

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/0258
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Responsible Officer:	Jordan Howard
Land to be developed (Address):	Lot 1 DP 877793, 27 The Corso MANLY NSW 2095
Proposed Development:	Stratum subdivision of a portion of road (The Corso) directly adjoining number 27 The Corso
Zoning:	Manly LEP2013 - Land zoned E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	The Trustee For Iris Ivanhoe Operations Trust

Application Lodged:	02/04/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	11/04/2025 to 09/05/2025
Advertised:	11/04/2025
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 0.00
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EXECUTIVE SUMMARY

This development application seeks consent for Stratum subdivision of a portion airspace above the road (The Corso) directly adjoining number 27 The Corso a pub known as The Ivanhoe Hotel. The airspace contains a balcony at the first floor level which protrudes over The Corso and this airspace is leased from Council. This application is in response to the current lease agreement with Council, which requires the creation of a registered lot for the area of lease. There are no physical works proposed and the property, as part of a collective group of commercial buildings extending the full length of The Corso, is listed as a Heritage Item.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the application is a council-related development application, creating the potential for conflicts of interest. The portion of The Corso on which subdivision is proposed is the airspace above the Council owned property, The

Corso.

Following public exhibition of the application Council has received one submission in support of the proposed development and no submissions in objection.

This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

This Development Application seeks development consent for Stratum subdivision of a portion of road (The Corso) directly adjoining number 27 The Corso.

The purpose of this application is to create a stratum allotment over the land / airspace occupied by a portion of the existing premises at 27 The Corso (The Ivanhoe Hotel), which extend out from the building and into The Corso. These elements include:

- Level 1 enclosed balcony area;
- Metal roof; and
- Supporting posts/columns, 4 in total.

The proposed subdivision will facilitate the requirements of a current lease by the creation of a Lot forming the property / airspace leased.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
Manly Development Control Plan - 5.1.2 The Corso

SITE DESCRIPTION

Property Description:	Lot 1 DP 877793 , 27 The Corso MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of an area of The Corso adjacent to 27 The Corso MANLY (Lot 1 DP 877793). The balcony area proposed to become Lot 10 is 43sqm and is limited in height to RL12.35 and limited in depth to RL8.92.</p> <p>The site is located within the E1 Local Centre zone and accommodates an enclosed balcony with metal roof incorporated into the front facade of The Ivanhoe Hotel. Under this balcony is a portion of paved pedestrian thoroughfare along The Corso and supporting posts / columns (4 in total) associated with the balcony above.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by the Manly Town Centre along The Corso, which at this section is pedestrianised and abutted by various commercial development. Opposite is located St Matthews Anglican Church.</p>

Map:



SITE HISTORY

The land at 27 The Corso MANLY has been used for commercial purposes for an extended period of time. This application has been made to facilitate the requirements of a current lease between Northern Beaches Council and the proprietors of 27 The Corso MANLY for the airspace over The Corso containing the balcony. Clause 13.12 of this lease stipulates the following:

13.12 Creation of lot forming Property Leased

The Lessee must, at its sole cost and expense, execute all documents and do all things necessary to create a registered lot forming the Property Leased, including without limitation the following:

- 13.12.1 preparing a plan of subdivision for lease purposes showing the lot forming the Property Leased as a separate torrens title lot ('Plan of Subdivision');
- 13.12.2 obtaining all necessary consents and approvals to the Plan of Subdivision;
- 13.12.3 arranging for execution of the Plan of Subdivision and subdivision certificate by all relevant parties;
- 13.12.4 registering the Plan of Subdivision at NSW Land Registry Services (or any authority that carries out its functions); and
- 13.12.5 serving a notice on the Lessor that the Plan of Subdivision has been registered, together with a copy of the registered Plan of Subdivision.

This lease was a requirement of prior consents related to 27 The Corso MANLY. Development Application No. 5535/92, for "Refurbishment of the Hotel", was issued on 16 February 1993 and included a condition requiring a lease agreement be entered with Council concerning the usage of the balcony in question. Several development applications have been made in the subsequent decades relating to the operation of a pub at this site.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. This clause is not relevant to this application.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p>

Section 4.15 Matters for Consideration	Comments
	<p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 11/04/2025 to 09/05/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Iris Capital	Suite 404 203-233 New South Head Road EDGECLIFF NSW 2027

The one submission was made by Iris Capital, acting for Iris Ivanhoe Property Pty Ltd & Steyne Hotel Freehold Pty Ltd, being the owners of:

- 42 North Steyne, Manly
- 75 The Corso, Manly
- 25-27 The Corso, Manly
- 19-23 The Corso, Manly

The submission outlined that "*the Owners (jointly) support the proposal described by DA2025/0258*". No submissions were received in objection to the proposed development.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<i>Supported, subject to conditions.</i> Development Engineering support the proposal subject to conditions as recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1) (b) and (c) of this Chapter and the land is considered to be suitable for the commercial land use.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes

Detailed Assessment

5.10 Heritage conservation

27 The Corso MANLY forms part of a heritage item, being the group of commercial buildings extending along The Corso. All commercial buildings along The Corso are group into collective heritage items. In addition, the street trees within the Corso are listed as a Heritage item as are several specific buildings. No physical works are proposed by this development application, nor would the resulting consent allow for works to be undertaken. Therefore, the existing physical state of the items will be maintained and there will be no impact on the heritage value of these items.

Manly Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.2 Heritage Considerations	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.4 Car Parking and Access	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.1.1 General Character	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
5.1.2 The Corso	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

5.1.2 The Corso

Clause 5.1.2.11 Footpath Awnings stipulates the following:

"Footpath awnings (solid, horizontal & with lighting) are required, but trafficable balconies and post-supported awnings and balconies are prohibited and considered to be an unnecessary intrusion on the available street space."

The existing structure exhibits a post-supported trafficable awning balcony. However, no physical works to this structure are proposed by this development application, with the structure having been approved under prior consents. The proposed development only seeks to create a formal stratum allotment comprising of this balcony protruding into The Corso, required by the terms of a lease agreement between Northern Beaches Council and the proprietors of 27 The Corso MANLY.

As no physical works are proposed by this development application which contravene this control, the application complies with the requirements and objectives of this Clause.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and

- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

PLANNING CONCLUSION

This proposal is for Stratum subdivision of a portion of airspace above the road (The Corso) containing a balcony attached to the Ivanhoe Hotel at 27 The Corso, Manly. It is referred to the Northern Beaches Local Planning Panel (NBLPP) as the application is a council-related development application, due to Council owning the road reserve and the airspace above.

Following public exhibition of the application Council has received one submission in support of the proposed development and no submissions in objection.

The proposed development does not involve any works, simply creating a stratum property allotment in order to better administer the lease of the airspace (containing the balcony) from Council. There is no heritage impacts for consideration, given no physical works. The proposal has therefore been recommended for approval.

REASON FOR DETERMINATION

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/0258 for Stratum subdivision of a portion of road (The Corso) directly adjoining number 27 The Corso on land at Lot 1 DP 877793, 27 The Corso, MANLY, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
Sheet 1 of 2	B	Plan of Subdivision of Land Comprised in Book 25 No.609 Being Part of The Corso for Lease Purposes	Joseph Monardo	16 December 2024
Sheet 2 of 2	B	Plan of Subdivision of Land Comprised in Book 25 No.609 Being Part of The Corso for Lease Purposes	Joseph Monardo	16 December 2024

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

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

2. **Sydney Water Compliance Certification**
The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of

the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and fees to be paid. Please make early contact with the coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

3. Subdivision Certificate Application

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council’s fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919.