

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2024/0425
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Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 2 DP 39426, 104 The Corso MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2022/0462 granted for Use of Premises as a food and drink premises, associated fit out and signage
Zoning:	Manly LEP2013 - Land zoned E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Jack Rixon

Application Lodged:	26/08/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	02/09/2024 to 16/09/2024
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent to modify Development Consent DA2022/0462 granted for use of Premises as a food and drink premises, associated fit out and signage, to extend the hours of operation.

The approved hours of operation under DA2022/0462 are:

- Monday to Saturday: 7.00 am to 10.00 pm
- Sundays and public holidays: 8.00 am to 10.00 pm

The proposed hours of operation are:

- Monday to Thursday: 7.00 am to 12 midnight
- Friday to Saturday: 7.00 am to 3.00 am
- Sunday: 8.00 am to 12 midnight

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 - 6.9 Foreshore scenic protection area
 Manly Local Environmental Plan 2013 - 6.11 Active street frontages
 Manly Local Environmental Plan 2013 - 6.12 Essential services
 Manly Development Control Plan - 4.2.5.6 Late Night Venues

SITE DESCRIPTION

Property Description:	Lot 2 DP 39426 , 104 The Corso MANLY NSW 2095
Detailed Site Description:	The subject site consists of one allotment located on the southern side of The Corso, Manly. The site is regular in shape with a frontage of 4.63 metres along The Corso and a depth of 19.16 metres. The site has a surveyed area of 82.2m². The site is located within the E1 Local Centre zone and accommodates an attached terrace style building with commercial/retail space on the ground floor, with a residential accommodation above. The site has a northerly orientation and is located on a flat lot. Due to the use of the land, there is no vegetation on the

site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by buildings of similar size and scale, with similar configurations (commercial/retail premises on the ground floor with access from The Corso and residential or office space on the first and second floors). The site is also in close proximity to pubs, such as The Hotel Steyne, The New Brighton, and The Ivanhoe. Manly Beach is located to the east of the subject site.

Map:



SITE HISTORY

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

- DA2022/0462 for use of premises as a food and drink premises, associated fit out and signage was approved by Council on 25 August 2022.

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 DA2022/0462, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - 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 proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact as the only element to be modifies is the hours of operation, which are of low impact as demonstrated by the supporting acoustic report.
(b) 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 consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/0462 as the only element to be modified is the hours of operation.
(c) it has notified the application in accordance with: (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	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.

Section 4.55(1A) - Other Modifications	Comments
(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.	See discussion on "Notification & Submissions Received" in this report.

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 4.55 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:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	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 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This clause is not relevant to this application.

Section 4.15 'Matters for Consideration'	Comments
	<u>Clauses 62</u> and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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 application has been publicly exhibited from 02/09/2024 to 16/09/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Iris Capital	Suite 404 203-233 New South Head Road EDGECLIFF NSW 2027

Submissions made by one individual representative for four surrounding properties were received. The submissions each expressed support for the proposed extended hours of operation. No submissions in objection to the proposed extended hours were received.

REFERRALS

Internal Referral Body	Comments			
Environmental Health (Industrial)	The proposed modification application seeks to amend Consent Condition 19 of DA2022/0462 in order to extend the approved hours of operation for the existing Oporto restaurant to: 7am – 12 am on Monday to Thursday 7am – 3am on Friday to Saturday 8am – 12am on Sunday The proposal is supported by an acoustic report which noted a small period of monitoring has been undertaken and provides a number of complying controls proposed for the development to assist in mitigation any noise impact. The proposal is supported with a condition recommending compliance with the recommended controls as noted in the acoustic report.			
Environmental Health (Food Premises, Skin Pen.)	As this proposal solely relates to a change of hours of operation, no further change is recommended by Environmental Health in relation to compliance with food standards as recommended in the original proposal.			
NECC (Flooding)	This proposal is for the extension of the approved hours of operation for an existing food and drink premises. Subject to the retention of flood conditions outlined in DA2022/0462, the proposal complies with Section 5.4.3 of the Manly DCP and Clause 5.21 of the Manly LEP.			
Strategic and Place Planning (Heritage Officer)	<table><tr><th>HERITAGE COMMENTS</th></tr><tr><th>Discussion of reason for referral</th></tr><tr><td> The proposal has been referred to Heritage as the subject property is a heritage item, being part of a group listed heritage item, being Item I112- Group of 4 commercial buildings - 102–112 The Corso. It is also located in C2 - Manly Town Centre Conservation Area and within the vicinity of a number of heritage items, listed in Schedule 5 of Manly LEP 2013: </td></tr></table>	HERITAGE COMMENTS	Discussion of reason for referral	The proposal has been referred to Heritage as the subject property is a heritage item, being part of a group listed heritage item, being Item I112- Group of 4 commercial buildings - 102–112 The Corso. It is also located in C2 - Manly Town Centre Conservation Area and within the vicinity of a number of heritage items, listed in Schedule 5 of Manly LEP 2013:
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Internal Referral Body	Comments		
	Item I106 - Group of commercial buildings - All numbers The Corso		
	Item I110- New Brighton Hotel - 69–71 The Corso		
	Item I111- Hotel Steyne - 75 The Corso		
	Details of heritage items affected		
	Details of the heritage items as contained within the Northern Beaches Heritage inventory are:		
	Item I112- Group of 4 commercial buildings <u>Statement of significance:</u> This is an outstanding Federation Free Style/ Art Nouveau influenced façade with imaginative and exuberant design. It creates a significant back drop terminating the eastern end of Sydney Road.		
	C2 - Town Centre Heritage Conservation Area <u>Statement of significance:</u> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.		
	Item I106 - Group of commercial buildings <u>Statement of significance:</u> The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort.		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	
Australian Heritage Register	No		
NSW State Heritage Register	No		

Internal Referral Body	Comments		
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application The proposal seeks consent to modify the Development Consent - DA2022/0462, to extend the operational hours for the existing food and drink premises. No external or internal changes to the existing shop fitout are proposed by this modification application. Given the proposal is only for extension of the operational hours, there will be no impact upon the significance of the heritage items and the HCA. Therefore, no objections are raised on heritage grounds and no conditions required. <u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes		

External Referral Body	Comments
NSW Police - Crime Prevention Office (Local Command matters)	The proposed development was referred to NSW Police. In accordance with the Memorandum of Understanding between the NSW Police and Council (dated 2 January 2020), if no comment on the application is received from NSW Police within 14 days, it is assumed that no objections are raised. No comments were received at the time of writing this report, being more than 14 days after referral.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal did not require referral to Ausgrid.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 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:

The proposed modification to the hours of operation does not alter the approved development's consistency with this control.

- 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 subsection (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:

Given the above, the development remains designed, sited and managed to avoid an adverse impact.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- 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*
 - ii) *platform for members of the public, including persons with a disability,*
 - iii) *overshadowing, wind funnelling and the loss of views from public places to*
 - iv) *foreshores,*
 - v) *the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and*
 - b) *is satisfied that:*
 - i) *the development is designed, sited and will be managed to avoid an*
 - ii) *adverse impact referred to in paragraph (a), or*
 - iii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
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:

The proposed modification to the hours of operation does not alter the approved development's consistency with this control.

Division 5 General

2.12 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:

The proposed modification to the hours of operation does not alter the approved development's consistency with this control.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential and commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential and commercial land use.

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

No physical works are proposed. There are no applicable principal development standards under Part 4 of the Manly Local Environmental Plan 2013 to consider as part of this application.

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes

Detailed Assessment

6.9 Foreshore scenic protection area

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- (a) *impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) *measures to protect and improve scenic qualities of the coastline,*
- (c) *suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) *measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Comment:

The subject site is within the foreshore scenic protection area and is not foreshore land. The proposed development:

- does not unreasonably impact upon the visual amenity of the foreshore and surrounds, and does not result in view loss from a public place to the foreshore,
- is not closely visible from the coastline, so does not impact upon its scenic quality,
- is suitable in its site context, and
- does not result in conflict between land-based and water-based coastal activities.

6.11 Active street frontages

Under this clause, development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.

Comment:

Not applicable. The proposed development is not for erection of a building or change of use.

6.12 Essential services

Under this clause, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

Comment:

The subject site is supplied with the above essential services. The approved development and proposed modifications retain and rely upon these services.

Manly Development Control Plan

Built Form Controls

No physical works are proposed. There are no applicable built form controls under the Manly Development Control Plan 2013 to consider as part of this application.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.2 Heritage Considerations	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.10 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.6 Late Night Venues	No	Yes
5 Special Character Areas and Sites	Yes	Yes
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

4.2.5.6 Late Night Venues

This control provides that the maximum hours of operation for restaurants and food outlets shall be from 5am up to 1am (next day). The application seeks the following hours of operation:

- Monday to Thursday: 7.00 am to 12 midnight
- Friday to Saturday: 7.00 am to 3.00 am
- Sunday: 8.00 am to 12 midnight

The objectives of the control are addressed as follows:

Objective 1) To achieve for Manly's entertainment precinct as a place of excellence in which all people can use and enjoy Manly's highly valued natural amenity qualities as a place:

- *for leisure and entertainment;*
- *in which late night venues can safely entertain and provide for the enjoyment of social and recreational pursuits;*

without disturbing the peace of the community in terms of safety and security.

Comment:

The proposed modification to the hours of operation is supported by an acoustic assessment report prepared by a suitably qualified professional. The report demonstrates the proposed hours of operation will not result in any unreasonable acoustic impact on the site or surrounds, subject to adherence to the recommendations made in that report. The recommendations of the acoustic assessment report are included in the recommendation of this report by way of condition of consent.

Objective 2) To regulate the activities and design of late night venues to minimize late night disturbances to the public and promote Manly as a safe place for all the community late at night such that:

- *frontages to public spaces must be designed to minimize conflict between customers within the establishments and public using the public spaces;*
- *the applicant demonstrate (see lodgement requirements at Council's Administrative Guidelines) that the premises will not detract from the safety and security of the Entertainment Precinct and as a place which is acceptable for families; and*
- *obligations of any current Accord are addressed in minimizing anti-social behaviour and adverse effects of excessive alcohol consumption.*

Comment:

The proposal makes no amendment to the approved frontage of the site. The proposed modified hours are supported by a Plan of Management that demonstrates suitable measures to ensure the safety and security of patrons and the general public. The premises is not licensed, so does not form part of an Accord.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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 2021;
- 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 Council as the consent authority grant approval to Modification Application No. Mod2024/0425 for Modification of Development Consent DA2022/0462 granted for Use of Premises as a food and drink premises, associated fit out and signage on land at Lot 2 DP 39426,104 The Corso, MANLY, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-458972 Mod2024/0425	The date of this notice of determination	Modification to extend the approved hours of operation. Additional Conditions: - Condition 1A Modification of Consent - Approved Supporting Documentation - Condition 17A Plan of Management - Condition 20 Acoustic Requirements - On-going Modified Conditions: - Condition 19 Hours of Operation

Modified Conditions

A. Add Condition 1A Modification of Consent - Approved Supporting Documentation, to read as follows:

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Acoustic Assessment	1	Acoustic Logic	28 June 2024

Plan of Management	-	Craveable Brands	11 March 2024
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In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B. Add Condition 17A Plan of Management to read as follows:

The approved Plan of Management is to be amended to address the noise management recommendations made within Section 6.6.1 of the Acoustic Report by Acoustic Logic Revision 1 dated 28 June 2024. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifier prior to the commencement of the extended hours of operation.

Reason: To ensure consistency with this consent.

C. Modify Condition 19 Hours of Operation to read as follows:

The business may operate between:

- Monday to Thursday: 7.00 am to 12 midnight
- Friday to Saturday: 7.00 am to 3.00 am
- Sunday: 8.00 am to 12 midnight.

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

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

D. Add Condition 20 Acoustic Requirements - On-going to read as follows:

The recommendations within Section 6.6.1 of the Acoustic Report by Acoustic Logic Revision 1 dated 28 June 2024 are to be complied with on an ongoing basis.

Reason: To prevent a noise nuisance.

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

Signed



Claire Ryan, Principal Planner

The application is determined on 25/09/2024, under the delegated authority of:



Rodney Piggott, Manager Development Assessments