

AGENDA

NORTHERN BEACHES INDEPENDENT PUBLIC HEARING PANEL MEETING

Notice is hereby given that the Northern Beaches Independent Public Hearing Panel will be held via teleconference on

WEDNESDAY 16 SEPTEMBER 2020

Beginning at 1.00pm for the purpose of considering matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Lesley Finn	Chair
Marcus Sainsbury	Environmental Expert
Brian Kirk	Town Planner
Lloyd Graham	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

**Agenda for the Northern Beaches Independent Public Hearing Panel
to be held on Wednesday 16 September 2020
Commencing at 1.00pm**

- 1.0 APOLOGIES & DECLARATIONS OF INTEREST**
- 2.0 MINUTES OF PREVIOUS MEETING**
- 2.1 Minutes of Northern Beaches Independent Public Hearing Panel held 6 May 2020
- 3.0 CATEGORY 3 APPLICATIONS**
- 3.1 DA2020/0104 - 200 Forest Way, Belrose - Use of part of premises as a cafe and carparking.....5

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES INDEPENDENT PUBLIC HEARING PANEL HELD 6 MAY 2020

RECOMMENDATION

That the Minutes of the Northern Beaches Independent Public Hearing Panel held 6 May 2020, were adopted by the Chairperson and have been posted on Council's website.

3.0 CATEGORY 3 APPLICATIONS

ITEM 3.1	DA2020/0104 - 200 FOREST WAY, BELROSE - USE OF PART OF PREMISES AS A CAFE AND CARPARKING
AUTHORISING MANAGER	RODNEY PIGGOTT
TRIM FILE REF	2020/527473
ATTACHMENTS	<ol style="list-style-type: none">1 ↓ Assessment Report2 ↓ Draft Conditions of Consent3 ↓ Site and Floor Plan

PURPOSE

This application has been referred to the Northern Beaches Independent Public Hearing Panel for to make a Panel recommendation to then be referred to the Director, Planning and Place for determination.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Independent Public Hearing Panel, on behalf of Northern Beaches Council as the consent authority, recommend **approval** of Application No. DA2020/0104 for use of part of premises as a cafe and carparking at Lot 1 DP 1205253 & Lot 2 DP 1008986, 200 Forest Way, Belrose subject to the conditions and for the reasons set out in the Assessment Report.



DEVELOPMENT ASSESSMENT REPORT

Planner: Jordan Davies
Address / Property Description: Lot 2 DP 1008986 and Lot 1 DP 1205253
200 Forest Way BELROSE
Use of part of premises as a café (restaurant) and car parking

Development Application No: DA2020/0104

Application Lodged: 07/02/2020

Plans Reference: Architectural Plans Sheets 1 – 6, dated 07/05/2019 prepared by Corona Projects
Car Parking Layout Plans, 19083/1 – 19083/4, Rev A dated 22/06/2020

Amended Plans: Amended Car Parking Layout Plans dated 22/06/2020

Applicant: Corona Projects Pty Ltd

Owner: G J Macri, R C Macri, A R Macri, T Gallo

Locality: C8 Belrose North

Category: Category 3 Development – Restaurant

Variations to Controls (Cl.20/Cl.18(3)): Front Setback, Side Setback

Referred to DDP: Not Applicable

Referred to NBIAP: Yes – Category 3 Development requires Public Hearing

Land and Environment Court Action: Nil.

SUMMARY

Submissions: No submission received.

Submission Issues: Nil.

Assessment Issues: Desired Future Character, Traffic, Parking, Front and Side Setback

Recommendation: Approval subject to conditions

LOCALITY PLAN (not to scale)



Subject Site: Lot 2 DP 1008986 and Lot 1 DP 1205253, Commonly known as 200 Forest Way, Belrose.

Public Exhibition: The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Northern Beaches Community Participation Plan.

The application was required to be advertised for 14 days in accordance with Clause 23 (1)(f) Warringah LEP 2000.

As a result, the application was notified to 14 adjoining landowners and occupiers for a period of 14 calendar days commencing on 1 March 2020 and being finalised on 14 March 2020. Furthermore, the application has been advertised within the Manly Daily commencing on 29 February 2020 and a notice was placed upon the website.

As a result of the public exhibition, no submissions were received.

SITE DESCRIPTION

The subject site consists of two (2) allotments located on the western side of Forest Way. The allotments consist of Lot 2 DP1008986 and Lot 1 DP1205253 and combined they are known as 200 Forest Way, Belrose.

The site is irregular in shape with a total frontage of 100m along Forest Way and a depth of 240m. The site has a total area of 14,674m² (both lots combined).

The entire site currently operates as a retail plant nursery. The existing approved hours of the retail plant nursery are 8am – 6pm, seven days a week. The eastern portion of the site accommodates an existing concrete carpark and a two-storey building which consisted of a caretakers cottage, an office and shop (associated with the retail nursery). There are a number of greenhouses, plant display areas, storage sheds and storage areas located centrally and to the rear of the site.

The site currently has vehicular access from Forest Way which forms the main access point used by customers visiting the retail plant nursery. The site has a second vehicular access point at the rear of the site via Linden Avenue. This access point is used for deliveries and staff.

The site does not contain any significant canopy trees or native vegetated bushland.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a variety of land uses. To the north dual occupancy and to the south is a dwelling house. The site to the south has a development consent for the establishment of a 90 place childcare centre and a new dwelling house. Adjoining the site to the north-west is an area of bushland owned by the Metropolitan Local Aboriginal Land Council. Across the road to the east is a retirement village. A public road known as Linden Avenue adjoins the site at the rear (west).

Located 125m to the North of the site at 206 Forest Way is another Retail Plant Nursery, which consists of a restaurant with approval to seat 48 patrons.

SITE HISTORY

The site has a history of development applications submitted to Council seeking consent for the establishment of a Restaurant in association with the existing retail plant nursery. Previous development applications for the establishment of a restaurant have been refused due to insufficient information, parking and access concerns, inconsistency with the Desired Future Character (DFC), size and scale of the proposed buildings, works on public land and issues raised in the public submissions.

The history of the site is as follows:

- **DA1985/319** – Retail plant nursery in conjunction of existing wholesale plant nursery, with associated access and parking. Approved by Warringah Council on 21 June 1985.

- **DA1994/197** – Erection of a building to be used for plant display, sales office and refreshment room within the existing retail plant nursery, approved by Warringah Council on 1 June 1994. Condition No.20 specified the hours of operation of the 'refreshment room' to operate during the hours of the retail plant nursery being 8am to 6pm daily.
- **DA2003/0497** – Construction of a new two storey building containing a new showroom/display area, café, kitchen, ancillary facilities, ancillary offices, loading dock and amenities. The Café proposed had a capacity of 56 patrons.

Council recommended the application for refusal and the recommendation was concurred with by the IHAP. The application was refused on 3 August 2005 for the following reasons:

- The application involved development on land identified as Public Open Space (land not owned by applicant)
 - The application was deficient and did not provide all the required information as required by the *EP&A Regulations*.
 - Council was not satisfied the proposal was consistent with the Desired Future Character.
- **DA2007/0010** – Alterations and additions to an existing structure for the provision of a new Café (Restaurant) and gift shop. The café component included 36 Seat café/restaurant (including alfresco dining on the balcony).

Council recommended the application for refusal and the recommendation concurred with by the IHAP. The application was refused on 27 November 2007 for the following reasons:

- Inconsistent with desired future character of the C8 – Belrose Locality.
 - The proposal constitutes an overdevelopment of the site and an unacceptable intensification and expansion of an existing Category 3 Use.
 - Inconsistent with Clause 75 – Design of Car parking areas.
 - Proposed development not considered suitable for the site, particularly in terms of vehicular access and safety, parking and loading arrangements, and an unacceptable intensification and expansion of an existing Category 3 use.
 - Not in the public interest.
- **DA2008/1307** – Alterations and additions to an existing retail plant nursery to include a restaurant, giftware shop and office area. The café component of the development included seating for 40 patrons.

Council recommended the application for refusal and the recommendation concurred with by the IHAP. The application was refused on 21 July 2009 for the following reasons:

- Pursuant to Section 79(C)(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and Clause 12(3)(b) of Warringah Local Environmental Plan 2000, the proposed development is inconsistent with the Desired Future Character of the C8 - Belrose North Locality. In this regard, the proposal does not enhance the natural landscape and is not a "low intensity/low impact" use as required, having regard to the additional traffic and parking generated by the new uses, the current high intensity development of the site and significant non-compliances with landscaping and building setbacks which do not contribute to a bushland setting for the development.
- **DA2010/1140** – Alterations and additions to caretakers residence (dwelling house) and construction of a shop and office. The application was approved by Warringah Council on 13 January 2011. As the proposal involved alterations and additions to an existing Category 3 use, the application was not required to be considered by the IHAP in accordance with Clause 16 WLEP 2000. The proposed development can be summarised as follows:
 - *The application relates to an existing retail plant nursery, whereby the applicant seeks approval to carry out alterations and additions to the existing two storey caretakers residence near the south-eastern (front) corner of the site. The internal and external changes to the building are intended to renovate and upgrade the dwelling-house and modernise the shop and office space within the under-croft area of the house. Part of the retail facilities in the nursery shed nearby can thus be relocated and consolidated with the modernised shop space.*

Assessment against DFC for DA2010/1140

The proposal was considered to be low intensity and low impact as the proposal involved alterations to an existing dwelling. The upgrades to the office and shop were proposed to augment the existing facilities on site and will essentially continue to be ancillary to the main nursery. The upgrading these facilities were not considered to create any increase in intensity with regard to traffic, noise, water management, streetscape and impacts on landscaping. The proposal was therefore consistent with the DFC.

- **Road Closure** - A road closure, including Crown subdivision was completed in 2016 for the unnamed Crown road reserve along the southern boundary of the site, creating Lot 1 DP1205253. This unformed road now under the ownership of the 200 Forest Way and part of the subject land.
- **DA2019/0581** – Use of premises as a restaurant and construction of a car park – Application was withdrawn on 11 September 2019 as the following information was required for Council to undertake a full assessment:
 - Wastewater Report to account for the new café use;
 - Traffic report to certify the design of the car parking area a turning paths to satisfy RMS requirements;

- Swept path diagrams;
- Clarification of site access arrangements.

PROPOSED DEVELOPMENT

The proposed development is for the establishment of a café (defined as a restaurant under the WLEP 2000) on the first floor of the existing building and car parking. Specifically, the proposed development consists of:

- Establishment of a restaurant within the confines of the existing first floor of the building;
- Consent sought for associated restaurant fitout including kitchen and toilet facilities;
- Restaurant to have a capacity of 50 patrons;
- Hours of operation Monday – Saturday 8am to 4pm.
- 2 full time staff and 5 part time staff;
- Establishment of 30 new car parking spaces, making a total of 56 car spaces;

It is noted that the internal fit out for the restaurant is partially completed which includes the kitchen facilities, amenities and restaurant floor area. Council's building control team are investigating this matter. This does affect the assessment of the use of the building as a restaurant.

AMENDMENTS TO THE SUBJECT APPLICATION

The application originally proposed a total of 61 car parking spaces, 17 of which were to be provided along the southern edge of the site. At the request of Council's traffic engineers and comments received from Transport for NSW, the applicant was requested to amend the car parking layout along the southern edge to allow for sufficient vehicle manoeuvring space to allow cars to exist in a forward direction. To achieve this five (5) car spaces were removed along the southern edge.

This amended car parking layout was submitted to Council in an amended plan DWG No 19083/01, Rev A, dated 22 June 2020 prepared by TEF Consulting.

A condition of consent has been recommended for the architectural plans to be updated prior to the issue of a construction certificate for the car parking layout to reflect the latest issue of plans prepared by TEF Consulting.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979 (EPA Act 1979); and
- b) Environmental Planning and Assessment Regulations 2000.

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Northern Beaches Community Participation Plan.

The application was required to be advertised for 14 days in accordance with Clause 23 (1)(f) Warringah LEP 2000.

As a result, the application was notified to 14 adjoining landowners and occupiers for a period of 14 calendar days commencing on 1 March 2020 and being finalised on 14 March 2020, furthermore, the application has been advertised within the Manly Daily on 29 February 2020 and a notice was placed upon the site.

No submissions were received during the notification period.

REFERRALS

External Referrals

Transport for NSW (Formally Roads and Maritime Services)

The application was referred Transport for NSW (TfNSW) for comment as the site requires access from a Classified Road, Forest Way. TfNSW reviewed the submitted information and provided concurrence under Section 138 of the Roads Act 1993 subject to the conditions listed in the response dated 21 July 2020.

AusGrid

The application was referred to AusGrid pursuant to Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. AusGrid provided a response advising that there is no objection to the development application, subject to the design submission complying with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.

Internal Referrals

Traffic Engineer

The proposal is for the development of a café on the first floor of the business premise as an ancillary development to the existing retail plant nursery, a new car parking spaces and rearrangement of the existing car parking spaces.

Traffic

The café is expected to attract most of the customers from the existing nursery visitors and any additional traffic generation is acceptable will have negligible impact on the existing road network.

Parking

According to SEPP/DCP parking requirements,

- *Plant Nurseries: 0.5 space/ 100m²*

Therefore, the proposed nursery should have 29 Spaces for 5,800 m²

- *Café/ Restaurants: 15 spaces per 100m²*

Therefore, the proposed café should have 38 spaces (37.2)

A total of 67 spaces is required for the site (Nursery and Cafe).

The applicant has proposed a total of 56 Spaces (14 staff + 12 parallel + 30 Angle). There is a shortfall of 11 spaces. The applicant initially proposed a total of 61 spaces. Due to the limited manoeuvrability opportunities some of the parking spaces had to be rearranged. The applicant had to reduce the number parking to 56 spaces. The café is expected to be used primarily by plant nursery visitors and have a peak parking at lunch time. A few shortfall of parking spaces is accepted. However, the applicant should try to accommodate 2 to 3 more spaces on the redundant driveway at the south-east corner in order to reduce the shortfall of parking spaces. This will be conditioned.

Pedestrian:

No concerns

Access

The site has dual access. A driveway with separate entry and exit for customers and staff off Forest Way. Another driveway for service vehicles through Linden Avenue. All vehicles should enter and leave the site in a forward direction. The proposed turning area (DWG No. 19083/01 dated 22/06/2020) for the southern parallel parking should be clearly marked with contrasting line marking to prevent parking or being blocked by cars.

The site should be clearly sign posted in accordance with Australian Standard to guide customers of parking. There should be signs at both access at Forest Way and Linden Avenue to guide customers, staffs and service vehicles.

The driveway off Linden Avenue should be widened to 10m for simultaneous ingress/ egress of service vehicles. An application to construct driveway has to be submitted and approved by Council's Development Engineer prior to construction certificate. The redundant driveway on Lot 1 (DP 1205253) off Forest Way should be removed and replaced with materials to match the existing shoulder. The design and construction shall be in accordance with TfNSW and Council's requirement. Council and TfNSW do not support the proposal of a boom gate at this location.

Servicing:

The delivery trucks servicing the site will access from Linden Avenue. An application to construct driveway has to be submitted and approved by Council's Development Engineer prior to construction certificate. The driveway has to be widened in accordance with Australian Standard and Council's requirement to allow simultaneous entry and exit of Heavy Rigid Vehicles. In order to avoid conflict between entering and exiting service vehicles.

This will be conditioned.

Building Assessment Referral

The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.

Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.

Environmental Health (Unsewered Lands)

General Comments

Proposal to connect a kitchen to a commercial waste water system.

The applicants provided an onsite waste water management report that details disposal of effluent into existing Wisconsin Sand Mounds. No site modifications are required, the existing system is able to cope with the increased load (also a change of chemical content).

Recommendation - Approval subject to conditions

Environmental Health (Commercial Food Use)

General Comments

Environmental Health has reviewed the proposal in relation to food safety.

Recommendation

APPROVAL - subject to conditions

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on "Draft Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been address via a condition of consent.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>2601 - 1991: <i>The Demolition of Structures</i>. This matter has been address via a condition of consent.</p> <p>Clause 93 of the EPA Regulation 2000 requires the consent authority to consider the fire safety upgrade of development. This matter has been address via a condition of consent.</p> <p>Clause 50(1A) of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p>Clause 54 and 109 of the EPA Regulations 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations.</p> <p>Clause 143A of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a CC. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered worthy of approval.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Public Exhibition” in this report.</p>

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (e) – the public interest	No matters have arisen that would justify the refusal of the application in the public interest.

The proposal has been considered against the relevant matters for consideration under Section 4.15 of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to any conditions contained within the Recommendation.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft State Environmental Planning Policy (Remediation of Land)

Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for a retail plant nursery for an extended period of time. The proposed development consisting of a restaurant use within an existing building is not considered to present a contamination risk.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for been a commercial business (retail plant nursery) for an extended period of time. The proposed development consisting of a restaurant use within an existing building is not considered to present a contamination risk. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the land use.

State Environmental Planning Policy - Infrastructure

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line

- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

The application was referred to AusGrid who provided a response advising that there were no concerns with the subject development subject to standard conditions including compliance with WorkCover requirements.

Regional Environment Plans (REPs)

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.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

1 Desired Future Character (DFC)

The subject site is located in the C8 Belrose North Locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for this locality is as follows:

"The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Middle Harbour."

The proposed development is defined as “restaurant” under the WLEP 2000 dictionary. “Restaurants” are identified as Category 3 development in this locality.

Clause 12(3)(a) of WLEP 2000 requires the consent authority to be satisfied that the proposed development is consistent with the Locality’s DFC statement.

Accordingly, an assessment of consistency of the proposed development against the locality’s DFC is provided hereunder:

Requirement: “The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.”

Comment: The proposal will involve minor alterations to the existing building on the site and some additional line marking with an existing concrete hard stand carpark and decommissioned access road. The site will be visually unchanged and therefore, will not change the visual character of the Belrose North Locality.

The proposal is consistent with the existing character of the locality with regard to the land use with a similar development 125m to the north of the site consisting of a Retail Plant Nursery and Restaurant. Directly to the south of the site is an approval for a 90 place child care centre. In regards to the character of the land uses in the locality, the proposal is consistent with various Category Three development approvals granted in recent years.

Requirement: “The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.”

Comment: The proposed development consists of internal alterations to the existing building and no additional landscaped area or bushland is impacted as result of the proposal. The proposal utilises the existing car parking facilities and hard stand surfaces to provide additional car parking. The proposal does not alter the present character of the area with regard to the landscape setting.

No new buildings are proposed which would require consideration of colours or grouping of new buildings.

The proposal does not diminish the operation of the site as a retail plant nursery which in itself provides an enhanced landscape setting by virtue of the storage and growing of plants for the business use.

Requirement: “Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.”

Comment: The proposal is for a restaurant, and therefore must qualify as a low intensity, low impact use.

The definition of low intensity, low impact uses was used in the Land and Environment

Judgement “*Vigor Master Pty Ltd v Warringah Shire Council (2008) NSWLEC 1128*”. The following definition was provided in the judgement:

Intensity is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore “low intensity” would constitute a development which has a low level of activities associated with it.

The following provides an assessment of “low intensity” as it relates to the proposed development.

- The amount of traffic movements (cars, delivery and service vehicles),
- The number of pedestrian movements (internal and external),
- The physical size of the business (floor space, height, scale, building footprint, amount of landscaping),
- The hours of operation of a business,
- The noise generation of the business,
- The light emitted by the business (internal, floodlighting and signage).

The development is considered to be low intensity for the following reasons:

- The proposed restaurant use will remain associated with and ancillary to the existing retail plant nursery. The proposed hours of operation (8am-4pm) are within the existing approved hours of the retail plant nursery (8am – 6pm). In this regard, the restaurant is not considered to form a destination in its own right and will be used to enhance the existing experience for customers visiting the retail plant nursery.
- The proposed development does not physically increase the size of the existing buildings on the site and uses the existing floor area to provide the restaurant use.
- The number of car spaces provided on the site is accepted by Council’s traffic engineer with regard to servicing the retail plant nursery and restaurant uses.
- The proposed use will generate a minor amount of additional deliveries and will not require deliveries outside of hours (this will be a condition of consent). The delivery arrangements for the retail plant nursery can be utilised and will be insignificant when considering the existing operation of the retail plant nursery.
- The application has been referred to Transport for NSW who support the proposal with regard to traffic impacts for the surrounding road network.
- No signage is proposed for the application (any signage subject to a separate application or the requirements of SEPP (Exempt and Complying Development Codes) 2008).
- The proposal is not considered to result in excessive noise impacts given the hours of operation align with the retail plant nursery and the restaurant is contained within the existing building with adequate physical separation to existing residential properties. It is noted that the adjoining site to the south has an approval for a 90 place child care centre and any noise generated as result of the restaurant will be minor in comparison. A condition will be recommended to control noise impacts and prohibit the use of amplified music. Similar conditions were used for the approved restaurant 125m to the North.

- The use is during the daytime only with no need for additional lighting.

Impact is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore 'low impact' would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality.

The development is considered to be of low impact for the following reasons:

- Visual – The proposed development involves the change of the building use and internal alterations only, with no additional visual impact upon the locality as a result. The existing car parking is used with new line marking and this does not change the visual appearance of the site.
- Noise – The proposed hours of operation are within the existing hours of operation for the retail plant nursery and are not considered to give rise noise impacts. As discussed previously, the use is considered to complement and is ancillary to the existing retail plant nursery to enhance the existing customer experience for those visiting the site. Notwithstanding this, conditions are recommended to ensure that noise generated by the use will not exceed 5dBa above background noise levels at the nearest residential boundary.
- Traffic – The proposal is supported by Council's traffic engineer and 56 car spaces are proposed for the combined retail plant nursery and restaurant. Council's traffic engineer has recommended a condition of consent requiring a minimum of two (2) additional spaces be provided as there is sufficient room within the site, resulting in a total of 58 spaces. The proposal has also been referred to Transport for NSW given access is provided off a classified road Forest Way. TfNSW support the proposal subject to conditions of consent. Overall, the proposal is not considered to result in an unreasonable impact upon traffic and the site access arrangements are satisfactory.
- Vegetation – No vegetation is proposed to be impacted as a result of the proposal.
- Privacy – No proposed changes to the windows or floor levels of the existing building and the physical separation from the existing building and southern property is sufficient to mitigate any direct visual overlooking.
- Solar Access – No additional impact with regards to solar access.

Requirement: "A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape."

Comment: No new fencing is proposed and the internal use does not impact any bushland on the site or along Forest Way.

Requirement: "Development in the locality will not create siltation or pollution of Middle Harbour."

Comment: The proposed development does not involve ground disturbance which would create siltation or pollution of Middle Harbour. The application is accompanied by a wastewater management report which demonstrates the site can adequately handle the

additional wastewater generation through the restaurant use. Council's environmental health officer has reviewed the report and is satisfied in this regard.

As detailed above the proposed development is considered to be consistent with the Locality's DFC statement.

Comparison to Surrounding Category 3 Developments

The use of the site for the purpose of a restaurant has previously been considered by Council with regard to the consistency with the Desired Future Character (DFC). The outcomes of each application is detailed earlier within this assessment report under Site History. The previous applications submitted for the use as a restaurant had not demonstrated to the satisfaction of Council that the proposal was consistent with the DFC statement for various reasons including parking, traffic, site access, landscaping, built form and not being considered a low intensity/low impact use.

As part of considering the current development application, a review of more recent development consents issued for nearby Category 3 Developments have been taken into consideration in drawing a comparison for what is considered to be a low intensity and low impact use. The matters in relation to parking, traffic and access have been addressed to the satisfaction of Council in the current development application. Similarly, as the development involves a change of building use with internal works only, the outcome with regard to the visual impact, built form and landscaping are unchanged. Therefore, the principle consideration is if the use is low impact/low intensity in the context of the North Belrose area. It is therefore relevant to draw comparisons from surrounding recent approvals for Category 3 Development.

206 Forest Way, Belrose

The site 206 Forest Way Belrose operates as a retail plant nursery and restaurant and is located 125m to the North of the proposed development. The use as a restaurant was approved under DA2009/1420 and then subsequently modified under MOD2013/0033 to seek an increased capacity of 48 patrons. The details of the approved use are as follows:

- Capacity of 48 patrons;
- Hours of operation 9am-5pm Monday to Friday and 8:30am – 5pm Saturday and Sunday;
- 43 parking spaces to service the combined retail plant nursery and restaurant;
- Retail plant nursery component of the site 7,914sqm.
- Total site area 10,126sqm.

The proposed restaurant at 206 Forest Way was supported by Council and considered to be a low intensity/low impact use. The following comments were made by the IHAP in considering MOD2013/0033 at the public hearing:

- *This application seeks to increase the number of patrons in the restaurant from the approved 20 to 48. The Panel notes that the addition to the approved Restaurant Café with ancillary facilities to the proposed nursery remains an*

ancillary use and will assist in beautifying the appearance of the nursery and will provide greater amenity for the nursery use already approved.

The Panel agrees with the changes to the plans and the increase in patron numbers and believes that such a use can be well accommodated on this site. For the reasons given in the Council Assessment Report, and because the application is consistent with the Desired Future Character as outlined in the locality statement for the area, the Panel recommends to the General Manager that the application be approved subject to the conditions suggested in the recommendation in the Council Assessment Report.

The details of the proposed development at 200 Forest Way are as follows:

- Capacity of 50 patrons
- Hours of operation 8am – 4pm Monday to Saturday;
- 56 parking spaces (plus addition two (2) as a recommended condition) to service the combined retail plant nursery and restaurant;
- Retail plant nursery component of the site 5,800sqm;
- Total site area 12,800sqm.

The proposed restaurant is considered a comparable development to the approved restaurant at 206 Forest Way with regards to patron numbers, hours of operation and car parking. As detailed earlier within this report, the proposed development is considered to be consistent with the DFC statement and represents a low impact/low intensity use. This conclusion is substantiated by the approval of a comparable development at 206 Forest Way and is consistent with a restaurant use within the C8 North Belrose Locality.

198 Forest Way, Belrose

The site immediately to the south known as 198 Forest Way has recently had development consent granted for a 90 place Childcare Centre and Dwelling under DA2017/0087. The NBIAP considered the proposed Child Care Centre consistent with the DFC at the meeting on 14 February 2018. The panel considered the use to be a 'low impact and low intensity' use.

The proposed development is not considered to result in a level of activity or 'intensity' that would be greater than a 90 place childcare centre with regards to noise, traffic and visual impacts when considering the restaurant will be used largely by those customers visiting the plant nursery and is ancillary to the existing plant nursery. Therefore, when comparing the proposed restaurant use to the adjoining child care centre it is considered a 'low intensity/low impact' use and consistent with the DFC statement.

Built Form Controls (Development Standards)

The following table outlines compliance with the Built form Control of the above locality statement:

Built Form Standard	Required	Proposed	Compliance
Housing Density	1 dwelling per 20 ha	The proposal involves a change of use to a restaurant with no additional dwellings.	Yes
Building Height	8.5m	The proposal is within an existing building (below 8.5m) and no further changes to the building are proposed.	Yes
Front Setback	20m setback to be free of building structures and car parking	0m to car park. Utilisation of the existing car parking area within the front setback.	No – See detailed comments below.
Rear and side setback	10m setback to rear and side and to be free of structures and car parking	0m to car park The proposal involves the use of the southern extent of the site to provide car parking	No – See detailed comments below.
Bushland Setting	50% of the site area to be kept as natural bushland or landscaped with local species	The proposed development does not further reduce the site landscaping and existing hard surfaces are utilised.	Yes

The proposed development fails to comply with the C8 Belrose North Locality Built Form Controls with regard to front and side setback. Accordingly, further assessment is provided against the provisions of Clause 20(1) hereunder.

Clause 20(1) stipulates:

“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

(i) General Principles of Development Control

The proposal is generally consistent with all Clauses of the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

(ii) Desired Future Character of the Locality

The proposal is consistent with the Locality's Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on "Desired Future Character" in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under 'State Environmental Planning Policies'). Accordingly, the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Description of variations sought and reasons provided:

1. Built Form Control – Front Setback

Required: 20m and free of built structures and car parking

Proposed: 0m to car park

Response: The proposal involves additional line marking to reconfigure the car park within the existing car park. The car park is an existing non-compliant situation and no additional hard stand areas generated via the development.

In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the front setback Built Form Control. Accordingly, compliance with the objectives are addressed below:

Objective: To create a sense of openness

Comment: The proposed development consists of reconfiguration of the existing carpark through line marking, with no additional new structures within the front setback area. The existing parking area is at-grade and this is not altered via the development, leaving the area 'open' and free of above ground built structures.

Objective: To provide opportunities for landscaping

Comment: The proposal makes use of the existing car park and will not reduce the landscaping for the site or landscaping within the front setback area. The car parking area is used in conjunction with the existing retail plant nursery and is an approved car parking area.

Objective: To minimise the impact of development on the streetscape

Comment: The reconfiguration and line marking of the car park will not further impact upon the streetscape given the carpark is an existing situation.

Objective: To maintain the visual continuity and pattern of buildings, front gardens and landscape elements

Comment: The proposal maintains the existing visual outcome for the site and no further buildings are proposed within the front setback area.

Objective: The provision for corner allotments relates to street corners.

Comment: The site is not a corner allotment.

As detailed above the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1), in addition the proposal is considered to be consistent with the underlying objectives of the Front Setback Built Form Control. It is for these reasons that the variation to the Front Setback Built Form Control (Development Standard) pursuant to Clause 20(1) is supported.

2. Built Form Control – Side Setback

Required: 10m and free of built structures and car parking

Proposed: 0m to car park

Response: The proposal involves the use of the southern extent of the site (former road) to provide car parking for the development. The car parking is setback 0m from the property boundary. The area is an existing hard surface which was formally a road which is now in the same ownership as 200 Forest Way.

In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the side setback Built Form Control. Accordingly, compliance with the objectives are addressed below:

Objective: To ensure that development does not become visually dominant by virtue of its height and bulk.

Comment: The parking area is an existing at grade concrete surface, which does not have any height or bulk that would be visually dominant. The presence of cars parked along this portion of the site is not considered to give rise to a visual impact.

Objective: To preserve the amenity of surrounding land.

Comment: The reduced setback does not result in an impact with regard to visual privacy, views or overshadowing. The amenity of the surrounding land is maintained.

Objective: To ensure that development responds to site topography.

Comment: No fill or cut is proposed which would be contrary to the site topography and the existing hard surface is at-grade.

Objective: To provide separation between buildings.

Comment: The proposal does not involve any new buildings. The area will be free of above ground structures maintains an existing visual separation between the building and southern boundary.

Objective: To provide opportunities for landscaping.

Comment: The area consists of a former road that was not landscaped. The proposal does not take away landscaped area within the site.

Objective: To create a sense of openness.

Comment: The carpark is at-grade and maintains a sense of openness between the existing building and the southern boundary.

As detailed above the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1), in addition the proposal is considered to be consistent with the underlying objectives of the Side Setback Built Form Control. It is for these reasons that the variation to the Side Setback Built Form Control (Development Standard) pursuant to Clause 20(1) is supported.

2 General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	N/A	No new roof forms or windows proposed	N/A
CL39 Local retail centres	N/A	Not within a local retail centre	N/A
CL40 Housing for Older People and People with Disabilities	N/A	N/A	N/A
CL41 Brothels	N/A	N/A	N/A
CL42 Construction Sites	Yes	There is sufficient room within the site to accommodate any construction vehicles necessary to carry out works associated with the internal fit out, without having an unreasonable impact on the surrounding locality.	Yes
CL43 Noise	Yes	The proposed use is considered to result in minimal additional noise being within the confines of the existing building. The hours of operation are consistent with the retail plant nursery and the restaurant is not proposed to operate during the evening. In addition, conditions of development consent have	Yes

General Principles	Applies	Comments	Complies
		been recommended regarding delivery hours, hours of operation and prohibiting use of amplified music.	
CL44 Pollutants	Yes	The application is accompanied by a wastewater report to demonstrate that the sewer management system on the site can accommodate the new restaurant use, whilst not impacting the locality in terms of water quality, odour and pollutants. The use of the site as a restaurant will be required to comply with all relevant food standards as conditions of consent.	Yes
CL45 Hazardous Uses	N/A	The proposed use as a restaurant is not hazardous.	N/A
CL46 Radiation Emission Levels	N/A	N/A	N/A
CL47 Flood Affected Land	N/A	The site is not flood affected.	N/A
CL48 Potentially Contaminated Land	N/A	As discussed earlier within this report under the SEPP No.55 requirements, the site is considered suitable for the intended use with regards to contamination.	Yes
CL49 Remediation of Contaminated Land	N/A	No remediation is required to make the site suitable.	N/A
CL49a Acid Sulfate Soils	N/A	No ground disturbance is proposed which would require an assessment of Acid Sulfate Soils.	N/A
CL50 Safety & Security	Yes	The building has existing windows which are orientated towards the street to provide casual surveillance. The proposed development will retain the windows and the use as a restaurant will not impact safety and security.	Yes
CL51 Front Fences and Walls	N/A	No fencing proposed.	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	Yes	There is an area of bushland that adjoins the site at the north-western corner (rear). The proposed internal change of use will not impact the existing bushland adjoining the site.	Yes
CL53 Signs	N/A	No signage is proposed.	Yes
CL54 Provision and Location of Utility Services	Yes	The site benefits from existing services including the supply of water, gas, telecommunications and electricity. A wastewater report has been submitted demonstrating the site is capable of disposing of wastewater associated with the proposed use as a restaurant.	Yes
CL55 Site Consolidation in 'Medium Density Areas'	N/A	N/A	N/A

General Principles	Applies	Comments	Complies
CL56 Retaining Unique Environmental Features on Site	<i>N/A</i>	No works are proposed which would impact natural site features.	<i>N/A</i>
CL57 Development on Sloping Land	<i>N/A</i>	No new building works are proposed which would require a geotechnical report, no fill is introduced onto the site as a result of the development.	Yes
CL58 Protection of Existing Flora	Yes	No tree removal is proposed.	Yes
CL59 Koala Habitat Protection	Yes	The proposal does not involve the disturbance of bushland which would be potential Koala Habitat.	Yes
CL60 Watercourses & Aquatic Habitats	<i>N/A</i>	No watercourses exist of the site which could be impacts by the proposed development.	Yes
CL61 Views	Yes	No new buildings are proposed which would result in a view impact.	Yes
CL62 Access to sunlight	Yes	No new buildings or structures proposed which would result in overshadowing.	Yes
CL63 Landscaped Open Space	Yes	The proposed development does not reduce the landscaped open space for the site. The car parking is provided on existing hard surfaces and the former road along the southern extent of the site.	Yes
CL63A Rear Building Setback	<i>N/A</i>	No proposed buildings.	Yes
CL64 Private open space	<i>N/A</i>	No dwellings proposed which would require POS.	Yes
CL65 Privacy	Yes	There is sufficient spatial separation to the dwelling to the south of the site (40m) to mitigate any direct overlooking. No new windows openings are proposed for the building in which the restaurant is located. The building as existing is orientated towards the north and east, overlooking the plant nursery. The proposal will not have a privacy impact in this regard.	Yes
CL66 Building bulk	<i>N/A</i>	No new buildings proposed.	Yes
CL67 Roofs	<i>N/A</i>	No new buildings proposed.	Yes
CL68 Conservation of Energy and Water	<i>N/A</i>	No site works are proposed which would require the implementation of water or energy conservation techniques.	Yes
CL69 Accessibility – Public and Semi-Public Buildings	<i>N/A</i>	The building benefits from an existing access ramp which provides at-grade access to the southern extent of the building.	Yes
CL70 Site facilities	Yes	There is ample room for waste storage at the rear of the existing building, screened from public view.	Yes
CL71 Parking facilities (visual impact)	Yes	The proposed development makes use of the existing car parking area at the front, rear and central of the site. New parking spaces are introduced along the southern extent of the site on an existing concrete surface. The presence of parking along the southern	Yes

General Principles	Applies	Comments	Complies
		extent of the site is not considered to result in an unreasonable visual impact from the public domain.	
CL72 Traffic access & safety	Yes	The application has been referred to Transport for NSW who have provided concurrence with regard to the site access from Forest Way. The application is supported by a traffic and parking report which demonstrates the carpark configuration is in accordance with AS 2890.1:2004. Council's traffic engineer has reviewed the proposed car parking, delivery arrangements and access to the site and is satisfied subject to conditions of development consent.	Yes
CL73 On-site Loading and Unloading	Yes	The existing delivery arrangements for the retail plant nursery can be utilised to service the proposed restaurant. The secondary access off Linden Avenue is able to be used for larger delivery vehicles and Council's traffic engineer is satisfied with the access arrangements for the site.	Yes
CL74 Provision of Carparking	Yes	<p>In accordance with the requirements of Schedule 17 Car Parking Provisions, the existing Retail Plant Nursery requires 29 spaces (5,800sqm of Retail Plant Nursery) based on a rate of 0.5 spaces/100sqm.</p> <p>The proposed restaurant requires 38 spaces (248sqm of restaurant floor area) based on a rate of 15 spaces/100sqm. The proposal requires a total of 67 spaces in accordance with the parking rates in Schedule 17.</p> <p>The application proposes 56 spaces. In addition, Council's Traffic Engineer has recommended 2 to 3 additional spaces can be provided and will be conditioned to be placed at the redundant driveway entrance on the southern side of the property, resulting in minimum of 58 spaces and a shortfall of 9 spaces in accordance with the DCP.</p> <p>The applicant has provided a traffic and parking assessment report to justify the shortfall in spaces. The report argues that the restaurant is an ancillary use to the existing retail plant nursery whereby people visiting the retail plant nursery will generate at least 50% of the patronage of the restaurant. The argument regarding cross utilisation of the on-site carparking is accepted by Council's Traffic Engineer and based on this the actual parking demand for the restaurant is around 19 spaces. Therefore, Council's traffic engineer is satisfied that the site will have adequate car parking for the proposed use notwithstanding the numerical non-compliance with the Schedule 17 car parking rates.</p> <p>See detailed comments by Council's traffic engineer earlier within this report.</p>	No – See comment
CL75 Design of Carparking Areas	Yes	The car park uses at-grade car spaces to provide practical and safe parking for patrons visiting the site. Vehicles are able to enter and leave the site in	Yes

General Principles	Applies	Comments	Complies
		a forward direction. The car park has been designed to comply with AS 2890.1:2004.	
CL76 Management of Stormwater	Yes	Car parking is provided within the existing car park and hard stand areas within the site. No additional hard surfaces are proposed as part of the application.	Yes
CL77 Landfill	N/A	No fill is proposed or earthworks.	N/A
CL78 Erosion & Sedimentation	N/A	No site works are proposed which would generate erosion or require sedimentation control measures.	N/A
CL79 Heritage Control	N/A	The site is not identified as a heritage item or adjacent to a heritage item.	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	N/A	No known aboriginal sites are within the site and no ground disturbance is proposed that would impact potential aboriginal heritage items.	N/A
CL81 Notice to Heritage Council	N/A	Clause is repealed.	N/A
CL82 Development in the Vicinity of Heritage Items	N/A	There are no heritage items in the vicinity of the site.	N/A
CL83 Development of Known or Potential Archaeological Sites	N/A	There are no known archaeological sites and there is no ground disturbance proposed which would impact unknown archaeological sites.	N/A

Other Relevant WLEP 2000 Clauses

SCHEDULES

Schedule 5 - State Policies

Bushland In Urban Areas	N/A
Caravan Parks	N/A
Extractive Industries	N/A
Group Homes	N/A
Hazardous and Offensive Development	N/A
Housing for Older People or People with a Disability	N/A

Koala Habitat Protection	N/A
Maintenance Dredging of Tidal Waterways	N/A
Permissibility of Mining	N/A
Surplus Public Land	N/A

Schedule 6 - Preservation of Bushland

Preservation of Bushland	N/A
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Schedule 10 - Traffic Generating Development

Traffic Generating Development	<p>Pursuant to Schedule 10 (4) the development involves 'The enlargement or extension of a parking area, where the enlargement or extension includes accommodation for 50 or more motor vehicles' and therefore is 'Traffic Generating Development'. The development also adjoins a classified road being Forest Way.</p> <p>The application has been referred to Transport for NSW for comment. Transport for NSW have provided a response and granted concurrence to the proposal subject to consent conditions.</p>
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Schedule 15 - Statement of Environmental Effects

Clause 15(1) of Warringah Local Environmental Plan 2000 requires that the consent authority must consider a Statement of Environmental Effects prepared in accordance with the criteria listed in Schedule 15. In addition, Clause 15(2) requires the consent authority to consider the findings of an independent public hearing prior to the determination of the application.

The applicant has submitted a Statement of Environmental Effects, prepared by Corona Projects, which addresses Schedule 15 of WLEP 2000. The following is provided having regard to these provisions:

Consideration	Proposed
(1) Summary of the Statement of Environmental Effects (SEE)	<p>With regard to Point 1 of Schedule 15 the applicant has provided the following:</p> <p>"This report contains a Statement of Environmental Effects for establishment of café on first floor of the garden centre, and 31 new car spaces to support the proposed development at 200 Forest Way, Belrose. Section 4 of this report specifically assesses the potential environmental impacts of the proposed development."</p> <p>Comment: This satisfies the requirement.</p>

Consideration	Proposed
(2) Consistency of the proposal with the desired future character statement and general principles of development control established by the plan.	<p>With regard to Point 2 of Schedule 15 the applicant has provided the following:</p> <p>“Section 4 of this report outlines how the proposed café and car parking is consistent with Desired Future Character Statement of C8 Belrose.</p> <p>An assessment of the proposal against the Desired Future Character Statement is provided below: <i>The proposed development will not change the character of Belrose North locality. The establishment of is proposed within an existing structure that was approved by Council. No construction or demolition is proposed. The proposal therefore does not impact the natural landscape and does not disturb vegetation, landforms and buildings. The proposal will not create siltation or pollution of Middle Harbour. The proposed café is a low intensity, low impact use that will complement the existing garden centre and provide a place for the local residents and workers to gather. The development will have minimal acoustic impact upon neighbouring properties due to its small capacity and limited operating hours. 61 car spaces are provided on site (including 31 new spaces), and the surrounding road network can accommodate the proposed traffic generation. It is anticipated that the proposal will only generate minor traffic in addition to the existing retail nursery use of the premises.”</i></p> <p>Comment: The applicant has provided a satisfactory assessment against the DFC and considered each of the statements.</p>
(3) Objectives of the proposed development.	<p>With regard to Point 3 of Schedule 15 the applicant has provided the following:</p> <p>“The objectives of the proposed development are:</p> <ul style="list-style-type: none"> • Provide a café use to complement the retail plant nursery • Provide a place for local residents to gather • Provide sufficient car parking for both staff and customers” <p>Comment: The applicant has set out the objectives of the development as required.</p>
(4) An analysis of feasible alternatives. (including Consequences of not carrying out the development and Justification for the development)	<p>With regard to Point 4 of Schedule 15 the applicant has provided the following:</p> <p>“(a) the consequences of not carrying out the development, and The property is maintained as a retail plant nursery and the restaurant is seen as an ancillary and complementary use supporting the principal use. The proposal meets the objectives of the purpose and no feasible alternatives have been</p>

Consideration	Proposed
	<p>identified.</p> <p><i>(b) the reasons justifying the carrying out of the development.</i> The site is capable of providing a café within the existing building of the retail plant nursery, with sufficient on-site car parking. The development achieves compliance with the desired future character of C8 Belrose North locality.</p> <p>Comment: The applicant has identified justification for the development.</p>
(5) Development and context analysis.	<p>With regard to Point 5 of Schedule 15 the applicant has provided the following:</p> <p>"Section 3 of this Statement of Environmental Effects has outlined the development details. The establishment of restaurant is proposed within an existing structure that was approved by Council. No construction or demolition is proposed. The proposal therefore does not impact the natural landscape and does not disturb vegetation, landforms and buildings. The proposal will not create siltation or pollution of Middle Harbour.</p> <p>The proposed café is a low intensity, low impact use that will complement the existing garden centre and provide a place for the local residents and workers to gather. The development will have minimal acoustic impact upon neighbouring properties due to its small capacity and limited operating hours. 61 car spaces are provided on site, and the surrounding road network can accommodate the proposed traffic generation. It is anticipated that the proposal will only generate minor traffic in addition to the existing retail nursery use of the premises."</p> <p>Comment: The applicant has provided a satisfactory analysis of the context.</p>
(6) Biophysical, economic and social considerations and the principles of ecologically sustainable development.	<p>With regard to Point 6 of Schedule 15 the applicant has provided the following:</p> <p>"The café is proposed within an existing building, thereby limiting the environmental impact of the development."</p> <p>Comment: The applicant has provided reason why the proposal will not be contrary to the ecologically sustainable development principles.</p>
(7) Measures to mitigate any adverse effects of the development on the environment	<p>With regard to Point 7 of Schedule 15 the applicant has provided the following:</p> <p>"The following measures are to be implemented upon the site to minimise adverse effects:</p>

Consideration	Proposed
	<ul style="list-style-type: none"> The café capacity and hours of operation are limited to a small scale to minimise acoustic, parking and traffic impact. Parking is to be provided on site in excess of LEP requirements so as to minimise on-street parking Avenue planting is proposed on southern boundary along the proposed car park." <p>Comment: The applicant has identified ways impacts have been mitigated.</p>
(8) Other approvals required	<p>With regard to Point 7 of Schedule 15 the applicant has provided the following:</p> <p>"No other approval is required for the proposed development."</p> <p>Comment: The applicant has identified no other approvals are required. Notwithstanding this, the application was referred to Transport for NSW given it directly adjoins a classified road.</p>

It is considered that the submitted Statement of Environmental Effects prepared by Corona Projects dated January 2020 and in response to the provisions of Clause 15/Schedule 15 adequately addresses the compatibility of the of the development with the Locality and the DFC.

Schedule 17 - Carparking Provision

Carparking Provision	<p>In accordance with the requirements of Schedule 17 Car Parking Provisions, the existing Retail Plant Nursery requires 29 spaces (5,800sqm of Retail Plant Nursery) based on a rate of 0.5 spaces/100sqm.</p> <p>The proposed restaurant requires 38 spaces (248sqm of restaurant floor area) based on a rate of 15 spaces/100sqm. The proposal requires a total of 67 spaces in accordance with the parking rates in Schedule 17.</p> <p>The application proposes 56 spaces. In addition, Council's Traffic Engineer has recommended 2 to 3 additional spaces can be provided and will be conditioned to be placed at the redundant driveway entrance on the southern side of the property, resulting in minimum of 58 spaces and a shortfall of 9 spaces in accordance with the DCP.</p> <p>The applicant has provided a traffic and parking assessment report to justify the shortfall in spaces. The report argues that the restaurant is an ancillary use to the existing retail plant nursery whereby people visiting the retail plant nursery will generate at least 50% of the patronage of the restaurant. The argument regarding cross utilisation of the on-site carparking is accepted by Council's Traffic Engineer and based on this the actual parking demand for the restaurant is around 19 spaces. Therefore, Council's traffic engineer is satisfied that the site will have adequate car parking for the proposed use notwithstanding the numerical non-compliance with the Schedule 17 car parking rates.</p> <p>See detailed comments by Council's traffic engineer earlier within this report.</p>
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CONCLUSION

The proposal has been considered against the relevant matters for consideration under Section 4.15 of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions (no submissions received) and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to any conditions contained within the recommendation.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, the provisions of relevant Environmental Planning Instruments including Warringah Local Environment Plan 2000 and the relevant codes and policies of Council.

The application seeks consent for an additional land use for a restaurant (a category 3 land use) within the existing building on the site. There are no external changes to the established building and the amendment to the car parking area is limited to reconfiguration via line marking. The assessment of the application has found that the proposal satisfies the requirements of the Desirable Future Character statement as the proposal is considered an ancillary use to the existing retail plant nursery on the site that will operate in conjunction with the existing use of the site.

As a direct result of the application and the consideration of the matters detailed within this report it is recommended that Development Consent be granted subject to the conditions attached to this report.

RECOMMENDATION

That the Local Planning Panel recommend to the Chief Executive Officer of Northern Beaches Council that Development Application DA2020/0104 for the Use as a Café and car parking at 200 Forest Way, Belrose be approved subject to the attached draft conditions of consent.

CONDITIONS OF APPROVAL

Application Number:	DA2020/0104
Land to be developed (Address):	Lot 2 DP 1008986, 200 Forest Way BELROSE NSW 2085 Lot 1 DP 1205253, 200 Forest Way BELROSE NSW 2085
Proposed Development:	Use of part of premises as a cafe and carparking

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Patron Numbers for the Restaurant

Patron Numbers are to be limited to a maximum of 50 persons.

Reason: To ensure the proposal is consistent with the low impact/low intensity provisions of the DFC statement.

2. No Approval for any Signage

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2000 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage.

3. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan - Sheet 3	07/05/2019	Corona Projects
Floor Plan - Sheet 5	07/05/2019	Corona Projects
Car Park Layout, 19083/01, Rev A	22/06/2020	TEF Consulting

DA2020/0104

Car Park Layout, 19083/02, Rev A	22/06/2020	TEF Consulting
Car Parking Layout, 19083/03, Rev A	22/06/2020	TEF Consulting
Car Parking Layout, 19083/04, Rev A	22/06/2020	TEF Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
On-site wastewater management report, Ref-1908741-A	9 October 2019	Envirotech

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

4. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	2020/144705	4 March 2020
Transport for NSW, Ref SYD20/00301/04	2020/431203	21 July 2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

5. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a 'Restaurant'.

A 'Restaurant' is defined as:

“a building or place, the principal purpose of which is the provision of food to paying customers for consumption on the premises.”

(development is defined by the Warringah Local Environment Plan 2000 Dictionary)

In addition, the restaurant is to only operate in conjunction with the Retail Plant Nursery and be ancillary to the Retail Plant Nursery Use. The use of the site for the sole purpose of a restaurant is prohibited.



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

Reason: To ensure compliance with the terms of this consent and to ensure the use remains a low impact/low intensity use as envisaged by the Desired Future Character Statement.

6. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention



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

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

Reason: Legislative requirement.

7. General Requirements

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

- 1 7.00 am to 5.00 pm inclusive Monday to Friday,
- 1 8.00 am to 1.00 pm inclusive on Saturday,
- 1 No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 1 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no

- hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
 - (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
 - (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
 - (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
 - (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
 - (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner



that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

8. Vehicular Access, Parking and Swept Paths

The applicant should provide 2 to 3 additional parking spaces on the south-east side of the property, where the existing redundant driveway is located. The maximum number that could be accommodated in that space should be provided in accordance with Australian Standard 2890.1.

All internal driveways, car parking facilities, loading bays, access ramps and all dimensions must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890 - Parking facilities - Off-street parking.

Detailed plan demonstrating compliance with this condition are to be submitted to the Accredited Certifier prior to the issue of a construction certificate.

Reason: This is to reduce the number of shortfall of parking spaces requirement in accordance with DCP/SEPP. And to ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

FEES / CHARGES / CONTRIBUTIONS

9. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION
CERTIFICATE****10. Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- i The car parking layout as shown on the 'Site Plan' prepared by Corona Projects shall be amended to be consistent with the car parking layout as shown on the Drawing 19083/01, Rev A, dated 22/06/2020 prepared by TEF Consulting.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the occupation certificate for the development.

Reason: To ensure the site plan and car parking layout is consistent with the submitted documents.

11. BCA Report

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Accredited Certifier* will need to be submitted with the Construction Certificate application and prior to release of the Occupation Certificate addressing the following:

The report is to detail the extent to which the proposed building does or does not comply with the deemed-to-satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the building works required to ensure that the specified measures and facilities for the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) provide access for persons with a disability, including car parking and identification signage, and
- iv) provide sanitary and other facilities and services appropriate for the development

*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority and any works required by this report are to be included in the construction certificate and completed prior to the issue of an Occupation Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety

**12. Compliance with Standards**

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

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights/buildings/good.htm). <www.hreoc.gov.au/disability%20rights%20/buildings/good.htm>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

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

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

13. Compliance with Standards

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

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

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

14. Building Information Certificate

A Building Information Certificate (BIC) is to be submitted to Council for all unauthorised works within the building, in particular the fit out of the kitchen. The BIC is to be submitted and determined Prior to the issue of the Construction Certificate and Occupation Certificate.



Reason: To regularise unauthorised development.

15. Construction Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking conditions, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking onsite for all Staff and Contractors.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an



- appropriately qualified and practising Structural Engineer, or equivalent;
- Proposed protection for Council and adjoining properties;
- The location and operation of any on site crane; and

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. Work Zones and Permits

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. Separate application is required with a Traffic Management / Control Plan for standing of construction vehicles in a trafficable lane. A Transport for New South Wales Work Zone Permit shall be obtained for State Roads (Forest Way).

Reason: To ensure Work zones are monitored & installed correctly, works practices do not impact on parking, traffic flows and pedestrian throughfares. (DACTRDPC1)

17. Road Occupancy Licence

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows.

Reason: Requirement of Transport Management Centre for any works that impact on traffic flow (DACTRDPC2)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Implementation of Traffic Control/ Management Plan

All works and construction activities are to be undertaken in accordance with the approved Traffic Control / Management Plan and approved permits. All traffic controls must be undertaken by personnel having appropriate TfNSW /RMS accreditation.

Reason: To ensure works practices do not impact on parking, traffic flows and pedestrian throughfares.

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

OCCUPATION CERTIFICATE**19. Registration of Food Business**

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

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

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

Prior to the issuing of any interim / final occupation certificate, certification is to be provided by a suitably qualified person to the principal certifying authority demonstrating the food premises is compliant with AS4674:2004 Design, Construction and Fit out of Food Premises.

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

21. Mechanical Ventilation certification

Prior to the issuing of any interim / final occupation certificate, certification from a suitably qualified person is to be provided to the principal certifying authority demonstrating the mechanical ventilation system design, construction and installation is compliant with the requirements of AS1668 The use of mechanical ventilation.

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

22. Removal of Redundant Driveways

The existing redundant driveway on Lot 1 (DP 1205253) off Forest Way (south-east corner) should be removed and replaced with materials to match the existing shoulder in accordance to TfNSW and Council's standard. Suitably prepared plans shall be submitted to for an approval under and approved by Council. All costs associated with the works shall be borne by the applicant. A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: In order to prevent vehicle access from this location. In accordance with Council's policy, all redundant driveways are closed.

23. Reinstating the damaged road reserve during construction

Any damages to road reserve shall be reinstated to Council and TfNSW standard. Suitably prepared plans shall be submitted to for an approval under and approved by Council. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maintain road reserve to the standards.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**24. Compliance with Waste Water management Report**

In operation of the on-site waste water treatment system, the operator and/or owner of the system must do so in accordance with the recommendations of the 'On-site Waste Water Management Report' approved within this consent. That report is dated 9 October 2019 and was prepared by 'envirotech', reference number REF-19-8741-A.



Reason: To appropriately treat and dispose of waste water on-site.

25. Allocation of Spaces

The car parking spaces shall be provided, made accessible, and maintained, at all times. The site shall allocate the minimum number of spaces as follows:

29 - Retail Plant Nursery

29 - Cafe

Car-parking provided shall be used solely in conjunction with the uses contained within the development.

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

Reason: To ensure that adequate parking facilities to service the development are provided on site.

26. Hours of Operation

The hours of operation are to be restricted to:

- i Monday to Saturday – 8am to 4pm
- i Sunday and Public Holidays – Closed

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

27. Commercial Waste Collection (DACPLG18)

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.(DACPLG18)

28. Loading and Unloading

All loading and unloading of vehicles and the delivery of goods must be carried out wholly within the site.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)

29. Deliveries

No deliveries, loading or unloading associated with the premises are to take place between the hours of 4pm and 8am on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties.

30. Amenity

(a) Management shall ensure that the behaviour of patrons entering and leaving the premises



does not affect the amenity of the neighbourhood detrimentally. In this regard, management shall be responsible for the control of noise and litter generated by patrons of the premises.

(b) No broadcasting of food orders.

(c) The use of amplified music audible beyond the premises is not permitted.

Reason: To protect the amenity of the adjoining and surrounding premises.

31. Noise Impact on Surrounding Areas

Any noise from the restaurant shall not exceed more than 5dB(A) above the ambient background level when measured at the property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy and any appropriate legislation to prevent offensive noise.

Reason: To ensure that noise generated from the premise does not create offensive noise.

32. Loading and unloading vehicles

Delivery trucks must enter and exit the site from Linden Avenue driveway in a forward direction. Sufficient unimpeded spaces should be maintained at all times for Heavy vehicles entering the site to make a three-point turn in order to exit in a forward direction. Loading and unloading must be carried out within the premises at the designated loading bay.

Reason: To use the car parking facilities provided within the development effectively and to avoid interference with service vehicles with other vehicles.

**CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA
SUBDIVISION OR SUBDIVISION CERTIFICATE**

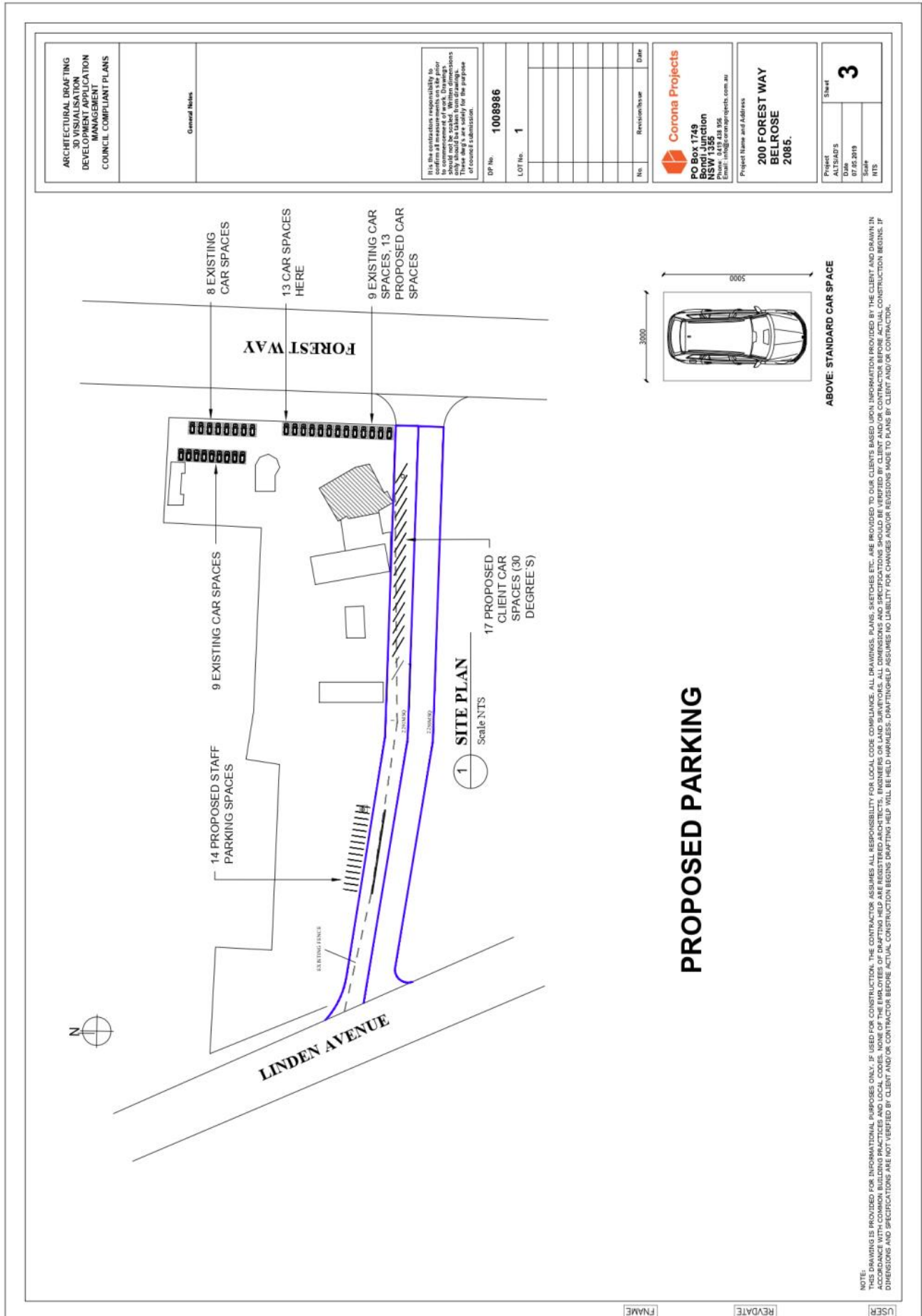
33. Car Park Finishes

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

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

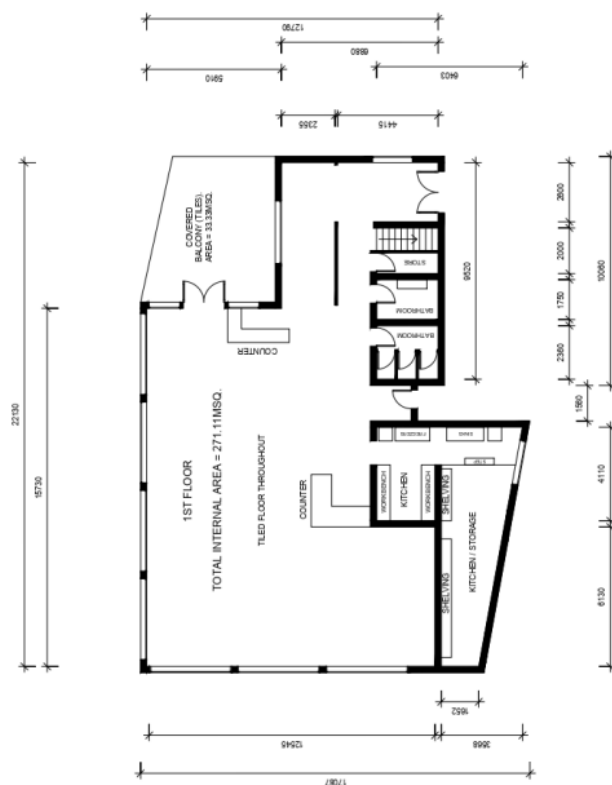
NOTE: DRAWING IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. IF USED FOR CONSTRUCTION, THE CONTRACTOR ASSUMES ALL RESPONSIBILITY FOR LOCAL CODE COMPLIANCE. ALL DRAWINGS, PLANS, SKEETCHES ETC. ARE PROVIDED TO OUR CLIENTS BASED UPON INFORMATION PROVIDED BY THE CLIENT AND DRAWING IS PROVIDED WITH COMMON BUILDING PRACTICES AND LOCAL CODES. NONE OF THE EMPLOYERS OF DRAFTING HELP ARE REGISTERED ARCHITECTS, ENGINEERS OR LAND SURVEYORS. ALL DIMENSIONS AND SPECIFICATIONS SHOULD BE VERIFIED BY CLIENT AND/OR CONTRACTOR BEFORE ACTUAL CONSTRUCTION BEGINS. IF DIMENSIONS AND SPECIFICATIONS ARE NOT VERIFIED BY CLIENT AND/OR CONTRACTOR BEFORE ACTUAL CONSTRUCTION BEGINS DRAFTING HELP WILL BE HELD HARMLESS. DRAFTINGHELP ASSUMES NO LIABILITY FOR CHANGES AND/OR REVISIONS MADE TO CLIENT AND/OR CONTRACTOR.

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FLOORPLAN - 1ST FLOOR

SCALE 1:200



1 FLOORPLAN
Scale 1:200

Scale 1:200

NOTE.

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USER

REVDATE

FNAME