

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0462
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 2 DP 39426, 104 The Corso MANLY NSW 2095
Proposed Development:	Use of Premises as a food and drink premises, associated fit out and signage
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:	James Kaklamanis
Applicant:	Genevieve Henry

Application Lodged:	29/04/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	06/05/2022 to 20/05/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 258,550.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for change of use from the existing shop to a food and drink premises, and fit out of the existing shop to an Oporto Restaurant, pursuant to the *Manly Local Environmental Plan (MLEP) 2013*, comprising the following:

- Internal fit out including floor tiles, bi-fold doors, below ground grease trap, equipment installation (cooking facilities, cool room, freezer, sink, grill line, fry line, assembly line, storage, office space, front counter, and bathroom) and shopfront graphic panels,
- Alterations to the floor to ceiling heights, and
- Three (3) external signs: top hamper, awning fascia and under awning
- Alterations to the front façade including: graphic paneling strip surrounding the bi-fold doors, and black ceramic tiles affixed to the front external wall.
- Internal signage and design paneling.

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

Manly Development Control Plan - 4.2.5.3 Security Shutters

Manly Development Control Plan - 4.2.5.4 Car Parking and Access

Manly Development Control Plan - 4.4.3 Signage

SITE DESCRIPTION

Property Description:	Lot 2 DP 39426 , 104 The Corso MANLY NSW 2095
Detailed Site Description:	The subject site consists of one (1) allotment located on the southern side of The Corso. The site is regular in shape with a frontage of 4.63m along and a depth of 19.16m. The site has a surveyed area of 82.2m². The site is located within the B2 Local Centre zone within the <i>Manly Local Environmental Plan (MLEP) 2013</i> 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 Steyne Hotel is located directly opposite the subject site, and The Ivanhoe is located to the west of the subject site. Manly Beach is located to the east of the subject site.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for commercial, retail and residential purposes for an extended period of time.

APPLICATION HISTORY

Based on the preliminary assessment, a request for further information (RFI) letter was sent via email on 7 June 2022 detailing issues raised during the preliminary assessment. The issues related to comments received from Council's Environmental Health - Industrial Use Officer, Council's Environmental Health - Commercial Use Officer, Council's Heritage Officer and planning matters. The Applicant requested an extension of time to provide the requested information. The information was provided to Council on 28 June 2022.

On 6 July 2022, the Applicant was advised that the scale was incorrect on the Layout Plan. Amended plans, with the correct scale, were provided to Council on 15 July 2022.

At the time of Council accepting this application, internal referrals were missed. As such, a late internal referral was sent to Council's Flood Engineer for review of the application on 27 July 2022, as the subject site is located within a medium flood risk area. Comments from Council's Flood Engineer

required amendments to the architectural plans with respect to the floor levels. The Applicant was advised of this on 3 August 2022, and amended plans were provided to Council, and uploaded to the NSW Planning Portal, on 11 August 2022.

During the review of the assessment report, it was advised that the application should be referred to the NSW Police Force for comment. The referral was sent to the NSW Police Force - Crime Prevention Officer of the Local Area Command on 18 August 2022. The referral comments were received 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:

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)(iia) – 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. Additional information was requested in relation to the provision of amended plans and an updated Statement of Environmental Effects to address Environmental Health (Commercial and Industrial Use) concerns relating to the grease arrestor, and the proposed hours of operation. While Council's Heritage Officer was technically supportive of the application, conditions of consent were recommended to alter the colour scheme and design of the front facade. In this instance, the amended plans included changes to the design of the front facade to be in accordance with the Heritage Officer's comments. This information was requested via e-mail through a formal Request for Further Information letter on 7 June 2022. The information was provided to Council on 28 June 2022. Upon receipt of this information, Council's internal referral's (Environmental Health: Industrial Use,

Section 4.15 Matters for Consideration	Comments
	Environmental Health: Food Premises and Skin Penetration, and Heritage) were advised and requested to review and provide updated comments. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <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 development application has been publicly exhibited from 06/05/2022 to 20/05/2022 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 of the application Council received no submissions.

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 (Industrial)	General Comments Environmental health have reviewed the proposal and are satisfied with the concept of the proposed use based on the developments location within the center of Manly Corso. However further detail on proposed noise attenuation measures are required before a referral response in support of the development can be completed. Specifically Environmental Health requires further detail on proposed plant (ventilation and compressors) and the proposed location of mechanical plant on plans, sound power levels of proposed plant and any required acoustic attenuation required for mechanical plant. Further detail is required on proposed hours of operation to better understand the impact of the development on amenity. If 24 hour operation is proposed then the proposal must be accompanied by an acoustic report developed by a suitably qualified acoustic consultant, however operation with the day and evening period defined in EPA noise policy for industry may not require an acoustic report. Amended comments 04/07/2022: Environmental Health are in receipt of additional information from the applicant relating to hours of operation and mechanical plant. Given the provided information Environmental Health are satisfied and have provided the proposed conditions below. Recommendation Supported - Subject to conditions being imposed
Environmental Health (Food)	Environmental health have reviewed the Development Application

Internal Referral Body	Comments
Premises, Skin Pen.)	which proposes to change the use of a commercial premises to a food and drink premises, with associated fit out and signage. The works include but are not limited to internal fit out of the tenancy including new floor tiles, bifold doors, below ground grease trap and equipment installation. The below ground grease arrestor will be located internally between the freezer and dry store. In order to prevent contamination of food sources and food contact areas, the grease arrestor will have a 50 mm clear out pipe which will link from the bottom of the grease trap to the rear laneway. The pipe will have a one-way valve fitting on the end that will allow the grease and contaminated water to be vacuumed without smell or spillage to the laneway. Waste oil will be stored in a drum in the rear laneway and provided with a bund that is 110% the capacity of the waste oil tank. Environmental Health considers that the proposal should be supported as the amended site plans meet the requirements of AS4674-2004 Design, construction and fit out of a food premises and comply with Standard 3.2.3.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The front of the shop is affected by the Medium Flood Risk Precinct. The development proposes the change of use and fit out of the Oporto store at this site and lowering of part of the floor by 150mm (front of the shop only, about 1.37m from entrance door) to match Street level. No flood related objections.
Strategic and Place Planning (Heritage Officer)	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: 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

Internal Referral Body	Comments
	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. <u>Physical description:</u> A group of four parapeted brick and rendered two storey shops. The principal significance lies in the elaborate rendered decoration at first floor level. The 2-storey is set in fine symmetry which was originally accentuated on the party wall by an elaborately modelled central gable surmounted by a smaller gabled pediment (now demolished). The remaining semicircular and circular windows set in ornately carved pediment are intact. No.104 is rendered, parapet removed, addition to roof. 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. <u>Physical description:</u> The Corso is the NE-SW link between Manly Beach and Manly Cove. It acts as a low scale horizontal corridor which steps down from the harbour to the ocean. It has a cohesive character resulting from generally low scale of development on its principle streets, Construction to the property boundaries, slightly higher and distinctive corner buildings and a good level of pedestrian protection and amenity generated by footpath awnings and

Internal Referral Body	Comments		
	through-block arcades has produced strongly defined and comfortable urban spaces.		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	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 for internal alterations and fit out works to the existing ground floor retail for change of use to a food and drink premises, including the refurbishment of a new shopfront and signage. The proposed internal fitout works are considered to not impact the heritage item as the internal original fabric has already been modified. However, the new signage and the shopfront design should be complementary to the heritage item and the character of the streetscape. The existing side walls, facing The Corso, currently are painted in a plain dark colour. The proposed graphic panels for these side walls are considered to impact the character of The Corso and the significance of the heritage items and the conservation area. A similar graphic panel is also proposed to be applied to underside of the awning and this is also not supported by Heritage. <i>Schedule 6 - The Corso: Site Specific Controls of Manly DCP 2013</i> requires "new awning detail as per No 102" for the heritage item at 104 The Corso. It is noted that currently the size of the awning thickness (700mm) is not consistent with the adjacent awnings and the proposed awning signage is for the same thickness. Heritage require to reduce the size to be equal with the adjacent awnings to promote the consistency of the shops fronting The Corso. Amended - 28 June 2022 Amended drawings have resolved some heritage concerns, but the proposed black ceramic tiles replacing the graphic panels at the shopfront is considered to impact the heritage items and not consistent with the character of The Corso. The proposed graphic		

Internal Referral Body	Comments
	panels to the internal reveals of the shopfront opening are considered acceptable, however, the shopfront should be plain, that the proposed 150mm graphic panel to the front facade should be removed and the colour of the black ceramic tiles should be replaced with a recessive colour. Therefore no objections are raised on heritage grounds, subject to two conditions. PLANNER COMMENT The existing shopfront has black ceramic tiles surrounding the entryway. The proposed black ceramic tiles will retain this visual element to the front facade of the building and it is considered that this will be visually consistent with the building on the subject site, and those of adjoining buildings (being Manly Kebabs and Rip Curl). The graphic paneling framing the entrance doors provides visual interest in the shop front, and is only 15cm in width. The proposed front facade will be consistent with other shop facades that are sited to heritage items, or within a heritage conservation areas. In this instance, the recommended condition to replace the black ceramic tiles with a 'recessive colour' and the removal of the graphic paneling to shall be deleted. An assessment of the proposed signage has been conducted in accordance with Section 3.6 and 3.11 of Chapter 3 of the State Environmental Planning Policy (SEPP) (Industry and Employment) 2021. No issues have been noted with the proposed signage, and all signage can be supported. In this instance, the recommended condition to reduce the alter the size of the awning size shall be deleted. <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 application was referred to the NSW Police, who are supportive of the application subject to conditions of consent.

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 (Industry and Employment) 2021

Section 3.6 and 3.11 of Chapter 3 require Council to determine consistency with the objectives stipulated under Subsection 3.1 (1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 5.

The objectives of this chapter 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 5 of Chapter 3, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The subject site is located within the B2 Local Centre zone. The proposed signage is permissible within this zone. The subject site is located on the pedestrianised area of The Corso (towards the Manly Beach end) - this area is characterised by retail/commercial premises (such as retail shops, cafes, bars and fast food restaurants) on the pedestrian (ground) level. In this instance, the proposed signed associated with the proposal is consistent and compatible with the existing and desired future character of the area.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There is no consistent theme for outdoor advertising along The Corso, or in the wider Manly Town Centre. Notwithstanding, the proposed signage is consistent with the colours and finishes of existing signage along The Corso.	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 subject site is not located within, nor is it classified as, an environmentally sensitive area, or rural landscape. The subject site is, however, part of a group listed heritage item, being Item I112- Group of 4	YES

	Commercial Buildings - 102-112 The Corso. The subject site is also located in C2 - Manly Town Centre Conservation Area, as well as being within the vicinity of a number of heritage items (Item I106 - Group of Commercial Buildings - All numbers The Corso; Item I110 - New Brighton Hotel - 69071 The Corso; and, Item I111 - Hotel Steyne - 75 The Corso). The proposal has been reviewed by Council's Heritage Officer who did not raise concern regarding the signage. As such, the proposed signage does not detract from the amenity or visual quality of nearby heritage areas, open space areas, waterways or residential areas.	
3. Views and vistas Does the proposal obscure or compromise important views?	The proposed signage does not obscure or compromise important views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage does not project beyond the existing building area. In this instance, the proposed signage does not dominate the skyline, nor will it reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not unreasonably obscure any other advertisements.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed scale, proportion and form of the signage is appropriate for the streetscape and pedestrian setting of The Corso.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage has been designed in such a way that clearly indicates the use of the subject site, as well as contributing to the visual interest of commercial premises' along The Corso.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage is located only to the front (northern) facade of the subject site, which provides visual clarity of the use of the premises for pedestrians. Notwithstanding the exceedance to the number of signs a premises is permitted to have, the proposed signage does not create visual clutter.	YES
Does the proposal screen unsightliness?	The proposed signage does not create unsightliness as it is sited to key points of the front facade that is consistent	YES

	with signage to adjoining commercial and retail premises.	
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage does not extend beyond, or below, the building to which it shall be affixed.	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 proposed signage will be compatible with the scale, proportion and other characteristics of the existing building as the signage is located at key points of the front facade.	YES
Does the proposal respect important features of the site or building, or both?	The proposed signage will not detract from any important features of the subject site or building.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The location of the proposed signage has been done in a way to ensure pedestrian access to the premises is not obstructed, to allow for an acceptable level of advertising exposure, while creating visual interest in the building that does not detract from adjoining and nearby retail and commercial premises.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage will not require safety devices, platforms or external lighting devices. Any proposed signage which is to be illuminated will be done so internally.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The proposed 'Top Hamper Sign' indicated to be illuminated. This sign sits affixed to the external northern wall of the building, and the illumination of such sign will not create an unacceptable glare, nor will it affect safety for pedestrians, vehicles or aircrafts, or detract from the amenity of any residence or other form of accommodation within the vicinity of the subject site.	YES
Can the intensity of the illumination be adjusted, if necessary?	A condition has been recommended to limit the hours of illumination to the proposed illuminated signage to occur only during the operating hours of the premises.	YES
Is the illumination subject to a curfew?	As detailed above.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	As detailed above in 7. Illumination, the proposed signage will not reduce the safety of any public road, the pedestrians or bicyclists.	YES
Would the proposal reduce the safety for	As detailed above.	YES

pedestrians, particularly children, by obscuring sightlines from public areas?		
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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 this chapter and its underlying objectives.

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 unless the consent authority has considered whether the proposed development is likely to cause impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) 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 coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headland platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland 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 development will not adversely impact upon the criteria of this Clause. Council, as the consent authority, is satisfied the proposed development (including the proposed signage) will not have an adverse impact on the above-detailed criteria.

- 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:

The proposed development will not adversely impact upon the criteria of this Clause. Council,

as the consent authority, is satisfied the proposed development (including the proposed signage) can achieve the above-detailed criteria.

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 platform;
 - ii) members of the public, including persons with a disability;
 - iii) overshadowing, wind funnelling and the loss of views from public places to the foreshore;
 - iv) the visual amenity and scenic qualities of the coast, including coastal headlands;
 - v) 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 adverse impact;
 - ii) 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 the impact; and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and appearance of the proposed development.

Comment:

The proposed development will not adversely impact upon the criteria of this Clause. Council, as the consent authority, has considered and is satisfied that the proposed development complies with the above-detailed criteria.

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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 development will not increase the risk of coastal hazards.

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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.

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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 commercial, residential and retail 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 commercial, residential and retail 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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10.0m	3.96m	N/A	Yes
Floor Space Ratio	FSR: 2.5:1	FSR: 0.76:1 (or 59.6m ² just for commercial space)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.8 Conversion of fire alarms	Yes
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
6.13 Design excellence	Yes
6.16 Gross floor area in Zone B2	Yes
Schedule 5 Environmental heritage	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 82.2m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	East: 6.5m (based on gradient 0)	3.6m	N/A	Yes

	West: 6.5m (based on gradient 0)	3.6m	N/A	Yes
4.2.3 Setback Controls in LEP Zone B1 and B2	0m	0m	N/A	Yes
4.4.3 Signage	Max. 2 signs per frontage	Front facade (north): 3	N/A	No
4.4.3 Signage Top Hamper Sign	Must not extend more than 0.2m beyond any building alignment	Does not extend	N/A	Yes
	Must not extend below the level of the head of the doorway or window above which it is attached	Does not extend	N/A	Yes
	Must not be more than 3.7m above ground	2.58m	N/A	Yes
4.4.3 Signage Awning Fascia Sign	Must not extend more than 300mm from awning	0mm	N/A	Yes
	Must not project above or below the fascia or return end of the awning	Does not project	N/A	Yes
	Must not extend or project beyond a point of 0.6m within the vertical projection of the kerb line	N/A	N/A	N/A
4.4.3.3 Under-awning signs	1 per site	1	N/A	Yes
	Min. 3.0m from any other under awning sign	>3.0m	N/A	Yes
	Min. 2.6m above ground	2.45m	5.7%	No
	Max. 2.5m length	2.0m	N/A	Yes
	Max. 400mm width	200mm	N/A	Yes
	Max. 500mm depth	460mm	N/A	Yes
	90 degrees from building face	90 degrees	N/A	Yes
	Secured by post(s) no more than 50mm diameter	50mm	N/A	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	Min. 3.5m above ground	3.26m	6.85%	No
Schedule 3 Parking and Access	1 parking space every 40sqm of gross floor area of service area (service area is defined as areas that comprise the area(s) generally accessible to the public/patrons i.e. tables and chairs seating around bar areas, circulation/waiting areas and public amenities but excludes kitchens, store rooms and other	Nil. (Service area = 4.7m ²)	100%	No (further discussion within report)

areas generally for staff only).

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
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.6 Energy efficiency/conservation requirements for non-residential developments	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	No	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.3 Security Shutters	Yes	Yes
4.2.5.4 Car Parking and Access	No	Yes
4.2.5.6 Late Night Venues	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.3 Signage	No	Yes
4.4.4 Awnings	Yes	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes
Schedule 2 - Townscape Principles	Yes	Yes

Detailed Assessment

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

4.2.4.1 Car Parking

An exception may be permitted to the parking rate/requirements in the following circumstances:

- (i) where it can be demonstrated that particular activities in mixed use developments have car parking demands which peak at different times;
- (ii) where visitors are likely to use more than one facility per trip;
- (iii) considering available car parking in the surrounding area, except in relation to Manly Town Centre where more articular exceptions are provided at paragraph 4.2.5.4 of this plan; or
- (iv) where it is satisfied that reduced number of parking spaces will facilitate conservation of an item of the environmental heritage in accordance with LEP clause 5(10).

The proposed development retains the commercial/retail premises on the ground floor of the existing building.

Due to the location of the subject site, there is no ability for on-site parking to meet the parking rate required under Schedule 3 Parking and Access, which is 1 parking space every 40.0m² of gross floor area of service area. By the definition of 'Service Area' (as defined in the Manly LEP 2013, and within the Built Form Control table of this report), the proposed service area of the space is 4.7m². In this instance, the small service area does not require the provision of 1 parking space. There is, however, ample street parking along North and South Steyne, as well as throughout Manly Town Centre. A large parking facility is located on Whistler Street, Manly.

The location of the subject site, that is being along The Corso and within proximity to the iconic Manly Beach, visitors to the premises are also likely to use more than one facility within the Manly Town Centre and surrounds.

In this instance, a merit consideration is conducted below.

Merit Consideration

Objective 1) To ensure there is adequate provisions for car parking access and loading in future development and redevelopment in all business zones.

Objective 2) To minimise conflicts between pedestrian and vehicular movement systems within the business areas.

Comment:

Notwithstanding the numerical non-compliance to the parking requirement, the proposed use of the subject site is unlikely to adversely or unreasonably impact upon surrounding commercial/retail

premises along The Corso and within the Manly Town Centre and surrounds. As detailed above, the subject site is located within proximity to ample street parking, as well as the Whistler Street car park. Additionally, Manly is well serviced by public transport. It shall be noted that the previous tenancy, being Vodafone, did not have any off-street parking.

In this instance, the lack of on-site parking is considered acceptable. The variation can be supported on merit.

4.2.5.3 Security Shutters

The proposed development does not include security shutters to the front (northern) elevation of the existing building.

4.2.5.4 Car Parking and Access

The proposed development, which comprises change of use, internal fit out and new signage, will technically result in a numerical non-compliance in relation to vehicular parking. This non-compliance is addressed, in detail, elsewhere in this report, under section Clause 4.2.4 of the MDCP 2013.

4.4.3 Signage

The proposed development includes the installation of three (3) signs along the front (northern) facade of the building (being one awning sign, one under-awning sign and one top hamper sign). The maximum requirement is two (2) signs. This presents a variation of 50%. The proposed under awning sign is 2.45m above ground, where the requirement is a minimum of 2.6m. This presents a variation of 5.7%.

Objective 1) To ensure that advertising does not detract from the scenic beauty and amenity of the Municipality; harmonises with its surroundings and the buildings to which they are attached.

Comment:

The proposed signage is consistent with the design and style of signage to adjoining and nearby retail and commercial premises. Thus, demonstrating that the signage is commensurate to existing development along The Corso, and positively contributes to the visual quality of the area. The proposed signage shall be an improvement to the existing front facade of the building (which is currently boarded up with no signage).

Objective 2) To minimise the visual impact by encouraging few more effective signs that may otherwise degrade the existing and likely future quality of residential environments or result in excessive, unnecessary signage, visual clutter and confused cause by proliferation of signs in local and neighbourhood centres.

Comment:

The subject site is located within B2 Local Centre zone, not a residential area. The purpose of the proposed signage is to indicate and assist with way-finding by identifying the updated use of the space (now proposed as Oporto). The proposed signage allows pedestrians, passing motorists and bicyclists to clearly see and find the premises. The three (3) signs are commensurate with signage of adjoining retail and commercial premises. As such, the proposed signage will not result in an excessive or unnecessary signage that produces visual clutter, nor will it cause confusion for those viewing signage along The Corso.

Objective 3) To permit building and business identification signs which communicate the facilities (including tourist facilities), amenities, goods and services in local and neighbourhood centres which do not interfere with the streetscape or amenity of residents.

Comment:

The proposed signage clearly indicates the new use of the premises to be 'Oporto', which does not detract from, nor does it interfere, with the streetscape of The Corso.

Objective 4) Signs should enhance the distinctive urban character and scenic amenity of the Municipality and contribute to the atmosphere of the streets in local and neighbourhood centres and should be designed in sympathy with both the building to which it is attached and any adjoining buildings, taking into account the architectural styles and finishes of buildings in local and neighbourhood centres.

Comment:

As detailed above, and elsewhere in this report, the proposed signage will be commensurate with other signage to adjoining and nearby retail and commercial premises along The Corso. As such, the proposed signage enhances and contributes to the visual quality of The Corso.

Objective 5) To prevent signage from impacting on the presentation of the heritage item or area to the general public on heritage items and conservation areas.

Comment:

Council's Heritage Officer has reviewed the proposed development, and did not raise concern regarding the signage element of the proposal. As such, the proposed signage does not unreasonably impact upon the presentation of the heritage item, noting that the first floor level residential portion of the building will remain and the signage will not impede upon this element of the building.

Objective 6) To ensure all signage is of high standards of graphic and textural content.

Comment:

The proposed signage is of a high quality design that clearly indicates the use of the commercial premises.

Objective 7) To encourage co-ordinated advertising in the Industrial Zone by the use of appropriately sized street numbers and complex names, and the use of directory boards to identify multiple unit complexes, so as to reduce adverse impact on the streetscape and confusion to traffic.

Comment:

The subject site is located within the B2 Local Centre zone, therefore this Objective does not apply.

Notwithstanding the exceedance of the maximum allowable number of signs to a premises, the proposed development meets the relevant underlying objectives, as detailed in the above merit assessment. In this instance, the proposed signage can be supported on its merits.

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 consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$2,586 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$258,550.

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 Development Consent to DA2022/0462 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:

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
P101 - Layout Plan (Rev I)	9/08/2022	Craveable Brands
P103 - Reflected Ceiling Plan (Rev F)	21/06/2022	Craveable Brands
P104 - Reflected Ceiling Plan - Finishes (Rev B)	21/06/2022	Craveable Brands
E102 - Internal Elevations & Sections (Rev C) (Counter and Shop Exit)	21/06/2022	Craveable Brands
E104 - Internal Elevations & Sections (Rev C) (Grill and Fry Line and Assembly Line)	21/06/2022	Craveable Brands
E100 - Existing and Proposed tenancy section (Rev B)	9/08/2022	Craveable Brands
E101 - Shopfront Elevation and details (Rev D)	21/06/2022	Craveable Brands
S101 - External Signage Overview (Rev C)	21/06/2022	Craveable Brands
S102 - Internal Signage Overview (Rev A)	29/3/2022	Craveable Brands
S103 - Internal Signage Overview (Rev A)	21/06/2022	Craveable Brands
MGT1000 (Rev A-1) - Grease Trap Detail	22/05/2013	Halgan Pty Ltd
MECH101(Rev 1) - Cavalier Legend	Not dated	Cavalier Ventilation
MECH102 (Rev 1) - Plan View	Not dated	Cavalier Ventilation
MECH103 - Elevation	Not dated	Cavalier Ventilation
CONFIG 4.6 (Rev 1) - Extraction Hood Assembly	16/06/2022	Cavalier Ventilation
CONFIG 4.6 (Rev 1) - Extraction Hood Assembly	16/06/2022	Cavalier Ventilation
Drawing for Fan Model PUD504DD	Not dated	Fantech Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Technical Data - Fan Model PUD504DD	Not dated	Fantech Pty Ltd
Statement of Heritage Impact (Job No. 9456)	March 2022	Heritage 21 Cultural Built Heritage in the 21st Century
BCA Capability Statement - Oporto Manly	Not dated	Certis (NSW) Pty Ltd

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	29/3/2022	Genevieve Henry

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.

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.

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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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 2018
- (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.

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$2,585.50 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2022. The monetary contribution is based on a development cost of \$258,550.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2022 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

5. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required 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, and 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

6. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

7. **Access and Egress**

Prior to the issue of the Construction Certificate details demonstrating compliance with Part D of the Building Code of Australia – 'Access & Egress' with particular reference to the front entry concertina doors is to be provided to the Certifying Authority..

Reason: To ensure adequate provision is made for Access & Egress for building occupant health and Safety

8. **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 premises complies with the design construction and fit-out requirements.

9. Mechanical ventilation plans

Where Mechanical ventilation is required to be installed in the food premises detailed plans must be submitted to and approved by the Certifying Authority that demonstrate compliance with the following:

- Australian Standard (AS) 1668.2 “The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings”; and
- Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

These plans are to be prepared by a suitably qualified person.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

10. 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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

12. Demolition Works - Asbestos

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL

IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

13. 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

14. 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.

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

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifying Authority by a suitably qualified person demonstrating 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.

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

16. Mechanical Ventilation certification

Where Mechanical ventilation is required to be installed in the food premises it must comply with the following:

- Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings"; and
- Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

Certification is to be provided to the Principal Certifying Authority by a suitably qualified person that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

17. **Waste Oil Containment**

Prior to the issuing of any occupation certificate, evidence is to be submitted to the Principal Certifying Authority demonstrating that the waste oil tank has been provided with bunding that has a capacity of at least 110% the volume of the waste oil tank and that the tank and bunding are covered.

Reason: To prevent pollution to the environment and stormwater.

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

18. **NSW Police Force - Crime Prevention**

The following conditions have been provided by the NSW Police Force and shall be complied with at all times:

SURVEILLANCE

- As the proposed use may be exposed to thefts, steal from persons, malicious damage and assault offences, a closed-circuit television system (CCTV) which complies with the Australian Standard – Closed Circuit Television System AS:4806:2006 shall be implemented to receive, hold or process data for the identification of people involved in anti-social or criminal behaviour. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation.
- The CCTV system shall consist of surveillance cameras strategically located in and around the new structure to provide maximum surveillance.
- Digital technology shall be used to receive, store and process data. Recording equipment should be secured away from public access to restrict tampering with the equipment and data. The equipment needs to be checked and maintained on a regular basis.
- It is advised that a lighting technician be consulted to ensure that all lighting supports the CCTV images. Signage shall be displayed in and around the development to inform persons that CCTV is in use. Ensure that staff be trained in the operation of the system and that the system is checked on a regular basis to ensure that it is working properly. It is recommended that you liaise with police regarding the positioning of the cameras prior to being stalled.
- As the venue intends to trade at night, consideration shall also be given to incorporating a duress alarm facility to enable staff to activate the alarm in the event of an emergency such as robberies or assaults on staff.
- It is recommended that if the business is large enough, having more than one staff member on duty at any time is a deterrent. A supervisor should be positioned so that they have a clear view of the cash register area and attendant and so that they can be seen by any potential robber.
- It is advised that the swing gate at the front counter is locked during business hours to prevent any persons gaining access behind the counter and gain access to the till.
- It is advised that the back door to the shop is always locked. An open back door is an invitation to having goods and money stolen from the backroom/storeroom and offers a back entrance and exit for a hold-up. It is recommended to make sure that all other potential access points are secure.

- Cash handling is extremely important with any business, particularly one that is trading late at night. Ensure that there are strict cash handling procedures in place for staff and these are always followed. Ensure that cash is counted out of the view of the public and the premise is locked and secured when doing so. Businesses that do not have strict cash handling procedures in place put themselves at risk of serious offences e.g., armed hold ups, robberies, stealing etc.
- It is recommended that large sums of cash are NOT left in the venue overnight. If a safe is purchased, ensure it is of good quality. It is recommended that it be anchored to the ground, out of view and reach of the public.
- Ensure the counter is always kept clear of heavy or sharp objects, knives or glass objects that could be used as weapons.

LIGHTING

- Lighting (lux) levels for this development must be commensurate with the crime risks identified in this evaluation. The emphasis is to be on installing low glare/high uniformity lighting levels in line with Australian Standard AS: 1158.
- Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on surveillance screens).
- The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within/around the development needs to be checked and maintained on a regular basis.

ACCESS CONTROL

- It is advised that clear signage be erected in and around the development to ensure that all persons do not access restricted areas. This will minimise excuse making opportunities for offenders when trying to gain access to restricted areas. Such as food preparation areas which store potential weapons e.g., knives should have restricted access. Ensure that the signage indicates staff only.
- Ensure that the rear and front door access have lock sets that are designed to the Building Code of Australia.
- Ensure that there is no more than 15% coverage of material on the front door, windows or in the venue as this will restrict surveillance to the external areas.

TERRITORIAL RE-ENFORCEMENT

- Signage shall be erected strategically around the external areas of the building to warn persons of any security measures in place.
- It is advised that all emergency contact phone numbers of local emergency services and stations be pre-programmed into any phones/mobile phones used by staff.
- Signage needs to be provided to assist occupants to identify fire suppression equipment, e.g., extinguishers, fire blankets etc.

SPACE/ACTIVITY MANAGEMENT

- Ensure that any damage, graffiti, glass etching etc that may occur to the premises is cleaned/ repaired as soon as practicable. Rapid removal is best practised when completed within 24 hours of the graffiti being done. Ensure that there is some spare paint stored securely within a room in the building for any removal that may need to be done.

OTHER

- It is recommended a plan of management which contains a robbery prevention plan, written cash handling procedures and staff training in relation to dealing with intoxicated, aggressive, or violent customers. Information for this can be obtained through the Work

Cover website. Guidelines can be provided for cash handling and robbery prevention if required.

Reason: Public safety.

19. **Hours of operation**

The business may operate between;

- 7am-10pm on Monday to Saturday and,
- 8am-10pm on Sunday and public holidays

Reason: To maintain acoustic amenity during the night period defined in the noise policy for industry.

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

Signed



Megan Surtees, Planner

The application is determined on 25/08/2022, under the delegated authority of:



Adam Richardson, Manager Development Assessments