



northern  
beaches  
council

# MINUTES

## **NORTHERN BEACHES LOCAL PLANNING PANEL MEETING**

Electronically determined on

**FRIDAY 8 APRIL 2022**

## **Minutes of the Northern Beaches Local Planning Panel**

### **Electronically determined on Friday 8 April 2022**

#### **ATTENDANCE:**

##### **Panel Members**

Annelise Tuor	Chair
Lisa Bella Espoito	Town Planner
Graham Brown	Town Planner
Peter Cotton	Community Representative

## **1.0 APOLOGIES AND DECLARATIONS OF INTEREST**

Nil

## 4.0 DEFERRED ITEMS

### 4.1 DA2021/1620 - 29-31 MOORE ROAD, FRESHWATER - ALTERATIONS AND ADDITIONS TO AN EXISTING PUB (HARBORD HOTEL)

#### PROCEEDINGS IN BRIEF

The proposal is for alterations and additions to the existing hotel (pub) to accommodate bar/function facilities in the first floor and attic level.

This application was deferred at the Northern Beaches Local Planning Panel meeting on 15 December 2021 for additional information.

The applicant has provided additional information, the Panel has also received further submissions and Supplementary reports from Council's assessing officer.

The Panel met on 1 April 2022 and reconvened on 8 April 2022 to finalise determination of the application.

#### DECISION ON EXCEPTIONS TO DEVELOPMENT STANDARDS

A. The Panel is satisfied that:

- 1) the applicant's written request under clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has adequately addressed and demonstrated that:
  - a) compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
  - b) there are sufficient environmental planning grounds to justify the contravention.
- 2) the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

B. The Panel assumes the concurrence of the Secretary, Department Planning and Environment required under clause 4.6.

#### DETERMINATION OF DEVELOPMENT APPLICATION

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/1620 for alterations and additions to an existing pub (Harbord Hotel) at Lot 1, 2, 3, 4, 5 & 13 2 Sec 1 DP 7022, 29-31 Moore Road, Freshwater subject to the following conditions:

#### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

##### 1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-D00-011 - Ground Floor - General Arrangement Plan	Rev. B, 28 July 2021	Alexander & Co.

DA-A01-011 - First Floor - General Arrangement Plan	Rev. B, 28 July 2021	Alexander & Co.
DA-A02-011 - Upper Floor - General Arrangement Plan	Rev. B, 28 July 2021	Alexander & Co.
DA-DXX-011 - Site & Roof - Proposed Plan	Rev. C, 11 February 2022	Alexander & Co.
DA-EXX-011 - External Elevations 01	Rev. B, 28 July 2021	Alexander & Co.
DA-EXX-021 - External Elevations 02	Rev. B, 28 July 2021	Alexander & Co.
DA-FXX-011 - Section 01	Rev. B, 28 July 2021	Alexander & Co.
DA-FXX-021 - Section 02	Rev. B, 28 July 2021	Alexander & Co.
DA-FXX-031 - Section 03	Rev. B, 28 July 2021	Alexander & Co.
DA-FXX-041 - Section 04	Rev. B, 28 July 2021	Alexander & Co.
MX-011 - Material Palette	Rev. A, 31 May 2021	Alexander & Co.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustics Report	27 July 2021	AKA Acoustics
Acoustic Compliance Report	23 January 2022	AKA Acoustics
Accessibility Report	Issue 2, 30 May 2021	Trevor R Howse
Heritage Impact Statement	August 2021	Weir Phillips Heritage and Planning
Traffic and Parking Report	20 April 2021	Colston Budd Rogers & Kafes Ptf Ltd
Plan of Management	February 2022	Harbord Hotel
Operational Waste Management Plan	Revision B, 7 June 2021	Elephants Foot Recycling Solutions

- b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.
- c) The development is to be undertaken generally in accordance with the following:

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

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

## 2. 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	Response Ausgrid Referral	20 October 2021
NSW Police Licensing Unit	NSW Police Referral Response	22 November 2021

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

**3. 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.

#### 4. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent

unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$28,364.73 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$2,836,472.76.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

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

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

### 6. Security Bond

A bond (determined from cost of works) of \$10,000 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](http://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

### 7. **Photographic Archival Record**

A photographic archival record is to be made of all components of the building affected by the proposed works (including interiors and exteriors and their setting), generally in accordance with the guidelines issued by the Heritage NSW. This should include all areas of the 1st floor (internal and external) and the external appearance and setting of the building when viewed from Moore Road and Charles Street.

This record must be submitted to Council's Heritage Advisor for approval prior to commencement of any demolition or works on-site.

The photographic record should be made using digital technology, and should include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

### 8. **Car Parking Standards**

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1:2004.

Details demonstrating compliance with this condition are to be submitted to the Certifying Authority prior to the issue of a construction certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

### 9. **Vehicular Swept Paths**

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the issue of the construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

10. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, 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.

Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

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. All Staff and Contractors are to use the basement parking once available
- 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 Seven (7) 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

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.

11. **Waste and Service Vehicle Access (12.5 Heavy Rigid Vehicle)**

Access to the on-site loading bay area including ramp grades, transitions and height clearance shall be designed for safe forward in and forward out access of a 12.5m HRV delivery truck, as a minimum requirement. The height clearance required is 4.5m, measured from the surface level to any overhead structures such as pipes. Swept path diagrams must include details of the road including, kerb line, line marking, signs, traffic devices, power poles, other structures and neighbouring driveways. Plans showing the ramp grades, transitions and height clearance and swept path diagrams of 12.5m delivery vehicle shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate service vehicle access.

12. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

13. **Building Code of Australia Report (Class 2-9)**

A ‘Building Code of Australia (BCA) Assessment Report’ / ‘Fire Audit Report’ from an appropriately qualified Registered Certifier\* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the existing building (relevant affected parts) 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 existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use.

\*To be regarded as an "appropriately qualified registered 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 with the Construction Certificate application.

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

**14. Building Code of Australia Access**

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the Building Code of Australia and AS 1428.1. The "Design Specification – Accessibility" report prepared by Trevor R Howse Pty Ltd dated 30/5/2021 is to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

**15. Interpretation Strategy and Plan**

An Interpretation Strategy and Plan for the 1st floor of the hotel, is to be prepared by a suitably qualified heritage professional. The Plan should outline how this interpretation will be incorporated into the adaptive re-use of the 1st floor. This must be submitted to Council's Heritage Advisor for approval, prior to the commencement of any works on-site and implemented prior to completion of works.

Reason: To ensure that the historical use of the 1st floor of the hotel is interpreted as part of its adaptive re-use.

**16. Plans of Kitchen Design, construction and fit out**

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the food premises complies with the design construction and fit-out requirements.

**17. Mechanical Ventilation Plans**

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

- Australian Standard (AS) 1668.2 "The use of ventilation and air-

- conditioning in buildings - Mechanical ventilation in buildings”; and
- Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

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

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

**18. Acoustic Design Incorporated into Plans**

All design components detailed in Section 3 of the acoustic report prepared by AKA Acoustics and AKA Music Pty. Ltd. dated 23 January 2022 (Reference R-072HBH220117.3) must be implemented into the plans, and conducted prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

Details demonstrating these actions and design are to be submitted to the satisfaction of the Principal Certifier.

Reason: To prevent noise nuisance for the surrounding area.

**19. Acoustic design incorporated into plans**

All design components detailed in Section 4, and actions listed in Section 5.2 of the acoustic report prepared by AKA Acoustics and AKA Music Pty. Ltd. dated 27 July 2021 (Reference R-054HBH210717.4) respectively, must be, implemented into the plans, and conducted prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

Details demonstrating these actions and design are to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To prevent noise nuisance for the surrounding area.

**20. 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_rights/buildings/good.htm).  
<[www.hreoc.gov.au/disability% 20rights%20/buildings/good.htm](http://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. (DACPLC02)

21. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

22. **Certification of Design Specification - Accessibility**

Prior to the issue of the Construction Certificate, all recommendations contained in Sections 1.3 and 4.1 - 4.4 of the Accessibility Report referenced in condition 1 shall be incorporated into the plans and supporting documentation.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure that the development is carried out in accordance with the approval documentation.

23. **Certification of Acoustic Reports**

The recommendations contained in the Acoustic Reports referenced in condition 1 shall be incorporated into the plans and supporting documentation, including but not limited to the following:

Acoustics Report prepared by AKA Acoustics, dated 27 July 2021

- 4.1.2 Acoustic barrier specifications for the first-floor balcony and heritage balustrade
- 4.1.3 Outdoor PA system and noise limits for background music
- 4.1.4 Acoustic door and perimeter seals for the main first floor entrance
- 4.1.5 Acoustic door and perimeter seals for balcony entrance
- 4.1.6 Acoustic glazing for the first floor patron area
- 4.1.7 Airlock between the first floor patron area and outdoor balcony
- 4.2.1 Floor-ceiling system between the first and second floor
- 4.2.2 Ceiling insulation system



Acoustic Compliance Report prepared by AKA Acoustics, dated 23 January 2022

- 3.3.1 Reconfiguration of outdoor PA system
- 3.3.2 Increased height, configuration and density of noise barrier

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure that the development is carried out in accordance with the approval documentation.

**24. Waste Management Plan**

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

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

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

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**25. 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.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**26. Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

**27. Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

**28. Stockpiling materials**

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE  
OCCUPATION CERTIFICATE****29. Plan of Management**

An amended Plan of Management (POM) is required to be submitted to, and approved by the Executive Manager Development Assessments, detailing the operation of the development. The POM shall be available on the pub's website, and shall include, but not be limited to the following:

- (a) Vehicle access and egress.
- (b) Through-site circulation of vehicle movements.
- (c) Management of car parking areas.
- (d) Operation of the Shuttle Bus between the premises, Manly CBD and other locations as required, including timetable or frequency of service in accordance with the conditions of consent.
- (e) The location and content of directional signage.
- (f) Complaints management - A dedicated phone number for complaints must be provided, which must be separate to any other number for table bookings, enquiries etc. The phone must be operational/answered for at least 2 hours following closing times. A register must be kept of all complaints and actions, and proposed changes to the POM as a result, and must be available to Council upon request.
- (g) Truck delivery times and methods of control to manage the sequencing of the loading docks.
- (h) Waste management.
- (i) Staff numbers.
- (j) Procedures for tracking patron numbers within the venue to comply with the conditions of consent.
- (k) The operation of the audio desk and studio located in the loft.
- (l) Procedures to ensure compliance with the ongoing operational recommendations contained in the Acoustic reports referenced in condition 1, specifically:
  - Acoustics Report prepared by AKA Acoustics, dated 27 July 2021
    - 4.1.1 Occupancy levels and time of trade for first-floor balcony
    - 4.1.3 Outdoor PA system and noise limits for background music
    - 4.1.6 Acoustic glazing for the first floor patron area
    - 4.1.7 Airlock between the first floor patron area and outdoor balcony
  - Acoustic Compliance Report prepared by AKA Acoustics, dated 23 January 2022
    - 3.3.1 Reconfiguration of Outdoor PA System
    - 3.3.3 Operational controls after 10:00pm.
- (m) Procedures to ensure compliance with the conditions of consent and liquor licence conditions in relation to noise generation from the premises and hours of operation.

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

Reason: To ensure that the development operates with minimum disruption to the surrounding area.



**30. Certification of Design Specification - Accessibility**

Details demonstrating that the works have been carried out in accordance with recommendations contained in Sections 1.3 and 4.1 - 4.1 of the Accessibility Report referenced in condition 1 are to be submitted to the Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure that the development is carried out in accordance with the approval documentation.

**31. Certification of Acoustic Reports**

Details demonstrating that the works shall be carried out in accordance with the recommendations contained in the Acoustic Reports referenced in condition 1 are to be submitted to the Certifying Authority prior to the issue of the occupation certificate, including but not limited to the following:

Acoustics Report prepared by AKA Acoustics, dated 27 July 2021

- 4.1.2 Acoustic barrier specifications for the first-floor balcony and heritage balustrade
- 4.1.3 Outdoor PA system and noise limits for background music
- 4.1.4 Acoustic door and perimeter seals for the main first floor entrance
- 4.1.5 Acoustic door and perimeter seals for balcony entrance
- 4.1.6 Acoustic glazing for the first floor patron area
- 4.1.7 Airlock between the first floor patron area and outdoor balcony
- 4.2.1 Floor-ceiling system between the first and second floor
- 4.2.2 Ceiling insulation system

Acoustic Compliance Report prepared by AKA Acoustics, dated 23 January 2022

- 3.3.1 Reconfiguration of outdoor PA system
- 3.3.2 Increased height, configuration and density of noise barrier

Reason: To ensure that the development is carried out in accordance with the approval documentation.

**32. 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 to the Principal Certifying Authority by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

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

**33. Mechanical Ventilation certification**

Where Mechanical ventilation is required to be installed in the food premises it must comply with Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings" prior to any Occupation Certificate (OC) being issued.

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

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2.

**34. Noise Mitigation Measures**

Prior to any occupation certificate being issued, a suitably qualified and experienced person must provide evidence to the Principal Certifier that confirms compliance with Section 4, and Section 3 of the acoustic report prepared by AKA Acoustics and AKA Music Pty. Ltd. dated 23 January 2022 (Reference R-072HBH220117.3).

Reason: To protect the acoustic amenity of neighbouring properties.

**35. Acoustic Assessment**

Prior to any occupation certificate being issued, a further acoustic assessment is to be undertaken by a qualified and experienced person(s) to confirm compliance with Section 4, and Section 5.2 of the acoustic report prepared by AKA Acoustics and AKA Music Pty. Ltd. dated 27 July 2021 (Reference R-054HBH210717.4).

Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate, in order to achieve compliance with noted conditions of this consent. The updated acoustic assessment is to be submitted to the PCA for certification.

Reason: To protect the acoustic amenity of neighbouring properties (DACHPFPOC6)

**36. Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

**ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES****37. Vehicle Parking**

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

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

**38. Sight lines within carparks**

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

**39. Audibility of Amplified Music**

Noise caused by the operation of amplified music must not be audible beyond the boundary of any residence between the hours of 10 pm to 8 am on any day.

Reason: to prevent noise nuisance to surrounding residents. (DACHPGOG5)

**40. Compliance with the Plan of Management**

The requirements of the approved Plan of Management required by condition 29 must be followed in perpetuity. Any changes to the Plan of Management are to be approved by the Council.

Reason: To ensure operations of the premises are maintained in an appropriate manner in perpetuity. (DACHPGOG5)

**41. Noise Mitigation Measures**

All noise mitigation measures detailed in Section 3 of the acoustic report prepared by AKA Acoustics and AKA Music Pty. Ltd. dated 23 January 2022 (Reference R-072HBH220117.3) must be implemented at all times during operation.

Reason: To protect the acoustic amenity of neighbouring properties.

**42. Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Saturday – 5:00am to 12am midnight
- Sunday and Public Holidays – 10:00am to 12am midnight
- Good Friday – 12pm noon to 10:00pm
- Christmas Day – 12pm noon to 10:00pm
- December 31st – Normal opening time until normal closing time or 2:00am on New Year's Day, whichever is the later

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 15 minutes with the exception of patrons waiting inside the hotel (other than in any restricted area) for collection by a taxi or courtesy bus.

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

**43. Patron Numbers**

The number of patrons within the venue shall be limited to a maximum of 650 at any time.

Reason: To ensure that the operation of the premises maintains the existing intensity of the hotel use and residential amenity of the locality.

**44. Operation of Premises in Accordance with Acoustic Reports**

The ongoing operation of the premises shall be in accordance with the recommendations of the Acoustic Reports referenced in condition 1, including but not limited to the following:

Acoustics Report prepared by AKA Acoustics, dated 27 July 2021

- 4.1.1 Occupancy levels and time of trade for first-floor balcony
- 4.1.3 Outdoor PA system and noise limits for background music
- 4.1.6 Acoustic glazing for the first floor patron area
- 4.1.7 Airlock between the first floor patron area and outdoor balcony

Acoustic Compliance Report prepared by AKA Acoustics, dated 23 January 2022

- 3.3.1 Reconfiguration of Outdoor PA System
- 3.3.3 Operational controls after 10:00pm

Reason: To ensure that the development is carried out in accordance with the approval documentation.

**45. Provision of Shuttle Bus for patrons**

The applicant/operator is to provide a shuttle bus service between the subject premises, Manly CBD and other locations as required, operating in line with the amended Plan of Management. The shuttle service is to operate during operating hours as follows:

- Thursday and Friday - 4 pm to thirty minutes after close
- Saturday, Sunday and Public Holidays - 11 am to thirty minutes after close
- Any events or functions where it is expected a large number of patrons will be attending - the period the event is occurring to thirty minutes after the event concludes

Reason: To provide an additional transport option for patrons to offset the lack of on site parking.

**REASONS FOR DETERMINATION:**

For the reasons set out in the assessment report, the Panel supports the proposed alterations and additions to the hotel. However, the Panel does not accept that the applicant's position that the existing capacity of the hotel is 820 patrons and that the proposal will not result in an intensification of use or additional impacts on residential amenity. The Panel notes the concerns of the residents with the existing operation and management of the hotel and that the proposal would exacerbate these impacts. The additional information provided by the applicant does not provide sufficient justification to demonstrate that the existing patron numbers of the hotel are 820 and the proposal would not increase this intensity or result in additional impacts.

Given the absence of reliable surveys and that no maximum patron levels were contained in previous approvals, the Panel has relied on the current approval for the hotel (Mod2020/0416) and the patronage numbers in accordance with the Building Code of Australia to determine the existing capacity of hotel. This limits the maximum number of patrons to 650 for the hotel use, which the Panel considers reflects the current operation and intensity of use of the hotel. The Panel notes that the peak patronage surveys for the hotel undertaken by the applicant in January 2022 were less due to COVID but considers the survey in February 2020 with a peak patronage of 549 patrons is a better reflection of peak patronage and is consistent with the BCA calculations.

The Panel acknowledges that the hotel is a permissible use within a residential zone and considers that limiting the patron numbers to 650 will ensure a reasonable balance between residential amenity and hotel operation.

The Panel has therefore amended the patron numbers condition to reduce the numbers and made amendments to other conditions including the Plan of Management, shuttle bus and acoustic requirements. The Panel has also added a condition in relation to hours of operation, which reflect the hours approved under the Liquor Licence.

Vote: 4/0

This is the final page of the Minutes comprising 20 pages  
numbered 1 to 20 of the Northern Beaches Local Planning Panel meeting  
held on Friday 8 April 2022.