Section 7.12 contributions were levied on the Development Application.

## **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

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

## RECOMMENDATION

THAT Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2019/0312 for Modification of Development Consent DA91/2015 granted for alterations and additions to an existing cafe on land at Lot 7118 DP 1059397,0 Sandy Bay Road, CLONTARF, subject to the conditions printed below:

### A. Modify Condition No. DA1 to read as follows:

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation:

*Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 91/2015:*

Plan No. / Title	Issue/Revision & Date	Date Received by Council
DA02 / Site and Roof Plan	Issue E / 22.04.2015	28.04.2015
DA03 / Proposed Floor Plan	Issue E / 22.04.2015	28.04.2015
DA04 / Proposed Section	Issue E / 22.04.2015	28.04.2015
DA05 / Proposed Elevations (North West and North East)	Issue E / 22.04.2015	28.04.2015
DA06 / Proposed Elevations (South East and South West)	Issue E / 22.04.2015	28.04.2015
DA08 / Landscape Plan	Issue E / 22.04.2015	28.04.2015

Document Title	Prepared By	Issue/Revision & Date	Date Received by Council
Statement of Environmental Effects	Patrick Lebon	April 2015	28.04.2015
Heritage Impact Statement	John Oultram Heritage & Design	April 2015	28.04.2015
BCA Assessment Report	BCA Logic	17.04.2015	28.04.2015
Arboricultural Impact Report	Landscape Matrix Pty Ltd	16.04.2015	28.04.2015

Except where previously amended on 30 November 2015:

*Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 91/2015:*

<b>Plan No. / Title</b>	<b>Issue/Revision &amp; Date</b>	<b>Date Received by Council</b>
DA01 / Site and Proposed Roof Plan	Issue A / 11.09.2015	21.09.2015
DA02 / Ground Floor Plan / Existing Arrangement	Issue A / 11.09.2015	21.09.2015
DA03 / Proposed Floor Plan / General Arrangement	Issue B / 14.10.2015	04.11.2015
DA04 / Proposed Northwest & Northeast Elevations	Issue B / 14.10.2015	04.11.2015
DA05 / Proposed Southeast & Southwest Elevations	Issue B / 14.10.2015	04.11.2015
DA06 / Proposed Section	Issue B / 14.10.2015	04.11.2015

<b>Document Title</b>	<b>Prepared By</b>	<b>Issue/Revision &amp; Date</b>	<b>Date Received by Council</b>
Statement of Environmental Effects	Patrick Lebon as amended by Squillace Architects	September 2015	21.09.2015

Except where now amended by:

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

a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Project No. 1004, Revision A, Sheet 2 (Site Plan)	May 2019	Paul Carrick & Associates
Project No. 1004, Revision A, Sheet 3 (Existing & Proposed Structures Plan)	May 2019	Paul Carrick & Associates
Project No. 1004, Revision A, Sheet 4 (Proposed Floor Plan)	March 2019	Paul Carrick & Associates
Project No. 1004, Revision A, Sheet 5 (Proposed Roof Plan)	March 2019	Paul Carrick & Associates
Project No. 1004, Revision A, Sheet 6 (Elevations & Sections)	March 2019	Paul Carrick & Associates

Project No. 1004, Revision A, Sheet 7 (Elevations)	March 2019	Paul Carrick & Associates
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<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Mechanical Plant Noise Assessment, Report No. nss 23051-Final	June 2019	Noise and Sound Services

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

d) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

f) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Project No. 1004, Revision A, Sheet 8 (Landscape)	March 2019	Paul Carrick & Associates

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

## **B. Amendment to the approved plans**

The following amendments to the approved plans:

- Plans are to be amended to demonstrate the refuse area (bin enclosure) covered by a skillion roof that is no higher than RL 4.9 to prevent stormwater intrusion. All walls of the bin enclosure shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer.

Details demonstrating compliance are to be submitted to the Certifying Authority Prior to the issue of the Construction Certificate.

Reason: To keep garbage rooms in a clean and sanitary condition, to protect public health and the amenity of the area, and to prevent pollution of the environment.

## **C. Modify Condition ANS06 to read as follows:**

Landscaping shall be undertaken in accordance with the approved Landscape Plan prepared by Paul Carrick & Associates being Project No. 1004, Revision A, Sheet 8 (Landscape) dated March 2019, prior to the issue of any Occupation Certificate. The proposed plantings shall not impinge upon the available public vistas from the building.

Reason: To ensure suitable landscaping is installed within Clontarf Reserve and views out from the building are maintained.

## **D. Modify Condition 43 (6BS01) to read as follows:**

The hours of operation of the premises (i.e. hours open for business) must not exceed 6am to 8pm, 7 days per week for the take away food and drink premises/kiosk; and 6am to 11pm, 7 days per week for the restaurant and café, without the prior approval of Council.

Reason: To ensure amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality.

**E. Modify Condition 14 (2WM03) to read as follows:**

Garbage and Recycling Facilities

All waste and recyclable material generated by this premises must be stored in the approved screened bin enclosure. All walls of the screened bin enclosure shall be rendered to a smooth surface, covered to prevent stormwater intrusion, well ventilated, kept free of vermin, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Reason: To prevent pollution of the environment and to protect the amenity of the area.

**F. Add Condition ANS15 to read as follows:**

Kitchen Design (Scullery and Storeroom), construction and fit out of food premises:

The construction fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises' this includes the scullery and storeroom . Prior to any Occupation Certificate (OC) being issued certification is to be provided by a suitably qualified person that the fit-out complies with the above requirement.

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

**G. Add Condition ANS16 to read as follows:**

Working on Reserves Permit

Works (undertaken by principal contractors working without Council supervision) on land under Council's care control and management require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks, Reserves and Foreshores business unit.

Reason: Public Safety and the protection of Council infrastructure.

**H. Add Condition ANS17 to read as follows:**

External Hardstand Finishes

The North Court Hardstand Area to have a flooring material equivalent to travertine pavers (600x400mm).

Reason: To ensure a consistent outdoor finish to best complement the surrounding reserve.

**I. Add Condition ANS18 to read as follows:**

Extent of Building Work

No building works are to extend beyond the approved lease and licence area.

Reason: To ensure building works do not encroach beyond the agreed lease area into the public park.

**J. Delete Condition ANS08.**

**K. Delete Condition ANS09.**

**L. Delete Condition ANS10.**

**M. Delete Condition ANS11.**

**N. Delete Condition 8 (2DS07).**

**O. Delete Condition 11 (2NL03).**

**P. Delete Condition 12 (2NL05).**

**Q. Delete Condition 28 (4DS03).**

**R. Delete Condition 40 (5MS01).**