

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/1078
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Responsible Officer:	Monty Masrur
Land to be developed (Address):	Lot 202 DP 1100018, 1 Brissenden Avenue COLLAROY NSW 2097
Proposed Development:	Use of part of the premises as an ancillary coffee cart within the existing approved Residential Care Facility
Zoning:	Warringah LEP2011 - Land zoned SP1 Special Activities
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Lifetime Care and Support Authority of NSW
Applicant:	Turnbull Planning International Pty Ltd

Application lodged:	03/11/2017
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	15/11/2017 to 01/12/2017
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval

Estimated Cost of Works:	\$ 15,000.00
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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

Warringah Local Environmental Plan 2011 - Zone SP1 Special Activities

Warringah Local Environmental Plan 2011 - 5.10 Heritage conservation

Warringah Development Control Plan - D3 Noise

Warringah Development Control Plan - D18 Accessibility

Warringah Development Control Plan - D23 Signs

Warringah Development Control Plan - E7 Development on land adjoining public open space

Warringah Development Control Plan - Health Services Facility, Collaroy

SITE DESCRIPTION

Property Description:	Lot 202 DP 1100018 , 1 Brissenden Avenue COLLAROY NSW 2097
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Brissenden Avenue, Collaroy. The site is irregular in shape with a frontage of ~46m along Brissenden Avenue, ~96.6m frontage along Beach Road and a depth of 46m (measured from Beach Road). The site has an area of 4458m². The site is located within the SP1 Special Activities zone under WLEP 2011 and accommodates a residential health care rehabilitation facility, for people with spinal cord injuries. which was permissible and approved under WLEP 2000, as a Category 1 development. The land falls away south to north, by approximately 6m over a length of 76m, particularly in the northernmost portion, resulting in a 7.9% slope. The site lightly vegetated along its property boundaries, with some garden plants in the northern terrace area. Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density, residential development (R2 Low Density Residential) to the east, west, and south. The northern side is public land (parkland, beach, car park etc.) zoned as RE1 Public Recreation. Brissenden Avenue connects to Pittwater Road, which is a classified road (SP2 Infrastructure).

Map:



SITE HISTORY

The land has been used for health-related purposes for an extended period of time. It is currently occupied by 'Sargood on Collaroy' (approved by DA2006/0896 and REV2008/0896), which is a residential health care rehabilitation facility, specifically for people with spinal cord injuries.

A search of Council's records has revealed the following relevant history:

FOC2017/0067 - Issued on 14/02/2017

A Final Occupation Certificate (Certifier ref: 60271187) was issued, by Charles Slack-Smith of 'Group DLA', in relation to all the works approved by DA2006/0896 and all the subsequent approved modification applications.

IOC2016/0115 - Issued on 22/12/16

An Interim Occupation Certificate (Certifier ref: 60271187 1) was issued, by Charles Slack-Smith of 'Group DLA', in relation to the works approved by DA2006/0896 and all the subsequent approved modification applications, all except for the external works associated with Condition 9 of the approval.

PCA2014/0730

A Notice of Commencement, dated 6/08/2014, was provided to Council, by the PCA (Group DLA). Works were intended to commence on 8/08/2014.

Mod2014/0024 - Approved on 7/05/2014

The application was the second modification to DA2006/0896, for various minor amendments and reconfigurations to the approved design.

Mod2012/0141 - Approved on 18/10/2012

The application was the first modification to DA2006/0896, for the reduction in the number of rooms, parking spaces and other revisions/reconfigurations to approved elements of the development.

REV2008/0036 - Approved on 25/03/2009

An application was made, under section 82A of the Act, to review the refusal determination of DA2006/0896. Amended plans were submitted to address the reasons for refusal. This included the redesign of the original proposal to allow for the retention and protection of the Norfolk Island Pines.

DA2006/0896 - Refused on 7/04/2008

The proposal was for the construction of a residential health care rehabilitation centre, specifically for the treatment of spinal cord injuries, continuing the use of the site for 'health-related purposes'. The proposal was a permissible Category 1 development, for the D5 Long Reef Locality, under WLEP 2000. The application was reported to the IHAP, with a recommendation for approval. However, the IHAP recommended refusal and a determination for refusal was issued, on the following basis:

- Removal and adverse impact on the Norfolk Island Pines is unacceptable as such trees have an iconic and landmark status and are significant elements of the vegetation in the locality;
- The adverse impact on the Norfolk Island Pines and as such is not considered to be sympathetic to the landscape character of the street or designed to integrate with the natural landscape;
- The building does not comply with the Front Building Setback, Side Building Setback or Landscaped Open Space controls;
- Inconsistency with the following provisions of WLEP 2000:
 - Clause 56 Retaining unique environmental features on sites
 - Clause 63 Landscaped open space

An S82A review application (REV2008/0036) was later lodged, and approved on 25/03/2009. This development has now been completed and a FOC was issued on 14/02/2017.

MOD2002/1493/1 - Approved on 15/09/2005

Modification 1 to DA2002/1493, which was for the subdivision of 8 lots into 2 lots demolition of all existing structures including 'Collaroy Hospital' and removal and infilling of the pool. This proposal has been completed.

DA2002/1493 - Approved on 3/09/2003

The proposal was for subdivision of 8 Lots into 3 Lots, demolition of all existing structures including 'Collaroy Hospital' and removal and infilling of the pool.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the operation of a movable coffee cart, to be utilised for the preparation and sale of primarily tea and coffee, within the premises at 1 Brissenden Avenue, Collaroy.

Details of the operations of the proposed coffee cart are as follows:

- Retail sale of coffee, tea, small food items
- Coffee cart will be movable from location to location within the property
- Coffee cart will be located primarily in the north-facing external courtyard (refer to Plan - Proposed Coffee Cart), but will be located internally within the facility as required
- Operating hours:
 - Monday to Friday - 7am to 3pm
 - Saturday to Sunday - 7am to 5pm
- Maximum 2 servers, at any time

It is intended that the sales will be made to the users of the premises, including occupants, visitors, employees, and the like. It is not intended to be sold to be the general public, beyond the scope described, however, incidental members of the public (e.g. passerby) are proposed to not be refused service.

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 the 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	Warringah 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>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

Section 79C 'Matters for Consideration'	Comments
	Demolition of Structures. This matter has been addressed via a condition of consent. / 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 clause is not relevant to this application. <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.
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 Warringah 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	No submissions made during “Public Exhibition” period.
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.						
Environmental Health (Food Premises, Skin Pen.)	<table border="1"> <tr> <td>Was sufficient documentation provided appropriate for referral?</td><td>YES</td></tr> <tr> <td>Are the reports undertaken by a suitably qualified consultant?</td><td>N/A</td></tr> <tr> <td> 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. </td><td>YES</td></tr> </table>	Was sufficient documentation provided appropriate for referral?	YES	Are the reports undertaken by a suitably qualified consultant?	N/A	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
Was sufficient documentation provided appropriate for referral?	YES						
Are the reports undertaken by a suitably qualified consultant?	N/A						
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 The proposal would need to meet the requirement outline in AS4674, food standards code and BCA. Specifically:						

Internal Referral Body	Comments	
	· The design and construction of food premises must exclude dirt, dust, fumes, smoke and other contaminants; · A food business must take all practicable measures to prevent pests entering the food premises; · floors, walls and ceilings to be provided to all areas used for food handling · Floors, walls and ceilings must be sealed to prevent the entry of dirt, dust and pests unable to absorb grease, food particles or water; and able to be easily and effectively cleaned. The coffee cart would need to be able to meet these requirements.	
	Recommendation	Approval - subject to conditions
	Comments completed by: Mary Shimon Date:7 December 2017 Further comments completed by: James Montgomery Date: 15 February 2018	
NECC (Bushland and Biodiversity)	No referral necessary.	
Parks, reserves, beaches, foreshore	The application was referred to Council's 'Parks, reserves, beaches, foreshore' section, who raised no objections or recommended conditions in relation to the proposed development.	
Parks, reserves, beaches, foreshore		
Traffic Engineer	The proposed development involves the operation of a ‘low-key’ coffee cart on the beach side (northern extreme) of the facility. The coffee cart will be located on the terrace of the health care facility. There will be two (2) employees serving the coffee cart at any one time. The proposal in the current form which is limited to a coffee cart would unlikely generate vehicle trips, as it would be used by the patron to the Sargood premise as well as the people walking past the site. Therefore, no objection is raised to the proposal subject on traffic ground.	

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

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
Schedule 5 Environmental heritage	

Detailed Assessment

Zone SP1 Special Activities

Proposed Use	Permitted or Prohibited
<i>Any development ordinarily incidental or ancillary to development</i> - operation of coffee cart within existing residential health care rehabilitation facility (refer to Detailed Description of Development)	Permitted with consent

The underlying objections of the SP1 Special Activities zone

- To provide for special land uses that are not provided for in other zones.

Comment:

The operation of the existing site as a residential health care rehabilitation facility will continue and its use will not be affected by the proposed development.

- To provide for sites with special natural characteristics that are not provided for in other zones.

Comment:

The operation of the existing site as a residential health care rehabilitation facility within a coastal beach context will continue and will not be affected by the proposed development. The cart will not impact on the natural characteristics.

- *To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.*

Comment:

The operation of a moveable coffee cart, for the purpose of retail sale of tea, coffee, and refreshments to the users of the residential health care rehabilitation facility (Sargood on Collaroy) on the existing site, will be ancillary to the primary use of the site as a residential health care rehabilitation facility. It will not detract from the predominant, approved use of the site and will only provide ancillary services to the facility's users. Users will be able to purchase items while providing or receiving medical or other health-related services. Expected users will be comprised of the guests, visitors, employees of the facility and the like; retail sale to the general public - outside of the scope described - is not intended and would not be supported.

A condition will be imposed that require sales from the cart to be limited to the users of the approved premises on the site, that the cart will be located within. Another condition will be imposed that will prohibit the placement of any signage or advertisement associated with the operation of the coffee cart to be placed on the site. The types of food that can be sold will also be restricted by way of a condition. This will be to ensure that the development maintains consistency with the intended and permitted use of the site.

The proposed coffee cart will be of a small scale nature, allowing it to blend into its surroundings. It will be located within the existing building footprint and will be of a significantly smaller scale compared to the existing building. The landscaping and garden beds along the northern boundaries will help it further screen and soften the cart's presence when its is located in the courtyard.

The development is not expected to have any adverse impacts on surrounding lands. Noise generated from the cart's use and operation is expected to be at a reasonable level and will likely remain at existing levels, as the north-facing courtyard is currently used as an outdoor area for recreational use; refer to the detailed discussion under WDCP D3. The subject courtyard area, located in the northernmost portion of the allotment, adjoins public spaces and there is an adequate buffer from residential development in all direction.

5.10 Heritage conservation

The development site is listed as heritage item A1, 'Former Collaroy Hospital Site', under Schedule 5 of WLEP 2011. The development will not have an impact on the heritage status of the site, as it will be a moveable coffee cart and require no excavation or disturbance of the site. As the operation of the cart will be ancillary to the operation of the facility as a "*residential health care rehabilitation facility*", and not a use on its own, it will not detract from the requirement of the site to be "*continue to be used for health-related*

purposes".

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	Complies
B3 Side Boundary Envelope	4m	No changes to the built form.	N/A
	4m		
B5 Side Boundary Setbacks	0.9m		
	0.9m		
B7 Front Boundary Setbacks	6.5m		
B9 Rear Boundary Setbacks	6m		
D1 Landscaped Open Space (LOS) and Bushland Setting	50%		

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C8 Demolition and Construction	No	Yes
C9 Waste Management	No	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes
F3 SP1 Special Activities	Yes	Yes
Health Services Facility, Collaroy	Yes	Yes

Detailed Assessment

D3 Noise

The likely noise generated from the operation and use of the coffee cart is not expected to be unreasonable or cause an adverse impact on the surrounding residential development. The location of the cart in the external courtyard will not be an issue, as that area is utilised as a recreational area by the site's occupants and faces away from the surrounding residential development. When located inside the facility, there will be no noise issues.

D18 Accessibility

The proposed coffee cart will be moveable - not affixed to any specific location - and not expected to impede accessibility throughout the facility. Its location in the courtyard will enable the barrier-free movement to the facility's occupants, as those areas have wide open spaces, allowing for pedestrians to manoeuvre safely around it. The development is expected to be operated in accordance with the *Disability Discrimination Act 1992*.

D23 Signs

The proposal does not propose any signage associated with the coffee cart or its operation. A condition will be imposed that will prohibit the placement of any signage or advertisement, associated with the operation of the coffee cart, on the site.

E7 Development on land adjoining public open space

The coffee cart is expected to blend in adequately with the moderately vegetated, beach environment. It will be located entirely within private property, thus not affected movement through the public places.

Health Services Facility, Collaroy

The proposed coffee cart will be sympathetic to the existing pattern of development found along the street and in the surrounding locality. Existing and future residential amenity will not be adversely affected.

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

Warringah Section 94A Development Contribution Plan

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of 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;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, 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 Development Consent to DA2017/1078 for Use of part of the premises as an ancillary coffee cart within the existing approved Residential Care Facility on land at Lot 202 DP 1100018, 1 Brissenden Avenue, COLLAROY, 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

Drawing 101 (Proposed Coffee Cart)	October 2017	Turnbull Planning International Pty Ltd (drawn by mh)
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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. **Size of cart**

The coffee cart to be used for this development shall not be larger than 2m (width) x 3m (length).

Reason: To ensure the development fits into the context of the surrounding area.

3. **Location of cart**

The coffee cart shall be located entirely within the subject site. If located within the internal space of the existing building it shall not obstruct internal pedestrian movement or access.

Reason: To ensure the work is carried out in accordance with the determination. (DACPLB02)

4. **Approved Land Use**

This consent authorises the use of one mobile coffee cart within the site, as indicated on the approved plans, for the land use definition of a *food and drink premises* (development as defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary).

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

5. **Sale of products**

Sales made from the coffee cart shall be managed in the following way, at all times:

1. Sales shall be limited to only the users of the building at 1 Brissenden Avenue, Collaroy.
2. The type of items to be sold shall be restricted to tea, coffee, and the like. Any food sold must be strictly limited to pre-packaged food.

Reason: To maintain consistency with the intended and permitted use of the site, in accordance with WLEP 2011. (DACPLBOC1)

6. No Approval for any Signage

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

7. 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)

8. 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)

FEES / CHARGES / CONTRIBUTIONS

9. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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

10. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

11. 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.

12. **Kitchen Design, 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'. 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.

13. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

15. **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.

16. **Kitchen Design, construction and fit out of food premises certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a person who is eligible as a 'Member' of Environmental Health Australia (EHA) that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

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

Reason: To ensure that the kitchen complies with the design requirements. (DACHPFPOC3)

17. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit

landfill.

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

18. Hours of Operation

The hours of operation are to be restricted to:

- Monday to Friday – 7am to 3pm
- Saturday and Sunday – 7am to 5pm

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)

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

Signed



Monty Masrur, Planner

The application is determined under the delegated authority of:



Anna Williams, Manager Development Assessments

ATTACHMENT A

Notification Plan	Title	Date
 2017/437294	Plan - Notification	20/10/2017

ATTACHMENT B

Notification Document	Title	Date
 2017/456852	Notification Map	15/11/2017

ATTACHMENT C

Reference Number	Document	Date
 2017/437298	Plan - Coffee Cart Location	20/10/2017
 2017/437294	Plan - Notification	20/10/2017
 2017/472911	Report - Statement of Environmental Effects	27/10/2017
 2017/437292	Owners' Consent	31/10/2017
 DA2017/1078	1 Brissenden Avenue COLLAROY NSW 2097 - Development Application - Alterations and Additions	03/11/2017
 2017/433422	DA Acknowledgement Letter - Turnbull Planning International Pty Ltd	03/11/2017
 2017/437287	Development Application Form	06/11/2017
 2017/437291	Applicant Details	06/11/2017
 2017/437297	delete	06/11/2017
 2017/457838	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2017/1078 - 1 Brissenden Avenue COLLAROY NSW 2097 - PR	14/11/2017
 2017/456410	Health and Protection (Food Premises, Skin Pen.) - Assessment Referral - DA2017/1078 - 1 Brissenden Avenue COLLAROY NSW 2097	14/11/2017
 2017/456841	ARP Notification Map	15/11/2017
 2017/456848	DA Acknowledgement Letter (not integrated) - Turnbull Planning International Pty Ltd	15/11/2017
 2017/456852	Notification Map	15/11/2017
 2017/456857	Notification Letter - 21	15/11/2017
 2017/462402	Building Assessment Referral Response	16/11/2017
 2017/468048	Aboriginal Heritage Referral Response	20/11/2017
 2017/470488	Referral not needed - Aboriginal Heritage Office - 1 Brissenden Avenue Collaroy	20/11/2017
 2017/507142	Environmental Investigations Referral Response - acid sulfate soils	08/12/2017
 2017/507185	Environmental Health and Protection Referral Response - commercial use	08/12/2017
 2017/532876	Traffic Engineer Referral Response	20/12/2017
 2018/006989	Request for Withdrawal of Development Application - Turnbull Planning International Pty Ltd	05/01/2018
 2018/028687	Applicant's Response to Request to Withdraw	09/01/2018
 2018/028706	Applicant's email re: Request for Withdrawal	09/01/2018
 2018/058785	Regarding development application - DA2017/1078 - 1 Brissenden Avenue Collaroy - Turnbull Planning International Pty Ltd	15/01/2018
 2018/061828	Parks, Reserves and Foreshores Referral Response	16/01/2018
 2018/115132	Site Photos	14/02/2018

	2018/117690	Environmental Health (Food Premises, Skin Pen.) - Assessment Referral - DA2017/1078 - 1 Brissenden Avenue COLLAROY NSW 2097	15/02/2018
	2018/130214	Correspondence RE: DA2017/1078	15/02/2018