



northern
beaches
council

Delegated Authority Report

2017/403470

DA #	154/2016
Site Address	82-88 The Corso Manly; Lot 1 DP 34016
Proposal	S96(1A) modification to modify approved change of use to a café and tree removal – Part 3
Officer	Ben Price

SUMMARY:

Application Lodged:

5 September 2017

Applicant:

Baxter and Jacobson Architects

Owner:

Athas Holdings Pty Ltd C and I Koutsos

Estimated Cost:

\$50,000

Zoning:

MLEP, 2013 – B2 Local Centre

Heritage:

Town Centre Conservation Area and I106 Group of commercial buildings

NSW LEC:

Not applicable

Notification:

12 September 2017 – 28 September 2017

Submissions received:

Five (5)

Site Inspected:

19 October 2017

LEP (4.6) Variations proposed:

Nil

DCP Variations proposed:

4.4.3 Signage

Recommendation:

Approval

Subject Property and surrounding area



The subject property is commonly known as 82-88 The Corso and legally known as Lots 1-4 in DP 34016. The site is located on the southern side of The Corso. The property is rectangular in shape and has a frontage of 20.5m to The Corso and an average depth of 41.5m and an overall site area of 858.3m². The property currently contains a two-storey retail premises. The property is relatively level.

The adjacent property to the east, at 90 The Corso, is developed with a two-storey retail premises. The adjacent property to the west, at 80 The Corso, is developed with two-storey retail and commercial premises. Development in this area of the Corso consists of a mix of commercial and retail premises and a pedestrian walkway (The Corso).

Property Burdens and Constraints

There are no burdens or constraints that would preclude the proposed development.

Site History/Background

The original development application 154/2016 included:

- Change of use from a loading dock and garbage storage to a café with seating in the existing courtyard;
- Fitout;
- New garbage bin enclosures;
- Changes to windows;
- New sliding door; and
- Tree removal.

The application was approved by the Northern Beaches Independent Assessment Panel on the 18 August 2016 subject to the recommended conditions of consent. In particular the following condition was included:

ANS01

The Norfolk Island Pine located in the rear courtyard is to be retained. Plans demonstrating compliance with this condition shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To preserve the existing significant vegetation on the subject site.

Development application 154/2016 was subject to a S96(1A) application to modify the development which included the following modifications:

- Increasing the area of the café from 22m² to 29m² with an equivalent reduction of the retail tenancy.
- Changes to the internal layout of the café and inclusion of a “dough preparation” room.
- Changes to the configuration of the servery in the boundary wall between 84 and 86.
- Relocation of the garbage room to the existing garbage area to the rear of 88 including an internal wall to divide retail and café garbage.
- Addition of a unisex staff toilet for the café in the rear courtyard of 88
- Changes to the retail storage area to the rear of 86 including extending the skillion roof over the storage area and passage.
- Relocation of the egress door to the rear of 88 and reconfiguration of the Rialto lane boundary wall and sliding gates.
- Addition of a grease trap within the courtyard
- Deletion of condition 8:

“8 (2NL04)

Prior to the issue of the Construction Certificate, a Noise and Vibration Management Plan is to be prepared by a suitably qualified person addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to Council or the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliance with the relevant legislation and Australian Standards. The report

that itemises equipment to be used for excavation works. The Plan shall address, but not limited to, the following matters:

- *Identification of activities carried out and associated noise sources*
- *Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment*
- *Determination of appropriate noise and vibration objectives for each identified sensitive receiver Noise and vibration monitoring, reporting and response procedures 3 of 28*
- *Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles*
- *Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction*
- *Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency*
- *Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration*
- *Contingency plans to be implemented in the event of non-compliances and/or noise complaints. A register should be kept of complaints received, and the action taken to remediate the issue.*

Reason: To protect acoustic amenity of surrounding properties and the public."

This application was approved by the NBIAP on the 15 June 2017 subject to the retention of condition 8(2NL04).

Description of proposed development

The proposed modification includes:

- the removal of the tree located in the rear courtyard and deletion of the following condition:

ANS01

The Norfolk Island Pine located in the rear courtyard is to be retained. Plans demonstrating compliance with this condition shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To preserve the existing significant vegetation on the subject site.

- minor changes to plan configuration
- modifying courtyard block wall detail
- adding retractable awning over courtyard
- large door to Rialto Lane changes from sliding door back to roller shutter
- details of signage on outside wall facing Rialto Lane

Internal Referrals

Engineering Comments

Council's Engineer offered no objections to the proposal.

Building Comments

Council's Building Surveyor offered no objections to the proposal.

Landscaping Comments

Council's Landscape Officer has commented on the proposal as follows:

"No Objection to removal of the referred Norfolk Island Pine. The species in fact is a Cook Pine (Araucaria columnaris). Under the Northern Beaches Council Tree Management Policy 'Removing and Pruning Trees on Private Land', removal is permitted without Council Consent, as worded: The removal of a tree, where the base of the trunk of the tree at ground level, is located within two metres of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building)."

Planning Comments

The Manly DCP 2013 was amended on the 28 August 2017 to specify Council's consent is not required for the removal of a tree, where the base of the trunk of the tree at ground level, is located within 2m of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building).

Heritage Comments

Council's Heritage Officer offered no objections to the proposal.

Environmental Health

Council's Environmental Health Officer offered no objections to the proposal.

Planning Comments

Environmental Planning & Assessment Act 1979 – Section 79(C)(1)

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) **the provisions of:**
 - (i) **any environmental planning instrument, and**

State Environmental Planning Policy No. 64 (Advertising and Signage)

An assessment of the proposed development in response to the criteria at Schedule 1 of SEPP 64 is as follows:

Criteria	Response
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 proposal is consistent with the existing and desired character of the area.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There is no particular theme for outdoor advertising in the vicinity of the proposed development. As such the proposal will not result in the disruption of any themes within the locality.
Special areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal does not detract from the amenity or visual quality of the heritage item or heritage conservation area.

Views and vistas	
Does the proposal obscure or compromise important views?	The proposed signage will not obscure important views.
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage will not dominate the skyline or reduce the quality of vistas.
Does the proposal respect the viewing rights of other advertisers?	The proposed signage will not impact on any nearby advertising.
Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signage is of an appropriate scale and form for the streetscape and setting.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal contributes to the visual interest of the streetscape and setting.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	There is no existing advertising on the site.
Does the proposal screen unsightliness?	No
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No
Does the proposal require ongoing vegetation management?	No
Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposal is consistent with the character of the area.
Does the proposal respect important features of the site or building, or both?	The proposal will not obscure or detract from any important features of the building.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal has adequate regard to the site surrounds and the building.
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?	There are no devices, platforms or logos associated with the signage.
Illumination	
Would illumination result in unacceptable glare?	Not applicable.
Would illumination affect safety for pedestrians, vehicles or aircraft?	Not applicable.
Would illumination detract from the amenity of any residence or other form of accommodation?	Not applicable.
Can the intensity of the illumination be adjusted, if necessary?	Not applicable.
Is the illumination subject to a curfew?	Not applicable.

Safety	
Would the proposal reduce the safety for any public road?	The proposal is adequately designed to ensure no unreasonable safety impacts to the laneway.
Would the proposal reduce the safety for pedestrians or bicyclists?	The proposal will not reduce the safety for pedestrians and bicyclists.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal will not obscure sightlines.

The proposed development is consistent with State Environmental Planning Policy No. 64 (Advertising and Signage).

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005:

The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

Manly Local Environmental Plan 2013

The subject site is located in Zone B2 Local Centre under the Manly LEP 2013. The proposed development is considered permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below.

Zone B2 Local Centre

Objectives of zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

The proposal will retain the existing commercial use that currently serves the needs of people who live in, work in and visit the local area.

- To encourage employment opportunities in accessible locations.*

The development provides employment opportunities in an accessible location.

- To maximise public transport patronage and encourage walking and cycling.*

The proposal is in an accessible location with good access to public transport. The proposed modifications will not alter the areas public transport patronage.

Part 4 Principal development standards

There are no relevant provisions of Part 4 of the Manly LEP 2013 to consider as part of the assessment:

Part 5 Miscellaneous Provisions

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

5.	Miscellaneous Provisions	Applies	Complies	Comment
5.10	Heritage Conservation	Yes	Yes	The proposal complies with this clause.

Part 6 Local Provisions

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

6.	Local Provisions	Applies	Complies	Comments
6.2	Earthworks	Yes	Yes	The proposal complies with this clause.
6.9	Foreshore Scenic Protection Area	Yes	Yes	The proposal complies with this clause.
6.16	Gross floor area in Zone B2	Yes	Yes	No proposed change to gross floor area. The proposal complies with this clause.

79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no applicable Draft Planning Instrument.

79C(1)(a)(iii) - any development control plan, and

Manly Development Control Plan 2013:

The following is an assessment of the proposal's compliance with the standards of the Development Control Plan. Where a variation is proposed to the standards, an assessment is included in the Planning Comments.

Part 3 General Principles of Development

Issues	Consistent with principle	Inconsistent with principle
Townscape	✓	
Heritage – In Vicinity	✓	
Sunlight Access and Overshadowing	✓	
Privacy and Security	✓	
Maintenance of Views	✓	
Sustainability	✓	
Accessibility	✓	
Stormwater management	✓	
Waste Management	✓	
Mechanical Plant Equipment	✓	

Comment:

3.1 Streetscapes and Townscapes

Townscape

Objective 4) To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape.

The proposal does not require the provision of additional parking.

Objective 5) To assist in maintaining the character of the locality.

The proposed modifications will maintain the existing character of the laneway.

Objective 6) To recognise the importance of pedestrian movements and townscape design in the strengthening and promotion of retail centres.

The proposal will not result in any unreasonable impacts on pedestrian movements within the locality.

Objective 7) To minimise negative visual impact, in particular at the arterial road entry points into the Council area and the former Manly Council area, so as to promote townscape qualities.

The proposed modifications are of an appropriate form and design to ensure no unreasonable negative visual impact.

3.3.1 Landscaping Design

Objective 1) To encourage appropriate tree planting and maintenance of existing vegetation.

The Manly DCP 2013 was amended on the 28 August 2017 to not require development consent for the removal of a tree, where the base of the trunk of the tree at ground level, is located within 2m of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building). The proposed tree removal has been identified as exempt from development consent by the Manly DCP 2013. The proposed modification has also been supported by an arborist report and Councils Landscape Officer. The proposal is consistent with Council policies and there is no requirement by Council policies or Landscape Officer to provide further tree planting on the site.

Objective 2) To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.

The arborist report found that the tree is growing in too small a space and if the tree is not removed damage to structures shall exacerbate and new structures cannot be installed without severely damaging the root systems. Furthermore the Manly DCP 2013, as amended on the 28 August 2017, specifies that Councils consent is not required for the removal of a tree, where the base of the trunk of the tree at ground level, is located within 2m of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building). For the above reasons the removal of the tree is considered to be satisfactory. The proposed tree is not a significant species and does not form part of a remnant population of native flora. The tree removal will not result in any unreasonable impacts within the locality.

3.3.2 Preservation of Trees and Bushland Vegetation

Objective 1) To protect and enhance the urban forest of the Northern Beaches.

The proposed tree removal is consistent with the Manly DCP 2013 and has been supported by an arborist report and Councils Landscape Officer. The tree is located in a rear laneway of the Local Centre and its removal will not result in any unreasonable impacts on the urban forest of the Northern Beaches.

Objective 2) To effectively manage the risks that come with an established urban forest through professional management of trees.

The existing tree is resulting in structural damage to the nearby buildings. The proposed tree removal has been supported by an arborist report, engineer's Limited Condition Report and Council's Landscape Officer. The tree removal is appropriate in this circumstance to manage the risks associated with its continued growth.

Objective 3) To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.

The proposal will not result in any unreasonable soil erosion or an unreasonable impact on air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise.

Objective 4) To protect and enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.

The tree removal is not likely to result in a significant reduction of habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.

Objective 5) To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long term.

The proposed tree removal has been identified as exempt from development consent by the Manly DCP 2013, as amended on the 28 August 2017. The proposed modification has also been supported by an arborist report and Councils Landscape Officer. The proposal is consistent with the Manly DCP 2013 and there is no requirement for the provision of further tree planting on the site by Councils policies or Landscape Officer. The tree is located in a rear laneway of the local centre and its removal will not result in any unreasonable impacts on the plant or animal communities in the locality.

Objective 6) To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.

The arborist report found that the tree is growing in too small a space and if the tree is not removed damage to structures shall exacerbate and new structures cannot be installed without severely damaging the root systems. Furthermore the Manly DCP 2013, as amended on the 28 August 2017, specifies that Councils consent is not required for the removal of a tree, where the base of the trunk of the tree at ground level, is located within 2m of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building). For the above reasons the removal of the tree is considered to be reasonable. The tree is located in a rear laneway and is not visually prominent from high pedestrian areas. The proposed tree removal will not result in any unreasonable impacts on the scenic value of the locality.

Part 4 - Development Controls

The provisions of the Manly DCP 2013 have been referred to as part of the assessment:

Site Area:	858.3m ²	Permitted/ Required	Proposed	Complies Yes/No
Signage - Number of signs -Size of signs		2 signs	1 wall sign and 1 Projecting Wall sign (horizontal)	See comments below regarding signage design.

4.4.3.3 Controls for Particular Development Types

h) Flush wall sign

- i) where illuminated, must be at least 2.6m above the ground;*
- ii) must not extend laterally beyond the wall of the building to which it is attached;*
- iii) must not project above the top of the wall to which it is attached;*
- iv) unless the council otherwise approves, where of a skeleton letter type, must not have an advertising area greater than 4.6 times the distance (to the nearest whole metre) between the lowest part of the sign and the ground; and*
- v) unless the council otherwise approves, where not of a skeleton letter type, must not have an advertising area, in square metres, greater than 3 times the distance (to the nearest whole metre) between the lowest part of the sign and the ground.*

Comments: The proposed flush wall sign is consistent with this clause. In particular, it is not illuminated, does not extend laterally or vertically beyond the wall to which it is attached and has an advertising area of 3.2m² which is less than the maximum 4.8m² permitted by the Manly DCP 2013.

m) Projecting wall sign (horizontal)

Where the height of a projecting wall sign is less than its width, the projecting wall sign must:

- i) be erected at right-angles to the wall of the building to which it is attached;*
- ii) be at least 2.6m above the ground;*
- iii) have its maximum height determined in accordance with the following scale:*

Lowest part of sign above ground level:

- 2.6m and not more than 3.7m -
- Exceeding 3.7m and not more than 6.1m -
- Exceeding 6.1m -

Maximum height:

- 0.5m
- 1.0m
- 1.2m

iv) not project beyond a point within 0.6m of the vertical projection of the kerb alignment.

Comments: The proposal is at a right angle to the wall and is 4.5m above the street level. The proposal is 600mm in height and is compliant with the maximum height control in part iii). The proposal does not comply with part iv). An assessment with regard to the objectives of the control has been conducted below.

4.4.3 Signage

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.

The proposed signage is within a laneway and will not result in any unreasonable impacts on the scenic beauty and amenity of the municipality. The proposal is appropriately designed to harmonise with the surroundings and the building to which it is attached.

Objective 2) To minimise the visual impact by encouraging fewer 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 confusion caused by a proliferation of signs in local and neighbourhood centres.

The proposal includes only two signs and will not result in excessive signage.

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.

The proposed signage does not interfere with the streetscape or amenity of the residents.

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.

The proposed signage is of an appropriate form and design to ensure no unreasonable impacts on the urban character and scenic amenity of the locality.

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.

The proposed signage is to the rear of the heritage item and will not result in any unreasonable impacts on the presentation of the heritage item and conservation area. Furthermore the proposal was assessed by Councils heritage officer and was found to be satisfactory.

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

The proposal is of an adequate design to ensure it does not result in any unreasonable impacts in the locality.

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.

Not applicable.

Part 5 - Special Character Areas and Sites

Special Character Areas and Sites	Applicable	Not Applicable
Conservation Area	✓	
Foreshore Scenic Protection Area	✓	
Threatened Species and Critical Habitat		✓
Flood Control Lots		✓
Riparian Land and Watercourses		✓
Road Widening		✓
Gurney Crescent and Clavering Road, Seaforth		✓

Comment:

5.1 Manly Town Centre Heritage Conservation Area and The Corso

The proposal has been assessed by Councils Heritage Officer and was found to be satisfactory. The proposal is consistent with this clause.

5.4.1 Foreshore Scenic Protection Area

The proposed tree removal has been found to be satisfactory. The proposal is consistent with the additional matters for consideration within clause 5.4.1 of the Manly DCP 2013.

79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
No applicable planning agreement.

79C(1)(a) (iv) - the regulations

The proposal and this recommendation is consistent with the applicable regulations.

79C(1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

There is no Coastal Zone Management Plan applicable for the Manly area.

79C(1) (b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposal will not result in any unreasonable impacts on the built or natural environment nor will it result in any unreasonable social or economic impacts in the locality.

79C(1) (c) - the suitability of the site for the development,

The proposal is suitable for the site.

79C(1) (d) - any submissions made in accordance with this Act or the regulations

The application was notified to nearby and adjoining property owners in accordance with Section 2.3 of Council's Development Control Plan 2013 with five (5) submissions received from the following objectors raising the following concerns:

Submission and Address	Main Issues raised in the submission	Comments on submission
1. P & P Berents The Peninsula Building Wentworth Street Manly	• Tree removal	• The existing tree is resulting in structural damage to the nearby buildings. The proposed tree removal has been supported by an arborist report, an engineer's Limited Condition Report and Council's Landscape
2. West J. The Peninsula Building Wentworth Street, Manly		
3. Young L. The Peninsula Building Wentworth Street Manly		

4. Fortescue L. The Peninsula Building Wentworth Street Manly		Officer. The Manly DCP 2013 was amended on the 28 August 2017 to not require development consent for the removal of a tree, where the base of the trunk of the tree at ground level, is located within 2m of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building). The proposed tree removal has been identified as exempt from development consent by the Manly DCP 2013. Furthermore the above assessment has found the tree removal to be appropriate in this circumstance.
5. Dawson B. The Peninsula Building Wentworth Street Manly	• Traffic • Noise impacts • Smell from cleaning waste traps.	• The change of use to a food and drink premises was approved on the 18 August 2016 and has subsequently been modified on the 15 June 2017. This proposed modification is for minor changes to the approved development. The existing conditions of consent restrict delivery and waste collection hours to the mornings and are not subject to change with this application. • This application will not result in any unreasonable impacts to acoustic privacy. • This application does not include any changes to waste traps.

79C(1) (e) - the public interest.

The proposal is consistent with the public interest.

S94 Contribution towards provision or improvement of amenities or services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- '(1) If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) the dedication of land free of cost, or*
 - (b) the payment of a monetary contribution, or both.*
- (2) A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

The proposal will not change the approved gross floor area. As such the existing condition of consent ANS04 requiring contributions remain applicable to the development. It is recommended the condition be amended to be consistent with the 2017/2018 contribution rate as indexed by the consumer price index.

Section 96 (1A) of the Environmental Planning and Assessment Act 1979

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.

With regard to the above it is considered that the proposed modifications to the original consent, will result in substantially the same development for which consent was originally granted and are of minimal environmental impact. The modifications requested were notified in accordance with Council's Manly DCP with five (5) submissions received. All matters relating to the proposed modifications in terms of impact on have been considered. On balance, the proposed modifications are considered to be satisfactory for approval, subject to conditions.

CONCLUSION:

The application has been assessed having regard to Section 79C and Section 96 of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 and is considered to be satisfactory for approval, subject to conditions.

This report is referred to the Manager of Development Assessment for determination in accordance with the delegations granted by the General Manager.

RECOMMENDATION

That pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 154/2016 for change of use from a loading dock and garbage storage to a café with seating in the existing courtyard, fitout, new garbage bin enclosures, changes to windows, new sliding door and tree removal – Part 3 at 82-88 The Corso Manly be **approved** subject to:

The following Condition No. ANS01 is to be deleted as per Section 96(1A) Application – Part 3

**ANS01
DELETED**

**ANS02
DELETED**

ANS03

Bins are not to be stored/presented kerbside for collection. A commercial contractor is to be engaged to provide a “pull out – put in” service. Waste and recycling bins must be permanently stored within the building and service doors must be kept closed at all times. All waste and recycling bins must be labelled with the business name, address and contact number.

Reason: To ensure adequate waste storage and removal practices are adhered to.

The following Condition No. ANS04 is to be amended as per Section 96(1A) Application – Part 3

ANS04

A contribution is to be paid for the provision, extension or augmentation of traffic and parking, environmental programs, streetscape and landscaping, community facilities and administration that will, or are likely to be, required as a consequence of development in the area.

Total contribution for this development for change of use from a loading dock and garbage storage to a café with seating in the existing courtyard, fitout, new garbage bin enclosures, changes to windows and new sliding door is currently \$8,556.69. The amount of the payment shall be in accordance with the Section 94 charges as at the date of the payment. The charges may vary at the time of payment in accordance with Council’s Section 94 Contributions plan to effect changes in land values, construction costs and the Consumer Price Index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with Council’s adopted Section 94 Contributions Plan effective July 2009;

The calculations for DA154/2016 part 3 are as follows:

**Additional Floor Area = 30.52m²
\$28,036.34 divided by 100 x 30.52m²
= \$8,556.69**

Total Section 94 Contribution applicable = \$8,556.69

Note: Section 94 Contribution fees are adjusted on the 1st July each year and are based on the March CPI figures.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

ANS05

The cooking appliances require an approved air handling system designed in accordance with AS1668.1 -The Use of Mechanical Ventilation and Air conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings, and must incorporate the following:

- (i) The discharge exhaust air must be directed in a way that will not create a nuisance to surrounding amenities.
- (ii) The cooking appliances must not burn any charcoal, wood or other solid fuel.
- (iii) Details of the proposed system must be submitted to and approved by Council's Health and Building Unit in writing prior to the issue of a Construction Certificate.

Reason: To ensure compliance with relevant standards.

ANS06

- a) Details of any proposed mechanical exhaust systems, detailing compliance with the relevant requirements of Clause F4.12 of the BCA and Australian Standard AS1668 Parts 1 & 2 (including exhaust air quantities and discharge location points) are to be submitted to Council or the Principal Certifying Authority for approval prior to the issue of a Construction Certificate.
- b) At the completion of the installation of the mechanical exhaust system, a certificate from the installer shall be submitted to Council or the Principal Certifying Authority indicating the following:-
 - i) inspection, testing and commissioning details,
 - ii) date of inspection testing and commissioning,
 - iii) the name and address of the individual who carried out the test, and
 - iv) a statement that the service has been designed, installed and is capable of operating to the above standard.
- c) In the event of Council receiving complaints resulting from the mechanical exhaust system, the owner/occupier shall at their own cost provide a report from a Air Quality Consultant specifying the proposed methods for the control of odour and other air impurities discharging from the premises.
- d) Any discharge to the atmosphere from the subject development shall not result in any odour or other air impurity being detected outside the boundaries of the property.
- e) Noise and vibration from the use of the mechanical exhaust and/or ventilation system shall not exceed the background noise level by more than 5dB (A) and shall not be audible in any premises of a neighbouring occupancy.
- f) Ensure that the ventilation provided to any car park is where necessary controlled by a carbon monoxide monitoring sensor or equivalent.

Reason: To ensure compliance with relevant standards.

ANS07

The storage of garbage containers, containers for recyclable material and compacters are to be located in an external area of the food premises or in a room specifically for that purpose.

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

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

ANS08

You must contact Sydney Water (Tel- 131110) to determine what trade waste provisions you are required to provide to your food premises. Should a grease trap be required by Sydney Water, it must be located in an area that is easily accessible for the removal of waste water and must not be installed in any kitchen, food preparation or food stage area. The design and location of the grease trap should also not impede on any commercial right of way or pedestrian access

Reason: To ensure waste water generated as part of the kitchen activities is adequately treated when required and that access is not impeded by the design and installation of the grease trap.

ANS09

The ongoing use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to air pollution. All works shall ensure air quality controls are in place and all activity is in accordance with the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Clean Air) Regulation 2002.

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

ANS10

The hours of operation of the premises must not exceed 7am-6pm Monday to Sunday without the prior approval of Council. No external activities such as cleaning, waste removal, table/chair put out and customer service are permitted before 7am Monday to Sunday.

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

The following Condition No. ANS11 (3MS01) is to be added as per Section 96(1A) Application – Part 3

ANS11 (3MS01)

Works in connection with this Section 96 modification are not to be commenced/carried out until a new Construction Certificate is issued.

Reason: The Environmental Planning and Assessment Act 1979 requires a new updated Construction Certificate to cover any or all approved Section 96 modifications involving changes in the design of the development.

GENERAL CONDITIONS

The following Condition No.1 is to be amended as per Section 96(1A) Application – Part 3:

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

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. DA154/2016:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA-00 Site & Location Plan	Issue A 2 June 2016	17 June 2016
DA-01 Ground Floor Plan	Issue A 2 June 2016	17 June 2016
DA-02 South Elevation	Issue A 2 June 2016	17 June 2016
DA-03 Section AA, BB, CC & DD	Issue A 2 June 2016	17 June 2016
DA-04 Signage	Issue A 2 June 2016	26 July 2016

Reference Documentation affixed with Council's stamp relating to Development Consent No. DA154/2016:

- Statement of Environmental Effects prepared by Baxter and Jacobson Architects Pty Ltd dated 10 June 2016 and received by Council on 14 June 2016
- Heritage Assessment prepared by Baxter & Jacobson Architects Pty Ltd dated December 2001 and received by Council 14 June 2016

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(1A) Application – Part 2:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
S96-00 Site and Location Plan	Issue B, dated 24 March 2017	24 March 2017
S96-02 South Elevation	Issue B, dated 24 March 2017	24 March 2017
S96-03 Section AA,BB,CC+DD	Issue C, dated 28 April 2017	28 April 2017
S96-01 Ground Floor Plan	Issue C, dated 28 April 2017	28 April 2017

Reference Documentation affixed with Council's stamp relating to this Section 96(1A) Application – Part 2:

- Statement of Environmental Effects prepared by Baxter and Jacobson Architects dated 23 March 2017 and submitted to Council on the 24 March 2017.

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(1A) Application – Part 3:

Plan No. / Title	Issue/ Revision & Date	Prepared By
S96-00 Site and Location Plan	Issue A, dated 1 September 2017	Baxter and Jacobson Architects
S96-01 Ground Floor Plan	Issue A, dated 1 September 2017	Baxter and Jacobson Architects
S96-03 Section AA, BB, CC and DD	Issue A, dated 1 September 2017	Baxter and Jacobson Architects
S96-02 South Elevation	Issue A, dated 1 September 2017	Baxter and Jacobson Architects
CD610 Signage Details	Revision 1, dated 31 August 2017	Assemble Design Studio

Reference Documentation relating to this Section 96(1A) Application – Part 3:

- Arborist Report prepared by Arbor Consultancy dated 16 July 2016.
- Limited Condition Report at 82-88 The Corso Manly, prepared by Northern Beaches Consulting Engineers P/L and dated 29 May 2017.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council.

1A (1AP04)

Alteration and demolition of the existing building is limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is not shown to be altered or demolished.

Reason: To ensure compliance with the approved development.

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

2 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

3 (2BS01)

Detailed plans and specifications must be provided prior to the issue of the Construction Certificate complying with the requirements of Australian Standard 4764-2004 (Design, Construction and Fit-out of a Food Premises) and Food Safety Standard 3.2.3 (Food Premises and Equipment).

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

4 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

5 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

6 (2FR02)

The person who benefits from this consent is to engage the services of an Accredited Certifier, Building Grade 1 or 2 (NSW or equivalent) to carry out a Building Code of Australia audit that is based upon inspections of the building in terms of the deemed-to-satisfy fire safety provisions.

The audit must specifically cover all clauses within Section C, D and E of the Building Code of Australia (as per the most recent amendments) nominating 'compliance', 'non-compliance' or 'not applicable' as appropriate. The audit (checklist) is to accompany the report.

The results of the audit are to be incorporated into a report and strategy to overcome the non-compliant provisions either by performance solution or adherence to deemed-to-satisfy provisions by satisfying the fire safety objectives of Sections C, D and E of the Building Code of Australia. The standard of satisfying the fire safety objectives of Sections C, D and E as contained within the Building Code of Australia is the specified standard for the purposes of Section 121P(1)(a) of the Act.

A schedule of existing (if applicable) and the proposed Essential Fire Safety Measures, including their standard of performance must be included in this strategy. The report and strategy must be submitted to Council for written approval prior to issue of any Construction Certificate.

Reason: To ensure an adequate level of fire safety is provided within the premises for the life safety of building occupants.

7 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

8 (2NL04)

Prior to the issue of the Construction Certificate, a Noise and Vibration Management Plan is to be prepared by a suitably qualified person addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to Council or the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliance with the relevant legislation and Australian Standards. The report that itemises equipment to be used for excavation works. The Plan shall address, but not limited to, the following matters:

- Identification of activities carried out and associated noise sources
- Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- Determination of appropriate noise and vibration objectives for each identified sensitive receiver
- Noise and vibration monitoring, reporting and response procedures
- Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles
- Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction
- Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration
- Contingency plans to be implemented in the event of non-compliances and/or noise complaints. A register should be kept of complaints received, and the action taken to remediate the issue.

Reason: To protect acoustic amenity of surrounding properties and the public.

9 (2PT02)

All driveways, car parking areas and pedestrian paths are to be suitably surfaced. Details of the treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

10 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable.

It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

11 (2WM03)

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

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

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

12 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

13 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

14 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

15 (3LD03)

Where trees greater than 5 metres in height which are not within the proposed footprint (i.e. not directly affected by the development) and are proposed for removal, a tree permit is required subject to the Tree Preservation Order 2001 criteria.

Reason: Retain the number of existing trees on site which are protected by the Tree Preservation Order and not directly in the way of development.

16 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

17 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

19 (4BM01)

All materials and finishes of the proposed additions are to match, as closely as possible the material and finish of the existing building.

Reason: To enhance the visual quality of the development and the streetscape.

20 (4BS01)

The construction and fit-out of the food premises must comply with the following:-

- Food Act 2003,
- Food Regulations 2004,
- Australian Standard AS 4674-2004: Construction and fit out of food premises,
- Australia and New Zealand Food Standards Code 3.2.3: Food Premises and Equipment.

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

21 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.

- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

22 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

23 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

24 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Work Health and Safety Act 2011.
- The Work Health and Safety Regulation 2011.
- How to Safely Remove Asbestos Code of Practice – WorkCover 2011.

The owner or occupier of the premises must consult an appropriately qualified and Australian Institute of Occupational Hygienists registered professional to undertake an assessment of the site to determine the potential for contamination. The owner or occupier must develop a management plan and be issued with Clearance Certificate before the commencement of any work.

Reason: To ensure the health of site workers and the public.

25 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

26 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

27 (4LD05)

Trees and shrubs liable to damage (including, but not limited to street trees) are to be protected with suitable temporary enclosures for the duration of the works. These enclosures are to only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground and spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

Reason: To ensure protection of the trees on the site which could be damaged during any development works and to outline the type of protection.

28 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

29 (4MS04)

An approved Erosion and Sediment Management plan is to be implemented from the commencement of works and maintained until completion of the development.

The design and controls addressed in the Sediment and erosion management plan must comply with the criteria identified in:

- Manly Development Control Plan 2013, Amendment 8, and
- Manly Councils Guidelines for Sediment and Erosion Controls on building sites, 2005, and
- The document "Managing Urban Stormwater: Soils and Construction" Volume 1, 2004.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

30 (4NL01)

Noise arising from demolition and construction works must be controlled in accordance with the requirements of the Protection of the Environment Operations Act 1997 and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Reason: To prevent disturbance to the surrounding community during construction.

31 (4PT02)

All construction vehicles associated with the development must obtain a permit from Council on a daily basis, for access onto The Corso and Sydney Road Plazas.

Reason: To manage and minimise disruption to the area.

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

32 (5WM01)

The applicant must contact Sydney Water (Tel. 131110) to determine whether a Trade Waste Permit is required before discharging any trade waste to the sewerage system.

Reason: To comply with legislation.

33 (5WM02)

Prior to issue of an Occupation Certificate, the owner must provide evidence of a contract with a licensed contractor for the removal of all trade waste.

Reason: Responsible disposal management of trade waste.

34 (5WM03)

The premises must have adequate holding facilities for waste oil to meet Australian Standards for bunding and provide evidence of a current contract for the waste oil's recycling to the Principal Certifying Authority prior to the issuing of the Occupation Certificate.

Reason: To ensure responsible disposal of waste oil.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

35 (6AP04)

All towers, ventilation/ducting, exhaust fan structures, chillers and condensers for air-conditioning and any other structures on the roof are to be the subject of a separate Development Application.

Reason: To maintain the amenity of the surrounds.

36 (6AQ01)

The use of the premises must not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997 and must be controlled in accordance with the requirements of this Act.

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

37 (6BS01)

DELETED

38 (6BS02)

The ongoing operation and fit out of the premises must be maintained in accordance with the following requirements:

- Food Act 2003
- Food Regulations 2004
- Australian Standard AS4674-2004: Construction and fit out of food premises
- Australia and New Zealand Food Standards Code 3.2.3: Food Premises and Equipment
- Australia and New Zealand Food Standards Code 3.2.2: Food Safety Practices and General Requirements

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

39 (6BS08)

Saturated and Trans Fats - General

To minimise the risk of cardiovascular disease to the community, the ongoing operation of the premises shall be in accordance with Council's Saturated and Trans Fats Reduction Policy.

Reason: To comply with Council Policy in minimising saturated and trans fats in the retail food industry in the interest of public health and safety.

40 (6BS09)

Saturated and Trans Fats - Foodservice Industry

Cooking oils containing trans fats cannot be used when preparing or cooking food in order to minimise the risk of cardiovascular disease to the community.

Reason: To comply with Council Policy in minimising saturated and trans fats in the retail food industry in the interest of public health and safety.

41 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

42 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

43 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

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

44 (6NL04)

External sound amplification equipment or loud speakers must not be used for the announcement, broadcast, playing of music (including live music) or similar purposes.

Reason: To protect the acoustic amenity of neighbouring properties and the public.

45 (6NL09)

Patron noise must be controlled so as not to disturb or intrude upon the surrounding residential community. Noise arising from patrons located within the grounds of the premises whether indoors, in the courtyard or within any approved outdoor dining area must not be audible within any residential habitable room at any time.

Reason: To minimise noise disturbance to neighbouring residential properties.

46 (6PT03)

Loading and unloading of vehicles and delivery of goods to the land must be carried out within the site. The car parking area shown on the approved drawings must be used for vehicle parking only. Any loading or unloading of materials of potential environmental damage must be appropriately bunded with adequate spill response equipment in place to ensure nil runoff from the site.

Reason: To ensure the safety and amenity of the general public using public streets, and to ensure the protection of the environment from spillage of materials.

47 (6PT04)

Delivery vehicles associated with the completed development are only permitted to drive, stand or park on The Corso and Sydney Road Plazas between the hours of 5am 11am Mondays to Fridays. There is no access on weekends or Public Holidays.

Reason: Compliance with Council's expectations within a pedestrianised area.

48 (6WM02)

Deliveries and waste collection must only occur during the following hours:

- Weekdays – 7:00am – 8:00pm
- Weekends and Public Holidays – 8:00am – 8:00pm

Reason: To minimise disruption to neighbouring properties.

49 (6WM04)

All non-recyclable waste from commercial premises must be presented for collection in a lidded receptacle. Waste receptacles are not to be stored in public spaces such as footpaths.

Reason: Public amenity and litter minimisation.

50 (6WM05)

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

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

51 (6WM10)

The operation of the premises must be conducted in a manner that does not pollute waters as defined by the Protection of the Environment Operations Act, 1997.

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