

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0113
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Responsible Officer:	Benjamin Price
Land to be developed (Address):	Lot 10 DP 1207797, 46 East Esplanade MANLY NSW 2095
Proposed Development:	Alterations and additions to the existing building and use as a café and business premises.
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Aspiring Properties Pty Ltd
Applicant:	Classroom 46 Pty Ltd

Application lodged:	25/01/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	06/02/2018 to 22/02/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval

Estimated Cost of Works:	\$ 87,000.00
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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 Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

SITE DESCRIPTION

Property Description:	Lot 10 DP 1207797 , 46 East Esplanade MANLY NSW 2095
Detailed Site Description:	The subject site consists of one (1) allotment located on the norther-eastern side of East Esplanade. The site is irregular in shape with a frontage of 20.6m along East Esplanade and an average depth of 35.1m. The site has an area of 696.9m². The site is located within the B2 Local Centre and accommodates a two storey mixed use victorian terrace style building on the east esplanade frontage and a five storey mixed use building to the rear of the site.. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by commercial premises and shop top housing.

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:

DA347/2010 - Establishment of use for shops 1 and 2 as a restaurant, and shop 3 and part of the first floor as a bar/cafe and fitout. This application approved Shop 1 as a Restaurant/Cafe

DA150/2008 - Partial demolition of existing buildings and alterations and additions comprising of six (6) storeys, including new retail, commercial and residential unit. This application approved shop 1 as a Restaurant/Cafe.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes:

- Internal food premises fitout for use as a Cafe. The proposed hours of operation of the Cafe use are 7.00am - 9.00pm Mondays to Saturdays and 7.00am - 5.00pm Sundays and Public Holidays.
- Partial change of use to a Business Premises to allow for the premises to offer private classes and hospitality workshops between the hours of 4.30pm - 8.00pm 3 times per week from Monday to Saturday.
- Re-face existing signs for business identification

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 50(1A)</u> of the EP&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. <u>Clauses 54 and 109</u> of the EP&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. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent. <u>Clause 143A</u> of the EP&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.

Section 79C 'Matters for Consideration'	Comments
Section 79C (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) 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) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 79C (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.

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.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments	
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below. Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.	
Environmental Health (Food Premises, Skin Pen.)	Was sufficient documentation provided appropriate for referral?	YES

Internal Referral Body	Comments	
	Are the reports undertaken by a suitably qualified consultant?	YES
	Have you considered the following? • Review Statement of Environmental Effects, consider ongoing use: - Food Premises, use AS 4674 and Food Standards Code and BCA (re ventilation and toilets). Consider location of mechanical ventilation (AS 1668) and grease traps - Backpackers/Boarding House, use Public Health Act and Local Gov Regulations and BCA. - Mortuary, use Local Gov Regulations - Skin penetration acupuncture, tattoo, beauty salon, use Local Gov Regulations - Public pool, use Public Health Act - Childcare, use AS 4674 (kitchen) and BCA toilets • Consider waste disposal. All new food shops should have waste stored in rooms. • Consider impact of noise, hours of operation, outdoor seating, location of equipment, times of deliveries, noise management plans, acoustic reports etc. • Shop top housing must have separate waste storage for residential and commercial. EH&P don't look at residential waste areas or collection.	YES
	General Comments Approval of the development is accepted subject to the implementation of notated conditions of consent.	
	Recommendation	APPROVAL - subject to conditions
	Comments completed by: Robina Bramich	
	Date: 16/2/2018	
NECC (Development Engineering)	The applicant proposed to carry out internal shop fitout. Development Engineer has no objection to the application. Also, no engineering condition is required.	

Internal Referral Body	Comments
Strategic & Place Planning (Heritage Officer)	Further to a review of available documents, The application is for a new fit-out, substantially the same as the previously approved (and current) use and arrangement.. Therefore, it is assessed that impact of the current proposal will be closely similar to the impact of the previously approved DA. Based on the above, I have no objection to this proposal from heritage perspective and deem heritage conditions not required. Proposal is acceptable without conditions. Kind Regards Zoran Popovic Heritage Adviser
Waste Officer	Recommended for approval subject to conditions

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 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
1. Character of the area	The proposed signage will re-face the existing	YES

Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	signs on the site. The proposed signs will maintain the character of the site.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal is consistent with the existing theme of the development on the site.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal will not detract from the amenity or visual quality of the conservation area.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The proposal will not obscure views or vistas.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposal will not dominate the skyline or diminish the quality of vistas in the locality.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposal is centred within the site and will not detract from the advertising of the neighbouring properties.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposal will re-face the existing signs. These signs are of an appropriate scale proportion and form for the streetscape.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will create visual interest on the site.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The existing signage is appropriate and does not result in clutter.	YES
Does the proposal screen unsightliness?	No	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No	YES
5. Site and building 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 compatible with the streetscape character of the site and the locality.	YES
Does the proposal respect important features of the site or building, or both?	Yes	YES
Does the proposal show innovation and imagination in its relationship to the	The proposal is appropriately designed for the site.	YES

site or building, or both?		
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No, the proposal is for the re-facing of the existing signage.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The existing illumination does not result in any unreasonable impacts to the locality.	YES
Can the intensity of the illumination be adjusted, if necessary?	No requirement as the existing illumination does not result in any unreasonable impacts	YES
Is the illumination subject to a curfew?	No requirement as the existing illumination does not result in any unreasonable impacts	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	No	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No	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.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	15m	No proposed change	N/A	N/A
Floor Space Ratio	FSR: 3:1	No proposed change	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
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Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.10 Heritage conservation	Yes
6.9 Foreshore scenic protection area	Yes
6.16 Gross floor area in Zone B2	Yes
6.21 Noise impacts—licensed premises	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 201sqm	Requirement
4.2.4 Car Parking	Cafe 2.4 parks Business Premises 4 parks
4.4.3 Signage	2 Identification signs per frontage

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.2.1 Consideration of Heritage Significance	Yes	Yes
3.2.2 Alterations or Additions to Heritage Items or Conservation Areas	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.8 Waste Management	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.4 Car Parking and Access	Yes	Yes
4.4.3 Signage	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
5.4.1.1 Additional matters for consideration	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

There are no residential properties located above the premises and the proposal will close earlier than what was approved for shops 1 and 2 under DA347/2010. The opening hour of 7am is not unreasonable given the context of the site. The proposed hours of operation will not result in any unreasonable impacts on the acoustic privacy of the surrounding properties.

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

The proposed use of the premises as a restaurant/cafe will operate for 94 hours per week and the proposed business premises will operate for 10.5 hours per week. The proposed use as a cafe will significantly outweigh the use as a business premises. As such the parking rate for the use of the premises as a Cafe is the most appropriate in this circumstance. Therefore as the existing use of the premises is a restaurant/cafe the proposal will not generate any additional requirement for parking and no parking contributions are applicable to this development.

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

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this 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
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/01113 for Alterations and additions to the existing building and use as a café and business premises. on land at Lot 10 DP 1207797, 46 East Esplanade, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A4.2 Setout Plan - Issue E	23 January 2018	ORO Interior Architecture
A5.1 Elevation A - Issue E	23 January 2018	ORO Interior Architecture

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Statement of Heritage Impact	January 2018	Heritage 21

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

In the event of any inconsistency between conditions of this consent and the

drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars

- of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved

waste/recycling centres.

- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (j) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

4. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

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

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

6. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

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

7. **Registration of Food Business**

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

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

8. **Mechanical Ventilation certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the mechanical ventilation system complies with the design requirements. (DACHPFPOC4)

9. **Fire Safety Matters**

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

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

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

10. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

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

11. **Commercial waste must be collected from the premise**

Bins must be serviced from within the leased area (not presented in the public area for servicing). The waste contractor will need to retrieve bins from the area nominated on the plan and return after servicing.

Reason: This is to ensure the bins are not present on the street where it is visible and aesthetically unpleasing. (DACHEGOG1)

12. **Requirement for commercial waste contract**

That the proprietor shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract and invoices are to be made available for inspection at any time.

Reason: To protect the local amenity of the neighbourhood.

(DACHPGOG1)

13. **Amenity**

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

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

(DACHPGOG2)

14. **Deliveries and waste service collections**

Deliveries and waste service collections shall only occur after 7am and prior to 9pm on any day.

Reason: To minimise the impacts of noise on neighbouring premises (DACHPGOG3)

15. **Hours of Operation**

The hours of operation of the Cafe are to be restricted to:

- Monday to Saturday – 7.00am - 9.00pm
- Sunday and Public Holidays – 7.00am - 5.00pm

The hours of operation of the business premises are to be restricted to:

- Monday to Saturday – 4.30pm - 8.00pm no more than 3 times per week

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.
(DACPLG08)

16. **Commercial Waste Collection**

No waste generated on site from any commercial operation is to be placed in public place bins. Commercial operators must maintain their commercial waste bins in an organized, clean and sanitary condition, preventing potential for litter from overflowing bins.

Reason: To communicate policy regarding illegal trade waste dumping in public place bins and maintenance of trade waste bins,

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

Signed



Benjamin Price, Planner

The application is determined under the delegated authority of:



Rodney Piggott, Manager Development Assessments

ATTACHMENT A

Notification Plan	Title	Date
 2018/087329	Plan - Notification	25/01/2018

ATTACHMENT B

Notification Document	Title	Date
 2018/097012	Notification Map	06/02/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/087330	Report - Statement of Environmental Effects	25/01/2018
 2018/087329	Plan - Notification	25/01/2018
 2018/087331	Report - Statement of Heritage Impact	25/01/2018
 DA2018/0113	46 East Esplanade MANLY NSW 2095 - Development Application - Change of Use	25/01/2018
 2018/087324	Development Application Form	31/01/2018
 2018/087326	Applicant Details	31/01/2018
 2018/087328	Cost Summary Report	31/01/2018
 2018/087334	Plans - Internal	31/01/2018
 2018/087332	Plans - External	31/01/2018
 2018/087335	Plans - Master Set	31/01/2018
 2018/087340	invoice for ram applications - Classroom 46 Pty Ltd	31/01/2018
 2018/087343	DA Acknowledgement Letter - Classroom 46 Pty Ltd	31/01/2018
 2018/090094	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0113 - 46 East Esplanade MANLY NSW 2095 - PR	01/02/2018
 2018/092348	Environmental Health (Food Premises, Skin Pen.) - Assessment Referral - DA2018/0113 - 46 East Esplanade MANLY NSW 2095	01/02/2018
 2018/096833	DA Acknowledgement Letter (not integrated) - Classroom 46 Pty Ltd	06/02/2018
 2018/097012	Notification Map	06/02/2018
 2018/097023	Notification Letter - 220	06/02/2018
 2018/116293	Building Assessment Referral Response	15/02/2018
 2018/118175	Environmental Health Referral Response - commercial use	16/02/2018
 2018/121622	Heritage Referral Response - DA2018/0113 - 46 East Esplanade, Manly	19/02/2018
 2018/122856	Engineering Referral Response	20/02/2018
 2018/183163	Waste Referral Response	19/03/2018
 2018/224352	Stamped Plans	09/04/2018
 2018/225847	Notice of Determination	10/04/2018