

Statement of Environmental Effects

Section 4.55(1A) Modification Application to
DA2022/0462 to Extend Operational Hours

104 The Corso, Manly

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* This document is for discussion purposes only unless signed and dated by the persons identified.
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1 Introduction

This Statement of Environmental Effects (**SEE**) report has been prepared by Mecone Group Pty Ltd (**Mecone**) on behalf of Craveable Brands Pty Ltd (**Applicant**) to support a Section 4.55(1A) Modification Application for the existing Oporto restaurant at 104 The Corso, Manly (**the site**).

This Modification Application relates to development consent DA2022/0462, granted by Northern Beaches Council on 25 August 2024 for:

“Use of Premises as a food and drink premises, associated fit out and signage”

The proposed modification seeks to extend the hours of operational for the food and drink premises as follows:

Approved Operational Hours		Proposed Operational Hours	
Monday - Saturday	7am to 10pm	Monday – Thursday	7am – 12am
Sunday and public holidays	8am to 10pm	Friday – Saturday	7am – 3am
		Sunday	8am – 12am

At the time of the original DA assessment (DA2022/0462), an acoustic report was not available and thus standard day and evening hours identified in the EPA noise policy for industry were imposed for the approved food and drink premises. An Acoustic Report has now subsequently been prepared to assess the potential acoustic impacts which supports the proposed operating hours for this modification application.

The extension of operational hours is consistent with other late-night food and drink premises within this part of the Corso and responds to the growing demand for late night food and drink options in Manly.

The proposed modification has been assessed as having minimal environmental impacts and will remain substantially the same development as the previous approval.

This SEE will:

- describe the site and local context
- identify the proposed development
- identify and address the relevant statutory planning framework under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act)
- identify and addresses potential environmental impacts of the proposal
- propose measures for minimising and managing the potential environmental impacts

The following documents have been prepared to support the SEE:

- **Appendix 1** - Acoustic Assessment prepared by Acoustic Logic
- **Appendix 2** - CPTED Report prepared by Mecone
- **Appendix 3** - Plan of Management prepared by Craveable Brands



2 The Site

2.1 Site Location

The Site is zoned E1 Local Centre within the Northern Beaches Local Government Area (LGA). Currently occupied by the Oporto restaurant the site has an area of approximately 78m², on a rectangular lot. It has a 4m frontage to The Corso to the north and is located approximately 30m south-west of Steyne Road and 100m from Manly Beach, as shown at Figure 1.

2.2 Site Description

Table 1 provides the legal description, and a brief summary of the site and surrounding context.

TABLE 1 – SITE DESCRIPTION

Item	Description
Legal Description	Lot 2/DP39426
Total Area	78m ²
Location	The site is located on the southern side of The Corso, and to the west of Manly Beach.
Street Frontage	4m to The Corso
Site description	Located on the southern side of The Corso, and to the south-west of Steyne Road and Manly Beach. It is currently occupied by the Oporto restaurant within a heritage listed building and conservation area. The site has a rectangular shape and is located adjacent to other shops, commercial premises and food and drinks premises.
Surrounding Context	The surrounding area contains a mix of retail and commercial land uses and some residential accommodation.
Public Transport	Manly Wharf is located approx. 500m west of the subject site and provides regular services to Circular Quay. The Manly CBD is serviced by numerous bus connections to Chatswood, North Sydney, Sydney CBD and the Northern Baches region.





FIGURE 1: AERIAL IMAGE (SUBJECT SITE MARKED)

Source: Mecone Mosaic



3 The Proposal

The proposed modification application seeks to amend Consent Condition 19 of DA2022/0462 in order to extend the approved hours of operation for the existing Oporto restaurant. No changes to the existing operations and development are proposed by this modification application.

The revised wording proposed by this modification application are outlined in **Table 2** below (new in **bold**, deletions in strikethrough).

TABLE 2 – PROPOSED DEVELOPMENT SUMMARY

19. Hours of Operation

The business may operate between;

- ~~- 7am-10pm on Monday to Saturday and;~~
 - ~~- 8am-10pm on Sunday and public holidays~~
 - 7am – 12 am on Monday to Thursday and
 - 7am – 3am on Friday to Saturday and
 - 8am – 12am on Sunday
-



4 Planning and Environmental Assessment

4.1 Environmental Planning and Assessment Act 1979

The proposed modification to DA2021/0512 is governed by Section 4.55(1A) of the EP&A Act, which states:

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.*

For the reasons outlined below, Section 4.55(1A) of the EP&A Act is the most appropriate mechanism for which to seek the proposed modifications to DA2022/0462.

4.1.1 Section 4.55(1A) Assessment

Minimal Environmental Impact (1a)

Potential environmental impacts associated with the extended trading hours have been considered in Section 5 of this SEE. Potential acoustic impacts from the proposed operations have been assessed to be acoustically compliant with the adopted criteria and considered acoustically acceptable in its local context. Subject to recommendations identified in the supporting Acoustic Report, CPTED Report and Plan of Management being adhered to, the proposed amendments will be of minimal environmental impact.

Substantially the Same Development (1b)

The proposed modification is substantially the same as the approved development. The extension of hours will support late night trading for the existing food and beverage premises, consistent with other late-night food and drink premises within this part of the Corso. Whilst the proposed modification will increase the operating hours for the existing food and drink premises, it is not radically different to the approved land use and will not give rise to any measurable environmental impact. Subsequently, the proposed modification application remains substantially the same as the development for which the consent was originally approved.

Notification and submissions (1c and 1d)

Notification of the proposal will occur in accordance with Council's Community Participation Plan.

Consideration of submissions will occur following public notification of the proposal.

Section 4.15 Assessment



In determining a Section 4.55(1A) modification application, the consent authority must take into consideration such matters referred to in section 4.15(1) of the EP&A Act as are of relevance to the development subject to this application.

Table 3 below provides an assessment of the proposal against the provisions of Section 4.15 of the EP&A Act.

TABLE 3 – SECTION 4.15 ASSESSMENT SUMMARY

CLAUSE	CONTROL	ASSESSMENT
(1)	Matters for consideration – general 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)(i)	The provision of: Any environmental planning instrument, and	The development has been considered in line with all relevant EPIs and has been shown to be consistent with its provisions.
(ii)	Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	A Planning Proposal to consolidate four LEPs that currently apply to the Northern Beaches LGA into a new comprehensive principle LEP has been submitted by Council for Gateway Assessment. The proposed extension of operating hours remains consistent with the proposed amendments identified in Council's Planning Proposal.
(iii)	Any development control plan, and	As discussed in Section 4.3 of this SEE, the proposed will result in a development that is consistent with Manly DCP.
(iiia)	Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4, and	There are no planning agreements applying to the site or the development.
(iv)	The regulations (to the extent that they prescribe matters for the purposes of this paragraph), and	The proposal remains consistent with the regulations applying to the development application.
(v)	(Repealed)	Not Applicable
(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,	Environmental impacts are considered within Section 5 of this report. The assessment determines the proposal will not have adverse environmental, social or economic impacts on the surrounding locality.
(c)	The suitability of the site for the development,	The proposed change of operational hours is considered suitable given the sites location in the late-night trading precinct of The Corso. The development complies with the relevant provisions of the <i>Manly Local Environmental Plan 2013</i> .
(d)	Any submissions made in accordance with this Act or the regulations,	If required, the proposed application will be notified in accordance with Council's policies and any submissions duly considered.



(e) The public interest.

The proposal remains in the public interest as it promotes the orderly and economic use and development of the land and will not result in adverse environmental, social or economic impacts.

4.1 Statement Environmental Planning Policy

4.1.1 State Environmental Planning Policy (Resilience and Hazard) 2021

State Environmental Planning Policy (Resilience and Hazard) 2021 aims to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—

- a) *managing development in the coastal zone and protecting the environmental assets of the coast, and*
- b) *establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- c) *mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The site is located within the coastal environmental area and the coastal use area, and therefore, Clause 2.10 and 2.11 of the SEPP apply to the site. Considering the scope of the works is restricted to the extension of operational hours and does not consist of any physical works, the development is unlikely to result in adverse impacts on the coastal management values. No further assessment is considered necessary.

4.2 Environmental Planning Instruments

4.2.1 Manly Local Environmental Plan 2013

Manly Local Environmental Plan 2013 (MLEP 2013) is the primary environmental planning instrument applicable to the site and outlines the zoning, objectives and key development standards applying to the subject site and proposed development.

Table 4 provides an assessment of the proposed development against the key provisions of the LEP.

TABLE 4 – LEP ASSESSMENT

CLAUSE	CONTROL	ASSESSMENT
2.2 Zoning of land to which Plan applies	The subject site is zoned E1 Local Centre under the MLEP 2013	Complies There are no changes to the use of the subject site. The existing food and drink premises is permissible with consent.
4.3 Height of Buildings	The land is identified as having a maximum permissible height of building of 10m.	Complies No change is proposed to the current height of building.



4.4 Floor space ratio FSR control for the subject site is 2.5:1.

Complies

There are no changes to the floor space ratio existing on the subject site.

5.10 Heritage conservation The site is identified as local heritage item 'Group of 4 commercial buildings' and within a local heritage conservation area 'Town Centre Conservation Area'.

Complies

The proposed extension of operational hours will have no physical impacts on the heritage item or the heritage conservation area.

6.9 Foreshore Scenic Protection The subject site is identified in Clause 6.9 of the MLEP 2013 as within the 'Foreshore Scenic Protection Area'.

Complies

The proposed development will not contravene the objectives of the Clause. No physical changes to the recently approved use of the building is proposed.

6.11 Active Street Frontage The subject site is identified in Clause 6.11 of the MLEP 2013 as within the 'Active Street Frontage'.

Complies

The proposed works will maintain active frontage to The Corso which is consistent with the surrounding developments.



4.3 Development Control Plan

The *Manly Development Control Plan 2013 (MDCP 2013)* is applicable to the site. A compliance assessment of relevant controls is included in the below table.

TABLE 5 – DCP ASSESSMENT

Clause	Provision	Proposed
Part 4 Development Controls and Development Types		
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)		
4.2.5 Manly Town Centre and Surrounds		
4.2.5.6 Late Night Venues		
Hours of Operating (maximum)	The maximum hours for hotels, nightclubs, restaurants & food outlets are as follows: i) Hotels & Nightclubs: from 5am up to 2am (next day) and with a restricted entry policy for Nightclubs after 12.30am; and ii) Restaurants & Food Outlets: from 5am up to 1am (next day).	Acceptable on merit The hours of operation that is proposed is: 7:00am to 12:00am (Monday to Thursday) 7:00am to 3:00am (Friday and Saturday) 8:00am to 12:00am (Sunday) Refer to further discussion in Section 5.
Noise control	Requirement of this plan in relation to licenced premises at paragraph 3.4.2.4 d - g apply to licensed Late Night Venues under this paragraph.	Complies An Acoustic report is provided to support the application.
Security	Proprietors of Late Night Venues must enter into arrangements with Council for the provision of late night security of the premises and the adjacent public areas.	Complies A CPTED report identifies that the subject site will be secure and does not require any additional security measures.
5.1 Manly Town Centre Heritage Conservative Area and The Corso		
5.1.2 The Corso	The Corso forms part of the conservation area in Manly Town Centre. The subject site is located on The Corso	Not Applicable There are no changes proposed to the existing building. This application is for an extension to the operational hours of the site.



4.4 Manly After Midnight Policy

The site is within the Manly Central Business District and therefore the Manly After Midnight Policy and the Manly 24-Hour Night-Time Economy Policy is relevant to the proposed modification.

The proposed operating hours are largely consistent with the Manly After Midnight Policy and Manly 24-Hour Night-Time Economy Policy with exception to the 1am closing time identified for takeaway or fast-food outlets operating within existing business zones.

Whilst it is acknowledged that the proposed operating hours extend beyond those identified in the Manly After Midnight Policy, the proposed hours of operation and variation to this control are acceptable for the following reasons:

- The proposed operating hours are consistent with other food and drink premises in the surrounding locality and therefore would not give rise to any additional environmental impact within the locality.
- The potential acoustic impacts of the proposal are significantly less than other late-night food and drink premises that operate in the area (i.e. Hotel Steyne and Miami Rice).
- Appropriate safety measures including adequate lighting, surveillance, and security protocols will further mitigate any potential risks, enhancing the safety and security of the surrounding area.
- The extension of trading hours responds to the growing demand for late night food and drink options and contribute to late night trading and activation.
- The proposed operating hours will contribute to economic growth and job creation in Manly.

As identified above, the extension of operating hours to 3am can be supported by Council whilst ensuring public amenity, safety, enjoyment and convenience remain appropriately regulated without any adverse environmental, social or economic impacts.



5 Environmental Assessment

5.1 Hours of Operation

The extension of hours aligns with the evident demand for food and drink options outside typical hours, as demonstrated by the presence of several other venues operating during late hours in the area, such the listed businesses below. Extending the operating hours for the subject site will provide a more consistent presence of open stores during off-peak times on The Corso, catering to the needs of residents and visitors. By extending the hours, a contribution to nighttime economy is provided whilst ensuring public amenity, safety, enjoyment and convenience is appropriately regulated.

Other establishments in the vicinity, such as Hotel Steyne & Rooftop and New Brighton Hotel, already operate during late hours, indicating a precedent for such activities in the area. A Crime Prevention Through Environmental Design (**CPTED**) assessment (refer to 5.2 below) has indicated minimal concerns regarding crime associated with the operation of the subject site during extended hours. Implementing measures to ensure adequate lighting, surveillance, and security protocols will further mitigate any potential risks, enhancing the safety and security of the surrounding area.

A schedule of Trading Hours for the surrounding business:

Hotel Steyne & Rooftop	Friday – Saturday 9am – 6am
Manly Seaside Kebabs	Friday – Saturday 8am – 4am
Miami Rice Bar	Monday – Sunday 12pm – late
New Brighton Hotel	Monday – Saturday 10am – 3am
Ser Bar Kebab & Pide House	Friday – Saturday 9am – 2am
In Situ	Wednesday – Saturday 9am – 12am
Yoghurt land Manly	Saturday 10am – 11pm

5.2 Noise

An Acoustic Assessment prepared by Acoustic Logic (June 2024) has been submitted with this application. The report assesses the potential noise impacts of the proposed extended trading hours to existing properties and sensitive receivers surrounding the site.

Acoustic Logic conducted two attended noise measurements at 10:45pm Monday, 1st November 2023 and at 1:45am Saturday 23 March 2024. Acoustic Logic note that background noise levels on Friday/Saturday nights were significantly affected by the operational noise from the existing Miami Rice Bar/Hotel Steyne. With the bar and pub already operating during the operational hours sought by Oporto, operational noise from the bar is considered part of existing noise levels for assessment.

The predicted noise levels from venue operations are presented in the table below.



Table 6-1 – Predicted External Noise Levels from Venue Operation

Noise Source	Receiver Location	Time of Day	Predicted Noise Level L ₁₀	External Criteria (BG+0) L ₉₀	Complies?
Venue Operation (Patron and Amplified Music Noise)	R1	Night Time Shoulder (12am – 3am)	47	49	Yes
	R2	Night Time Shoulder (12am – 3am)	< 39	49	Yes
	R3	Night Time Shoulder (12am – 3am)	44*	49	Yes

*Barrier effect from shop awning included in calculation.

FIGURE 2: PREDICTED EXTERNAL NOISE LEVELS

Source: Acoustic Logic

Based on the findings of the Acoustic Assessment, the proposed operating hours are assessed to be acoustically compliant with the adopted criteria and considered acoustically acceptable.

To ensure ongoing compliance with noise criteria established by the report, the following operational conditions are recommended to be implemented:

- No music is to be played within the venue after midnight
- Signs are to be displayed at the entry/exit of the venue reminding patrons to minimise noise when departing the premises, especially after 10pm.
- Garbage collection, deliveries and disposal of bottle/waste should be completed between the hours of 7am and 6pm.
- Operation is to cease by 3am on Friday and Saturday nights.

For further details, please refer to the Acoustic Assessment in **Appendix 1**.

5.3 Crime Prevention Through Environmental Design

A Crime Prevention Through Environmental Design (**CPTED**) Report (July 2024) has been prepared by Mecone and provided in **Appendix 2**. The report assesses potential crime risks based on the crime trends in the locality, and details design interventions adopted to mitigate crime potential.

The guidelines prepared by the NSW Department of Urban Affairs and Planning (DUAP 2001) identify four (4) CPTED principles to be considered in a Development Application to ensure developments do not create or exacerbate crime risk.

These principals have been considered and an assessed as part of the CPTED Report in relation to the proposed development. A summary of this assessment is provided below:



TABLE 6 – CPTED ASSESSMENT

CPTED PRINCIPLE	ASSESSMENT	RECOMMENDATION
Natural surveillance	The existing shop layout provides ample opportunities for effective surveillance of the shop and broader Corso, given the location of the waiting area and food order area immediately adjacent to the public domain.	• Illumination of the store to occur at all trading times. • The open façade to the street should be maintained and not obstructed. • CCTV be installed to the BOH entrance and immediate adjacent to the area used by staff.
Access control	The existing design includes various physical and symbolic barriers to restrict and channel the movement of people which can minimise opportunity for crime.	• Ensure BOH activities such as safes and product stores are locked during late night periods. • Ensure BOH entrance is locked at all times during late night periods.
Territorial reinforcement	The existing shop presents as an Oporto food outlet, with existing counters and benchtops providing a clear delineation of publicly accessible and private areas.	• Maintain existing physical condition of the site through the extended trading hours. • Regular maintenance should be carried out to ensure the façade, BOH entry and publicly accessible portion of the shop remains attractive and welcoming.
Space management	The subject site will be maintained in accordance with a site-specific plan of management.	• Ensuring premises are well maintained and cared for, and • Ensuring rapid repair of vandalism and replacement of lighting.

Subject to the recommendations being satisfied, the proposed extension of operating hours is acceptable from a crime risk perspective.

5.4 Plan of Management

The Plan of Management for the proposed modification application is provided in **Appendix 3** and provides a detailed overview of the operational requirements of the existing Oporto restaurant. Recommendations from the CPTED Report and Acoustic Assessment have been adopted in the Plan of Management with additional matters such as security and surveillance, complaints recording, emergency and evacuation procedures and general operational procedures also addressed.

By continuing to address the operational requirements outlined in the Plan of Management, the Oporto restaurant will ensure a safe and secure environment for the community and staff during late night trading hours.



5.5 Site Suitability

The proposed modification is suitable on the site for the following reasons:

- The proposed extension of hours is consistent with the objectives of the E1 Local Centre land use zone and permissible with the consent of Council,
- The proposal is generally consistent with the relevant SEPP and DCP controls,
- The proposed extension of operating hours is generally consistent with other late night food and drink premises,
- The proposal will not result in any adverse impacts on the environment, and
- There are no environmental constraints on or around the site of such significance as to preclude the proposal.

5.6 Public Interest

The proposed development is considered to be within the public interest for the following reasons:

- The proposal is consistent with the zone objectives and is generally consistent with controls within applicable Environmental Planning Instruments and the MDCP 2013,
- The proposal will contribute to the late night food and drink offerings within Manly,
- The proposal will contribute to the liveliness and activation of the street,
- The proposal will not reduce the safety, sustainability, or efficiency of surrounding uses, and
- The proposal does not give rise to any additional amenity impacts including noise and intensity of use.



6 Conclusion

This SEE report has been prepared by Mecone on behalf of Craveable Brands Pty Ltd to support a Section 4.55(1A) Modification Application for the existing Oporto restaurant at 104 The Corso, Manly.

This SEE describes the proposed modifications to DA2022/0462 and includes assessment of the relevant heads of consideration pursuant to section 4.55(1A) and 4.15(1) of the EP&A Act.

The proposed modifications have been considered against the LEP and DCP and are generally consistent with the applicable controls and objectives.

As demonstrated in this SEE, the proposed modification to extend operating trading hours is consistent with other late-night food and drink premises within this part of the Corso and responds to the growing demand for late night food and drink options in Manly. The proposal is not anticipated to have any adverse environmental, social or economic impacts and is therefore suitable for the proposed site.

We therefore request that Council recommend that the proposed development be granted development approval.



