



northern
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MEMOS

NORTHERN BEACHES COUNCIL MEETING

TUESDAY 12 NOVEMBER 2024

TABLE OF CONTENTS

Subject

| | |
|--------------------------------------------------------------------------------------------------------------------|----|
| Memo – Item No 12.2 Planning Proposal for 29-31 Moore Road & 64 Undercliff Road, Freshwater (PEX2024/0005)..... | 2 |
| Memo – Item No 9.5 – Review and revocation of various policies..... | 18 |

To: Councillors
From: Director, Planning and Place
Date: 12 November 2024
Subject: Memo – Item No 12.2 Planning Proposal for 29-31 Moore Road & 64 Undercliff Road, Freshwater (PEX2024/0005)
Record Number: 2024/817749
Attachments: Included in memo below

Dear Councillors

I refer to matters raised by Mr Oates in various recent emails to Councillors regarding Item 12.2 – Planning Proposal for 29-31 Moore Road & 64 Undercliff Road, Freshwater (PEX2024/0005) of the 12 November Council meeting.

Staff have prepared responses to the issues that have been raised by Mr Oates and these can be found in Attachment 1.

Advice from Council's Development Engineering Team can be found in Attachment 2 and Attachment 3 contains a completed 'Appendix 1 of the NSW Coastal Design Guidelines – assessment checklist'.

Given the advice that is provided in the Attachments, including the completed NSW Coastal Design Guidelines Checklist, an alternate officer recommendation has been prepared, which includes the consideration of both the Planning Proposal and this memo dated 12 November 2024 - the additions to the recommendation are shown in bold.

ALTERNATE RECOMMENDATION:

That Council:

1. Endorse the planning proposal for 29-21 Moore Road (Harbord Hotel) and 64 Undercliff Road, Freshwater at Attachment 1 to this Report (Planning Proposal), **and accompanying Memo dated 12 November 2024** for forwarding to the Department of Planning, Housing and Infrastructure for a Gateway Determination under section 3.34 of the *Environmental Planning and Assessment Act 1979*.
2. Develop a site-specific development control plan for 29-31 Moore Road (Harbord Hotel) and 64 Undercliff Road, Freshwater (DCP).
3. Publicly exhibit the Planning Proposal in accordance with any Gateway Determination.
4. Publicly exhibit the draft DCP with the Planning Proposal.
5. Submitters to the consultation of the Planning Proposal be advised of Council's decision.

Louise Kerr
Director, Planning and Place

Attachment 1 Response to Issues Raised by Mr Oates**1. The assessment checklist in Appendix 1 of the *NSW Coastal Design Guidelines 2023* has not been completed**

Mr Oates raised concern that it is a mandatory requirement of Local Planning Direction 4.2 – Coastal Management that Appendix 1 to the NSW Coastal Design Guidelines be complied with, which was not completed in Council's assessment of the planning proposal.

Council Response

As part of the statutory plan making process, the Minister for Planning may issue directions under s9.1 of the *Environmental Planning and Assessment Act 1979* to require planning proposals to be consistent with the requirements of each relevant direction. These directions relate to matters such as biodiversity and conservation, transport and infrastructure, housing and other matters of state policy significance.

The site at 29-31 Moore Rd and 64 Undercliff Rd, Freshwater is partially within the 'coastal zone' under the *Coastal Management Act 2016* and Ministerial Direction 4.2 'Coastal Management' applies.

Cl. 1(c) of Direction 4.2 states:

(1) *A planning proposal must include provisions that give effect to and are consistent with:*

..

(c) *section 3.2 of the Coastal Design Guidelines 2023.*

Section 3.2 of the Guidelines note that planning proposals must consider an assessment checklist at Appendix 1 of those Guidelines to demonstrate the proposal has considered all of the requirements for the relevant coastal management area. The Appendix is not required to be submitted with a planning proposal, however, is a document that guides the matters required to be considered.

This matter is addressed on Page 15 of the planning proposal report (p. 666 of the 12 November 2024 Council meeting agenda) which states that the proposal is consistent with the objects of the Coastal Management Act 2016, the NSW Coastal Management Manual and section 3.2 of the *NSW Coastal Design Guidelines 2023*.

For completeness, an assessment checklist is included at Attachment 2, demonstrating how the proposal addresses each of the desired coastal outcomes referred to in Appendix 1 of the Guidelines.

2. Impacts of the proposal on infrastructure (including stormwater and Sydney Water board sewer

Mr Oates raised concern that unresolved impacts of the proposal on Council's stormwater pipes and Sydney Water's board sewer pipe under the site is not a matter that can be postponed to the development application stage, in accordance with Appendix 1 (sA1.H) of the Guidelines.

Council Response

The planning proposal is supported by a stormwater assessment report which recommended the relocation of the site's existing stormwater pipe to an adjacent road reserve for better maintenance access, with two relocation options proposed.

As outlined in Council's assessment report, the potential impacts of the proposal on the site's existing stormwater and sewer infrastructure have been considered. The proposal was referred to Council's Development Engineering team for technical input.

Council's Senior Development Engineer noted that, whilst neither of the proposed stormwater relocation options were supported, Council's stormwater infrastructure on the site can be upgraded

and/or redirected within the site, in accordance with the requirements of *Council's Water Management for Development Policy*. Further, that this would be required at the DA stage. (See page 15 of the planning proposal report, p. 681 of the 12 November 2024 Council meeting agenda).

Supplementary advice was received from Council's Senior Development Engineer on 11 November 2024 that considered the recent correspondence from Mr Oates. A copy of this supplementary advice is at Attachment 2 of this memo. This advice re-affirmed that the issue could be addressed at the DA stage.

Council is satisfied that specific management measures can be included at the development application stage to avoid or mitigate any adverse stormwater infrastructure impacts and this matter doesn't require further resolution at this stage of the plan making process.

In relation to potential impacts on Sydney Water's board sewer, Council's senior Development Engineer confirmed this would be a matter for the proponent to address in response to any matters to be addressed by Sydney Water at the development application stage (see Attachment 2).

3. Requirement to work collaboratively with local Aboriginal people before and throughout the planning proposal process has not been addressed

Mr Oates raised concern that sC.1b of Appendix 1 of the Guidelines has not been complied with, which requires Council to work collaboratively with local Aboriginal people before and throughout the planning proposal process.

Council Response

The planning proposal is supported by an Aboriginal Heritage Due Diligence Assessment Report prepared by Extent Heritage and Council consulted with the Aboriginal Heritage Office as part of its assessment.

The Aboriginal Heritage Office considered that the proposal's potential impacts to Aboriginal Heritage are adequately addressed and agreed with the recommendations set out in the Applicant's report. (See page 15 of the planning proposal report, page 670 of the 12 November 2024 Council meeting agenda).

Council will consult with the Metropolitan Local Aboriginal Land Council during public exhibition, in the event Council resolves to endorse the planning proposal progressing, and a Gateway Determination is subsequently issued by the Department of Planning, Housing and Infrastructure.

Attachment 2: Advice from Council's Development Engineering Team 11 Nov 2024

Rebecca Sio

From: Robert Barbuto
Sent: Monday, 11 November 2024 1:30 PM
To: Rebecca Sio
Subject: RE: Harbord Hotel Planning Proposal

Hi Rebecca please see my below comments in red :

Robert Barbuto
 Principal Engineer - Major Developments

Development Engineering & Certification
 t 02 8495 6711 m 0418 620 052
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 northernbeaches.nsw.gov.au



From: Rebecca Sio <Rebecca.Sio@northernbeaches.nsw.gov.au>
Sent: Monday, November 11, 2024 12:42 PM
To: Robert Barbuto <Robert.Barbuto@northernbeaches.nsw.gov.au>
Subject: Harbord Hotel Planning Proposal

Hi Rob,

Can you please advise whether it is possible that a design solution could facilitate hotel accommodation on the site (including basement carparking) that addresses/mitigates the issues raised by Mr Oates (see extracts below) and any impacts on Council's existing stormwater infrastructure, noting that the future design of the development can be varied from what was shown in the applicant's Concept Architectural Plans.

Extract 1

Please see attached sketches showing 2 levels of proposed basement carparking etc all UNDER Council's stormwater and board's sewer.

Whilst it could be possible to enclose the stormwater and board's sewer in concrete and build over parts of the infrastructure:

1. **It may not be legally possible to build over the drainage easement; Whilst Councils Water management for Development Policy states that where possible structures should not be built over Councils stormwater infrastructure in most circumstances the existing stormwater line is be re routed within the site to avoid such conflicts. The current concept basement footprint would not allow for the re routing of the stormwater line to the eastern side boundary without the basement footprint being altered to allow a minimum width of 3m to accommodate the re routing stormwater line and new easement..**
2. **It is not advisable to build over stormwater and board's sewer; This is a matter entirely for Sydney Water through a notice of requirements application being in relation to the development.**
3. **it is not possible to lower the stormwater and board's sewer to 1-2m below the car park basement RL of 11.50 (to say an RL of 10.00), given the Moore Road gutter RL 12.22. It is agreed that the current stormwater line cannot be lowered to sit under the basement due to level issues with connecting to Councils downstream system in Moore road. Sydney Water needs to issue notice of requirements in relation to their sewer line.**

1

Extract 2

The infrastructure issues that have come to light (drainage easement, stormwater and board's sewer effectively cutting off 64 Undercliff Road from the rest of the site) – see attached diagrams (see email attachments)

In my view, the original justification for including the R2 zoned (lot 6) 64 Undercliff Road in the Planning Proposal – as a more complete proposal and to provide a buffer to 66 Undercliff Road – which Council staff supported, can no longer be maintained.

The proposal to extend the hotel accommodation across the drainage easement, stormwater and board's sewer that run down the east side of the site, into and across 64 Undercliff Road, from a mandatory site specific perspective, is not viable and in my respectful submission, Council staff should update their recommendation to Councillors in light of the infrastructure issues that have come to light. This comment re building over Councils stormwater line has been addressed with the above comments.

I also think that a more modest proposal in the SW corner of the site, not impacting on important infrastructure assets, and not extending to 64 Undercliff Road would be more appropriate.

Incidentally, there are no legal impediments to not including 64 Undercliff Road in the planning proposal as the site is not owned by the same owner of the rest of the site, it is NOT owned by the Harbor Hotel, it is privately owned.

That is, Council staff could continue to support the rest of the proposal (perhaps subject to recommending the owner submits a revised concept design) whilst not supporting the planning proposal vis-à-vis 64 separately owned and zoned R2 Undercliff Road.

Extract 3

As part of the Panel's recommendation that Council further consider the re-zoning Application, Council should seek from the developer:

- 1. A study as to how Council's stormwater assets can be maintained within the site, including if and how the drainage easement can be modified; and*
- 2. Revised Concept Architectural Plans.*

Council should request this because the current re-zoning proposal for hotel accommodation (as set out in the current Concept Architectural Plans) over the easement and stormwater drains is not feasible. See above comments

See attached and below pictures of where the easement and stormwater pipes are approximately located relative to the proposed accommodation building.

The current proposal is not feasible because Council has correctly rejected the developer's proposal to remove the drainage easement and Council's stormwater pipes from the site and relocate the stormwater pipes to the public road. This (rejected) proposal included, for example, digging up and laying new Council stormwater pipes along 200m of Undercliff Road into another stormwater catchment area. See above comments re the existing stormwater line that the Council stormwater line would be required to be diverted with the site to run along the eastern boundary. The basement footprint would need to be set back a minimum of 3 m from the eastern boundary to contain the diverted stormwater line and provide for new 3m wide stormwater drainage easement in favour of Council.

Whether important Council infrastructure can be maintained as part of the rezoning proposal is an important threshold issue that should be considered by Council as this re-zoning application stage.

Rebecca Sio

Planner

Strategic & Place Planning 3

Attachment 3: Appendix 1 of the NSW Coastal Design Guidelines – Assessment Checklist

| Outcome A. Protect and enhance coastal environmental values | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
| Outcome A.1 Protect coastal ecosystems | | | |
| A.1a Avoid development on undeveloped headlands and significant coastal landforms. | CVA, CEA | Y | Yes - The site is not located on a headland or significant coastal landform. |
| A.1b Do not increase development or intensify land uses where there is existing development on headlands and significant coastal landforms. | CVA, CEA | Y | Yes - The site is not located on a headland or significant coastal landform. |
| A.1c Identify, protect and enhance sensitive coastal ecosystems including coastal wetlands, littoral rainforests and other coastal threatened ecological communities that may be affected by development. | CWLRA, CEA | Y | N/A - The site does not contain and is not located near coastal wetlands or littoral rainforests or any other threatened ecological communities that are likely to be affected by the proposal. |
| A.1d Maintain and protect the presence of beaches, rock platforms, coastal dunes, riparian vegetation and the natural features of foreshores, including along estuaries and coastal lakes. | CWLRA, CVA, CEA | Y | N/A – The site is not within 100m of beaches, rock platforms, coastal dunes, riparian vegetation and natural features of foreshores. |
| A.1e Use environmental buffers and limit the number of access points and pathways to protect coastal ecosystems. In some cases, it may not be appropriate to allow public access to areas with highly sensitive ecosystems or animal populations. | CWLRA, CEA, CUA | Y | N/A - There are no identified sensitive ecosystems or animal populations in this location. |
| A.1f Consider if the planning proposal is needed or if development zones could be better located to minimise effects on biodiversity. | CWLRA, CEA, CUA | Y | Yes - The site is highly disturbed, has been previously cleared for urban purposes and does not contain natural environmental features. Therefore, there are no anticipated adverse effects on biodiversity. |
| A.1g Avoid development that may disturb, expose or drain areas of Class 1 and Class 2 | CWLRA, CEA, CUA | Y | N/A – The site is not located near any Class 1 or Class 2 Acid Sulfate Soils land. |

| Outcome A. Protect and enhance coastal environmental values | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
| acid sulfate soils. | | | |
| A.1h Consider direct and indirect effects of development, including any necessary infrastructure, on water quality, water quantity and hydrological flows of waterways and groundwater. | CEA, CUA | Y | Yes –There is suitable capacity in water and sewer systems to cater for development of the site. Specific management measures can be included in the development application stage to avoid or mitigate any adverse impacts. |
| Outcome A.2 Protect coastal wetlands and littoral rainforests | | | |
| A.2a Identify coastal wetlands and littoral rainforests, including areas that could be rehabilitated or restored in the future, and do not increase development or intensify land uses in these areas. | CWLRA | N | N/A – The site is not in CWLRA. |
| A.2b Allow for the adaptive management of stormwater run-off so that the quality of water leaving the site is better than pre-development quality to lessen effects on coastal wetlands or other sensitive receiving environments. | CWLRA, CEA, CUA | Y | Yes - The proposal will not impact on the ability of the site to accommodate appropriate stormwater management measures (at the development application stage). |
| A.2c Provide environmental buffers and riparian corridors that enable the long-term management and protection of areas of biodiversity and ecosystem integrity. | CWLRA, CVA, CEA, CUA | Y | N/A - The site is highly disturbed and does not contain natural environmental features. Therefore, there are no anticipated impacts on biodiversity or identified need to provide environmental buffers. |
| A.2d Identify and protect areas that allow for landward migration pathways for coastal wetlands to respond to climate change. | CWLRA, CEA | Y | N/A – There are no coastal wetlands on or near the site. |
| A.2e Exclude land uses that affect the natural state of coastal wetlands and littoral rainforests or that will make it harder to rehabilitate these ecosystems in the future. | CWLRA | N | N/A – The site is not in CWLRA. |

| Outcome A. Protect and enhance coastal environmental values | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|----------------------------------------------------------------------------------------|
| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
| Outcome A.3 Protect marine parks and aquatic reserves | | | |
| A.3a Avoid development and land uses that affect the environmental, economic, social and cultural values of marine parks and aquatic reserves. | CEA, CUA | Y | N/A – There are no marine parks or aquatic reserves near the site. |
| A.3b Protect the ecological health of marine parks and aquatic reserves, including providing for riparian vegetation and buffers in their catchments. | CEA, CUA | Y | N/A – There are no marine parks or aquatic reserves near the site. |

| Outcome B. Ensure the built environment is appropriate for the coast and local context | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
| Outcome B.1 Respond to and protect elements that make the place special | | | |
| B.1a Integrate development within the natural topography of the site and ensure land use, building scale and height respond sympathetically to coastal landforms. | CWLRA, CVA, CEA, CUA | Y | Yes – The site is steeply sloping from one of its street frontages and future development on the site is unlikely to adversely impact on the coastal landform. No changes to the maximum building height are proposed. |
| B.1b Ensure the intended form and footprint of development does not dominate coastal elements, including foreshores, public spaces and other areas of natural beauty. | CWLRA, CVA, CEA, CUA | Y | Yes – Future development on the site is unlikely to dominate coastal elements. |
| B.1c Incorporate adaptive, water-sensitive urban design into the development footprint to reduce run-off and manage water quality within receiving environments. | CWLRA, CEA, CUA | Y | Yes - The proposal will not impact on the ability to include WSUD measures (at the development application stage). |
| B.1d Ensure that lot sizes, building heights and density are | CEA, CUA | Y | Yes – There are no changes to existing building height and |

| Outcome B. Ensure the built environment is appropriate for the coast and local context | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
| appropriate for the coastal settlement, and complement the existing or desired local character, supported by place-based strategies. | | | density controls. |
| B.1e Avoid development that would harm geological features and geoheritage. | CEA, CUA | Y | N/A – The site does not contain, or located in close proximity to, any significant geological features or geoheritage. |
| Outcome B.2 Ensure urban development complements coastal scenic values | | | |
| B.2a Limit ribbon development and urban sprawl wherever possible. In certain locations, place-based strategies may support increased development density and building heights as a better response to urban growth. | CEA, CUA | Y | N/A – The proposed amendments facilitates in-fill development. |
| B.2b Use greenbelts to create, maintain and mark out separation between settlements. | CEA, CUA | Y | N/A – The proposed amendments facilitates in-fill development. |
| B.2c Consider effects on scenic values and maintain publicly accessible views to significant landmarks. | CEA, CUA | Y | Yes – Impacts on scenic values are unlikely. |
| B.2d Ensure that building heights consider the effect on views from different vantage points. | CEA, CUA | Y | Yes – There are no changes to existing building height and density controls. |
| B.2e Retain or create views from public spaces. Prioritise this over creating views from private property. | CEA, CUA | Y | Yes – The proposal is unlikely to impact views from public spaces. |
| B.2f Provide for active transport links along foreshores, including along estuaries and coastal lakes, and between settlements to increase public access and amenity. | CWLRA, CVA, CEA, CUA | Y | Yes – The proposal would not impact on active transport links along the foreshore. |

Outcome C. Protect and enhance the social and cultural values of the coastal zone

| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. Outcome C.1 Protect and promote heritage values | | | |
| C.1a Ensure development does not harm heritage values or sites. | CWLRA, CVA, CEA, CUA | Y | Yes – The Harbord Hotel is a locally listed heritage item however future development on the site can be designed to minimise impacts on the heritage values of the site. |
| C.1b Work collaboratively with local Aboriginal people before and throughout the planning proposal process. | CWLRA, CVA, CEA, CUA | Y | Yes – Council will consult with the Metropolitan Local Aboriginal Land Council regarding this proposal. |
| C.1c With permission and guidance from local Traditional Custodians, identify and emphasise significant features of coastal land and sea Country. | CWLRA, CVA, CEA, CUA | Y | Yes – Council will consult with the Metropolitan Local Aboriginal Land Council regarding this proposal. |
| C.1d With permission and guidance from local Traditional Custodians, identify and protect sacred and significant areas through the appropriate siting of development. | CWLRA, CVA, CEA, CUA | Y | Yes – Council will consult with the Metropolitan Local Aboriginal Land Council regarding this proposal. The Aboriginal archaeological potential of the site is low, as identified by the Aboriginal Heritage Office and in a Aboriginal Heritage Due Diligence Assessment. |
| C.1e Ensure land use, building type, scale and height respond to heritage items and areas. | CEA, CUA | Y | Yes – The Harbord Hotel is a locally listed heritage item however future development on the site can be designed to minimise impacts on the heritage values of the site. |
| b. Outcome C.2 Provide public access to significant coastal assets | | | |
| C.2a Protect and, where practical, improve, public amenity, access to and use of beaches, foreshores, rock platforms, geoheritage sites and headlands, unless you must restrict access for public safety or for environmental or cultural protection. In doing so, consider both current and projected future coastal hazards. | CVA, CEA | Y | Yes – The proposal may result in requiring the developer to improve connections to Freshwater Beach and the foreshore area, at the development application stage. |
| C.2b Identify opportunities to | CWLRA, | Y | Yes – The proposal may result in |

Outcome C. Protect and enhance the social and cultural values of the coastal zone

| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| maintain and improve existing public access to beaches, foreshores, coastal waters and coastal lakes that support active and passive recreation activities, where this does not interfere with existing coastal industries. | CVA, CEA, CUA | | requiring the developer to improve connections to Freshwater Beach and the foreshore area, at the development application stage. |
| C.2c Consolidate access points and consider alternative access to protect sacred and significant Aboriginal cultural areas. | CWLRA, CVA, CEA, CUA | Y | N/A - There are no identified sacred and significant Aboriginal cultural areas on or adjoining the site. |
| C.2d Maintain and improve foreshore access and connections to existing or proposed networks of public open spaces. This includes waterways, riparian areas, bushland and parks for active and passive recreation. | CWLRA, CVA, CEA, CUA | Y | Yes – The proposal may result in requiring the developer to improve connections to Freshwater Beach and the foreshore area, at the development application stage. |
| C.2e Consider opportunities to protect and improve habitat connectivity through settlements, such as those described in the <i>Greener Places Design Guide</i> . | CWLRA, CEA, CUA | Y | N/A – There are no habitats identified on the site and the proposal would not impact on nearby habitats. |
| C.2f Avoid development on coastal dunes and foreshore reserves unless it is for essential public purposes, such as surf life-saving club buildings. Any building or structure located on dunes must be of lightweight construction and relocatable. | CVA, CEA | Y | N/A - There are no coastal dunes or foreshore reserves on the site |
| C.2g Define the boundaries of development sites with a public edge – for example, a pedestrian pathway or public laneway. | CEA, CUA | Y | Yes – There are existing pedestrian pathways around parts of the site. Future improvements to pedestrian pathways may be required as part of the development application. |
| C.2h Prevent the privatisation of coastal open space by ensuring development next to foreshores is set back, maintains public | CEA, CUA | Y | N/A - The site is not directly adjacent to coastal open space or the foreshore. |

Outcome C. Protect and enhance the social and cultural values of the coastal zone

| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
|------------------------------------------------------------------------------------------|-------------------------------------|---------------------------------------|--------------------------------------------------------------------------------|
| access and accessibility, and provides links and connections to other public accessways. | | | |

Outcome D. Support sustainable coastal economies

| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
|-------------|-------------------------------------|---------------------------------------|--------------------------------------------------------------------------------|
| | | | |

Outcome C.3 Protect public amenity

| | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| C.3a Avoid development that will overshadow the beach, foreshore or public domain. Apply the standard that there must be no overshadowing before 4 pm (midwinter) and 7 pm (Eastern Daylight Saving Time). | CEA, CUA | Y | Yes - The proposal will not result in overshadowing of the foreshore or any public recreational areas. |
| C.3b Protect the amenity of public spaces from buildings, structures or land uses that may be visually and/or acoustically intrusive or create wind funnels. | CEA, CUA | Y | Yes - Detailed design at development application stage would be required to assess visual, acoustic and wind impacts. However, the site is not located in proximity to public spaces that are likely to be adversely impacted. |

Outcome D.1 Support sustainable industries and recreational activities that depend on the coast

| | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|---|-------------------------------------------------------------------------------------------------------------------------------------------------|
| D.1a Ensure that development will not harm sustainable coastal industries needing waterfront access, or recreational use of the coastal environment. | CEA, CUA | Y | <i>N/A - The proposed development will not impact coastal industries or recreational uses as it is not directly adjacent to the waterfront.</i> |
| D.1b Protect and improve essential facilities such as access ramps and jetties for sustainable coastal industries needing waterfront access. | CEA, CUA | Y | <i>N/A - The proposal will not impact upon any waterfront facilities such as access ramps and jetties.</i> |

| Outcome D. Support sustainable coastal economies | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
| D.1c Ensure access ramps, jetties, pontoons, groynes and other structures do not impede navigation on the water or harm coastal landforms or impair processes such as surf breaks. | CWLRA, CVA, CEA, CUA | Y | <i>N/A - The proposal does not include any development in waterways.</i> |
| D.1d Ensure that the proposal considers how development in a waterway may affect the land. | CEA, CUA | Y | <i>N/A - The proposal does not include any development in waterways.</i> |
| Outcome D.2 Promote green infrastructure | | | |
| D.2a Do not allow development that is likely to significantly reduce connectivity of existing green infrastructure. | CEA, CUA | Y | <i>N/A - The proposal will not impact on or reduce connectivity to nearby green infrastructure.</i> |
| D.2b Provide for diverse green infrastructure that can support the changing needs of current and future communities, and provide tourism and recreational opportunities. | CEA, CUA | Y | <i>Yes - The proposal will not limit the opportunities for green infrastructure to be provided (in the detailed design and development application stage).</i> |

| Outcome E. Respond to coastal hazards | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|---------------------------------------------------------------------------------------------------|
| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
| Outcome E.1 Respond to coastal processes | | | |
| E.1a Planning proposals that affect land within a coastal hazard and risk area must not alter coastal processes in a way that harms the natural environment or other land. | CWLRA, CVA, CEA, CUA | Y | <i>N/A - The site is not identified as being subject to any coastal hazard, risk, or erosion.</i> |
| E.1b Exclude development in areas affected by a current or projected future coastal hazard that is likely to increase the risk of coastal hazards on that land | CWLRA, CVA, CEA, CUA | Y | <i>N/A - The site is not identified as being subject to any coastal hazard, risk, or erosion.</i> |

| Outcome E. Respond to coastal hazards | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|---------------------------------------------------------------------------------------------------|
| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
| or other land. | | | |
| E.1c Locate or consolidate development in areas with little or no exposure to current and projected future coastal hazards, to ensure public safety and prevent risks to life. | CWLRA, CVA, CEA, CUA | Y | N/A - The site is not identified as being subject to any coastal hazard, risk, or erosion. |
| E.1d Do not increase development potential or intensify land uses in a coastal hazard or risk area. | CWLRA, CVA, CEA, CUA | Y | N/A - The site is not identified as being subject to any coastal hazard, risk, or erosion. |
| Outcome E.2 Account for natural hazard risks | | | |
| E.2a Identify areas on and near the proposal that are affected by current or projected future coastal hazards. Ensure that the proposal is compatible with any identified threat or risk. | CWLRA, CVA, CEA, CUA | Y | N/A - There are no current or projected future coastal hazard areas in the vicinity of the site. |
| E.2b Account for potential interaction between coastal hazards and other current and future natural hazards. This includes flooding, bushfires, landslip, heatwaves, severe storms, east coast lows and cyclones. Refer to the <i>Strategic Guide to Planning for Natural Hazards</i> . | CWLRA, CVA, CEA, CUA | Y | N/A - There are no current or projected future coastal hazard areas in the vicinity of the site. |
| E.2c Manage natural hazard risk within the development site. Avoid using public space or adjoining land to lessen risk. | CWLRA, CVA, CEA, CUA | Y | N/A - There are no current or projected future coastal hazard areas in the vicinity of the site. |
| Outcome E.3 Account for climate change | | | |
| E.3a Demonstrate that the proposal applies a 100-year planning horizon for the full range of climate change projections for coastal hazards. This approach recognises that sea level is projected to continue to rise for centuries | CWLRA, CVA, CEA, CUA | Y | N/A - The site is not identified as being subject to current or projected future coastal hazards. |

| Outcome E. Respond to coastal hazards | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
| because of climate change. | | | |
| E.3b Consider how climate change could affect the risk profile of existing natural hazards and create new vulnerabilities and exposure for the proposal in the future. | CWLRA, CVA, CEA, CUA | | N/A - The site is not identified as being subject to current or projected future coastal hazards. |
| Outcome E.4 Provide sustainable defences to coastal hazards | | | |
| E.4a Reduce exposure to coastal hazards by protecting, restoring or improving natural defences. This includes coastal dunes, vegetation, coastal floodplains and coastal wetlands, where suitable. | CWLRA, CVA, CEA, CUA | Y | N/A - There are no natural defences or identified coastal hazards affecting the development site. |
| E.4b If natural defences are not possible, reduce exposure to coastal hazards without significantly degrading: <ul style="list-style-type: none"> •biological diversity and ecosystem integrity •ecological, biophysical, geological and geomorphological coastal processes •beach and foreshore amenity, or the social and cultural value of these areas •public safety and access to, or use of, beaches or headlands. | CWLRA, CVA, CEA, CUA | Y | N/A - There are no natural defences or identified coastal hazards affecting the development site. |
| Outcome E.5 Protect essential infrastructure | | | |
| E.5a Locate and design essential infrastructure to reduce vulnerability to current and projected future coastal hazards. Consider the effects of climate change over at least a 100-year planning horizon. | CWLRA, CVA, CEA, CUA | Y | N/A - The site has access to existing essential infrastructure. The site is not identified as being subject to current or projected future coastal hazards. |
| E.5b Where exposure to coastal hazards cannot be | CWLRA, CVA, CEA, CUA | Y | N/A - The site is not identified as being subject to current or |

| Outcome E. Respond to coastal hazards | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| Requirement | Relevant coastal management area(s) | Applicable to planning proposal (Y/N) | Planning proposal is consistent with guidelines (Y/N) If 'No', justify this |
| avoided, prepare adaptation plans for essential service infrastructure. These plans should be consistent with any applicable coastal management program. | | | projected future coastal hazards. |
| E.5c Consult local Aboriginal land management experts and emergency management agencies on how to strategically locate access routes and other essential infrastructure. | CWLRA, CVA, CEA, CUA | Y | N/A - The site is not identified as being subject to current or projected future coastal hazards. |
| Outcome E.6 Change land uses to manage legacy issues and avoid creating new ones | | | |
| E.6a Ensure the proposal will not require coastal management interventions to remain viable over its expected lifespan. | CWLRA, CVA, CEA, CUA | Y | N/A - The site is not identified as being subject to current or projected future coastal hazards |
| E.6b Consider the potential legacy effects of the proposal and if the proposed land uses or development will create a social, environmental, economic or cultural burden for future generations. | CWLRA, CVA, CEA, CUA | Y | Yes – The proposal is unlikely to create social, environmental, economic or cultural burdens for future generations. |
| E.6c Consider if the proposed change of land use could remove redundant legacy infrastructure or reduce existing legacy effects. | CWLRA, CVA, CEA, CUA | Y | Yes – The proposal is unlikely to have significant legacy effects. |

Memo

Northern Beaches Council Meeting

Corporate Services

12 November 2024

To: Councillors
From: Executive Manager Governance & Risk
Date: 12 November 2024
Subject: Memo – Item No 9.5 – Review and revocation of various policies
Record Number: 2024/817449
Attachments:
1 Draft policy - marked up
2 Draft policy - no mark ups

Dear Mayor and Councillors

Please be advised the attached version of the draft Outdoor Dining and Footpath Merchandise Policy published in the attachment booklet was missing some administrative components at the end being the 'Link to Council Strategy', and 'Responsible Officer'. This has occurred while transferring it to the standard policy template.

A copy of the draft policy with these inclusions is provided attached in a tracked version with these additions in red for ease of reference and a clean version.

Sarah Dunstan
Executive Manager Governance & Risk



Council Policy NB-P-28 Outdoor Dining and Footpath Merchandise Policy

Purpose

~~This policy aims to support a vibrant streetscape that is safe and welcoming, attracting tourists and locals to visit, enjoy and return. The appropriate placement and regulation of outdoor dining furniture and display of footpath merchandise that ensures safe and equitable access to the footpath can be achieved whilst supporting local businesses.~~

This policy aims to create a vibrant streetscape that is safe and welcoming, encouraging tourists and locals to visit, enjoy, and return. By regulating the placement of outdoor dining furniture and footpath merchandise, the policy supports local businesses while ensuring safe and equitable access to public footpaths and spaces for all users.

Policy Principles

- Contributing to a vibrant and welcoming street environment while supporting local economic development.
- Maintaining the pedestrian thoroughfare as the primary purpose of the footpath and promoting accessibility by maintaining a consistent and predictable clear path of travel for all users.
- Ensuring street furniture, display stands, racks or containers are of a suitable standard and visually pleasing, contributing to the creation of an appealing streetscape.
- Fostering neighbourhood amenity through minimising additional noise, visual and other adverse impacts.
- Encouraging the use of sustainable materials and eco-friendly management practices.
- Minimising public liability risk through the issue of approvals considered against the Outdoor Dining and Footpath Merchandise Guide.
- Monitoring compliance with approvals and undertaking enforcement action when appropriate.
- Charging a fee for the use of the footpath as set out in Council's Fee and Charges.

Scope and Application

~~This policy applies to all employees, agents, officers, councillors and committee members of Northern Beaches Council. This policy is executed through the Outdoor Dining and Footpath Merchandise Guide.~~

This policy applies to the business use of land owned or managed by Council for outdoor dining and footpath merchandise within the Northern Beaches Local Government Area. Execution of this policy is guided by the Outdoor Dining and Footpath Merchandise Guide.

References and Related Documents

- Policy Framework
- Outdoor Dining and Footpath Merchandise Guide
- Local Government Act 1993
- Environmental Planning & Assessment Act 2017 (as amended)
- State Environmental Planning Policy (Exempt & Complying Development Codes) 2008
- Building Code of Australia Crown Lands Act
- Food Act 2003

Definitions

| | |
|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Clear path of travel | The area of the footpath maintained for safe and equitable pedestrian circulation which is free from obstructions and assists in wayfinding and navigation. |
| Outdoor dining | Dining on the public footpath which is associated with an approved restaurant, cafe or similar. |
| Footpath merchandise | The display of goods on the public footpath associated with an adjacent business premises. |
| Public footpath | The part of a road as is set aside or formed as a path or way for pedestrian traffic (whether or not it may also be used by bicycle traffic). |
| Street furniture | Removable tables and chairs or other approved furniture owned by restaurants, cafes or similar for use in the outdoor dining area. |
| Display stands, racks and containers | Removable items owned by the business premises used in the footpath merchandise display area. |

Community Strategic Plan

This Council policy relates to the Community Strategic Plan Outcome of:

- Vibrant local economy - Goal 15 Our centres are sustainable, encompassing a diverse range of businesses that attract visitation and provide work, education, leisure and social opportunities
- Transport, technology and connectivity - Goal 17 Our community can safely and efficiently travel within and beyond the Northern Beaches

Responsible Officer

Executive Manager **Property**

Review Date

November 2028 (Four years from the date of Council adoption).

Revision History

| Policy number | Date | Detail | TRIM # |
|---------------|---------------|---------------------------------|-------------|
| NB-P-28 | November 2024 | Draft updated policy to Council | 2024/696576 |



Council Policy NB-P-28 Outdoor Dining and Footpath Merchandise Policy

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- Monitoring compliance with approvals and undertaking enforcement action when appropriate.
- Charging a fee for the use of the footpath as set out in Council's Fee and Charges.

Scope and Application

This policy applies to the business use of land owned or managed by Council for outdoor dining and footpath merchandise within the Northern Beaches Local Government Area. Execution of this policy is guided by the Outdoor Dining and Footpath Merchandise Guide.

References and Related Documents

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NB-P-28 Outdoor dining and footpath merchandise policy

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Responsible Officer

Executive Manager Property

Review Date

November 2028

Revision History

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