

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1132
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 6 DP 26171, 47 The Corso MANLY NSW 2095
Proposed Development:	Alterations and additions and use as shop top housing
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:	Sandbox Studio Pty Ltd

Application Lodged:	03/09/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	11/09/2024 to 25/09/2024
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 5%
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,266,100.00
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### EXECUTIVE SUMMARY

This development application seeks consent for part alterations and additions to the existing building and use as shop top housing at 47 The Corso, Manly.

The subject site is part of a listed Heritage Item under the Manly Local Environmental Plan (**MLEP**) 2013. Heritage Item No. I106 '*Group of commercial buildings*' (all numbers, The Corso). Given the heritage listing of the site, the works are 'sensitive development'. The application is therefore required to be determined by the Northern Beaches Local Planning Panel (**NBLPP**).

Council's Design and Sustainability Advisory Panel (**DSAP**) reviewed the proposal and required substantial changes to the proposal. Council's Heritage advisor also reviewed the proposal and recommended built form changes to allow for greater building articulation.

In response to these factors, the Applicant amended the proposal to directly address the matters raised by DSAP and Heritage, including removal of the roof terrace and internal floor plan amendments.

The application breaches the 10m height control for the site and a clause 4.6 request was submitted with the application. The variation is minor being only 0.5m above the 10m height limit. The variation is below the existing maximum height of the building and won't be visible from the Corso. The assessment revealed that there are sufficient environmental planning grounds to warrant the variation requested.

No submissions were received as part of public exhibition of the application.

On the balance of all factors, this report finds that the proposal is appropriate for the site and concludes with a recommendation that the NBLPP, as the consent authority, grants **approval** to the development application.

## **PROPOSED DEVELOPMENT IN DETAIL**

The application seeks consent for alterations and additions to the existing building and use as ***shop-top housing***

Specifically:

- Partial demolition
- Ground floor alterations, including:
  - Ground floor retail (Corso Frontage)
  - Cafe (Market Lane Frontage)
  - Storage
  - WC
  - Waste room
  - Commercial and residential waste room.
- First floor alterations, including:
  - Office space
  - 1 x Studio apartment
  - WC
- Second floor addition, incorporating
  - 2 x one bedroom apartments

The works proposed will result in the development being '***shop-top housing***'

## **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 - Zone E1 Local Centre  
 Manly Local Environmental Plan 2013 - 4.3 Height of buildings  
 Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards  
 Manly Local Environmental Plan 2013 - 5.21 Flood planning  
 Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils  
 Manly Local Environmental Plan 2013 - 6.2 Earthworks  
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area  
 Manly Local Environmental Plan 2013 - 6.12 Essential services  
 Manly Local Environmental Plan 2013 - 6.13 Design excellence

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 6 DP 26171 , 47 The Corso MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The property is commonly known as 47 The Corso, Manly and is legally described as Lot 6 of Deposited Plan 26171.</p> <p>The site is regular in shape with a frontage of 4.94m along The Corso and a depth of 30.7m. The site has a surveyed area of 151m<sup>2</sup>.</p> <p>The property is rectangular in shape with an existing two storey commercial building. The shop on the ground floor is currently utilized as a shop.</p> <p>The site is located within the E1 Local Centre zone and accommodates a shop top housing development.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by commercial and residential development.</p>

Map:



## SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for commercial/residential purposes for an extended period of time.

## 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	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

Section 4.15 Matters for Consideration	Comments
Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Clause 29</u> of the EP&amp;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> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to bulk and scale.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;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&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</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><b>(i) Environmental Impact</b> 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><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> 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 11/09/2024 to 25/09/2024 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 of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p><b><i>Supported, with conditions</i></b></p> <p>The Panel welcomes the opportunity to see the scheme at an early design stage and the opportunity to contribute to the development of a high-quality approach. It is mindful that the development will set a precedent in the area noting heritage considerations of the compact site being 5.13m wide and 30.75 metres long.</p> <p>A pre-lodgement meeting was held with Council officers on 22<sup>nd</sup> June 2022, this is the first presentation to the DSAP.</p> <p>The subject site is one of a group of heritage listed commercial buildings - <i>Item 1109 - Group of commercial buildings – 46-64 The Corso</i> listed in Schedule 5 of Manly Local Environmental Plan 2013 and is located within the <i>C2 - Town Centre Conservation Area</i>. Other heritage items are in the vicinity.</p> <p>The proposed development is an adaptive re-use of the item:</p> <ul style="list-style-type: none"><li>· Retain The Corso heritage façade</li><li>· Demolish internal walls</li><li>· Ground internal alterations including new retail premise fronting market lane and small café addressing Market Place.</li><li>· First floor alterations to allow for 3 office premises and 1 x studio apartment.</li><li>· Second floor addition, incorporating:<ul style="list-style-type: none"><li>o 2 x one-bedroom apartments</li></ul></li></ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>· Roof Terrace, including               <ul style="list-style-type: none"> <li>o Pergola, stairs and lift access</li> </ul> </li> <li>· Roof Alterations</li> <li>· External alterations</li> </ul> <p><b>Strategic context, urban context: surrounding area character</b></p> <p>The Panel notes a Response to Country should be included as a contextual understanding the historical and cultural layers of the site on which the existing building sits. This will benefit the design response in a more holistic way including water systems (potential flood prone conditions in what is now Market Place), how the building performs in the wider urban context and how people will experience the proposed adaptive reuse as a proposition in the public domain and its internal arrangements.</p> <p>The Panel considered the presentation lacked an adequate site analysis. This needs to be a graphic representation of the heritage considerations for the existing item and its fabric – its place as part of a group of heritage listed buildings, subdivision pattern, the streetscape character, the Manly LEP and DCP character requirements and understanding the spatial form and character of the precinct in which the site is located.</p> <p>The site is zoned E1 Local Centre under Manly Local Environmental Plan 2013, and the proposed mixed use housing development is permissible with consent noting SEPP (Housing) does not apply. Given the compact site, no car parking is proposed.</p> <p>The Panel notes the Heritage Impact statement prepared by Touring the Past (September 2023) states:</p> <p><i>The three-storey addition has been designed to ensure that it is completely concealed from The Corso, including oblique sightlines from this key thoroughfare. This outcome has been achieved by situating the rooftop terrace 1.79m back from the original ridgeline, with any elements that rise above the proposed parapet setback at least approximately 7.4m.</i></p> <p><i>Complete concealment of the addition, which is uncharacteristic of the precinct (albeit precedent abounds), from The Corso is respectful of its significant attributes, particularly its ‘blue sky backdrop’, and a supportable heritage outcome in the context of the subject place/group and the HCA.</i></p> <p>The Panel did not consider the documentation demonstrated the above was achieved noting that the heritage impact statement considers the rooftop addition as ‘uncharacteristic of the precinct’. The lift overrun (discussed at <i>Scale, built form and articulation</i>) is not realistic. The sky view of steep pitched roofs and tall chimneys is a feature that needs to be protected. The Panel considered view testing (cited by the Heritage Impact Statement) will need to be from different locations using methods of</p>

Internal Referral Body	Comments
	<p>analysis consistent with NSWLEC provisions and realistic bulk of rooftop building form.</p> <p>The Market Place elevation needs to accurately represent the actual solid-and-void pattern of surrounding development in the wider streetscape to enable a full review. The Panel considered the 2-dimensional representation of a neighbouring light-frame roof element used to justify the solidity of the proposed second floor addition was unconvincing. Further urban testing and modelling is required.</p> <p>The Panel noted the residential entry is proposed from Market Place. In principle this is supported where the activation of a hole-in-the-wall café or other small tenancy provides eyes- on-the-street. See comments at <i>Amenity</i> that have identified entry sequencing that requires further consideration.</p> <p><b>Recommendations</b></p> <ol style="list-style-type: none"> <li>1. Undertake a Response to Country and thorough site analysis (while not captured by the ADG, it provides a helpful checklist).</li> <li>2. Redesign is required to adequately address the heritage considerations to demonstrate how the proposal will sit spatially within the wider urban context, its presentation to and engagement with the streets and heritage items. Also see recommendations about building form, access and amenity noted in <i>Scale, built form and articulation</i>; and <i>Amenity</i>.</li> <li>3. Graphic analysis of proposed work is to demonstrate the requirements of the Heritage Impact Statement prepared by Touring the Past are demonstrated.</li> <li>4. Reconsider the treatment of the resident entry sequence to contribute to the public domain through movement, active frontages, and resident safety.</li> </ol> <p><b>Planner comment:</b></p> <ul style="list-style-type: none"> <li>• Recommendation 1 - 3: have been considered by Council's heritage advisor as part of there internal referral. The amended scheme is deemed to satisfy heritage concerns, subject to conditions of consent.</li> <li>• Recommendation 4: The resident entry from Market Place has been amended to allow for a easier access to level 1 and 2.</li> </ul> <p><b>Scale, built form and articulation</b></p> <p>The Panel supports in principle the adaptive reuse of heritage items. The retention of The Corso façade is supported. Additional information regarding existing building fabric to be retained and/or demolished should be provided in order to satisfy the heritage considerations.</p> <p>Proposed rooftop communal open space appears at early concept stage. Further urban studies are required to demonstrate:</p>



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	<ul style="list-style-type: none"> <li>• no impacts to the public domain experience of the heritage item</li> <li>• a cohesion and integration of building elements within the massing (lift overrun, roof for weather protecting the lift and stairwell, and the pergola)</li> <li>• high quality and considered architectural expression.</li> </ul> <p>The envelope should be tested for visibility from the public domain. As proposed, the rooftop arrangements appear quite ad hoc and disparate rather than sensitively integrated. The lift overrun height will need to be confirmed, the Panel observed requirements may be significantly higher than presented.</p> <p>In principle, the Panel is supportive of proposed balconies addressing the north and overlooking Market Place. The treatment of balustrading will need to better consider visual privacy in this busy pedestrian environment that requires further design development.</p> <p>See comments at <i>Amenity</i> for internal planning arrangements to be addressed.</p> <p>Proposed northern balconies and relationships to neighbouring buildings require further consideration. While Market Place is eclectic, further testing height datums of building elements and the composition of elevations is required.</p> <p>Any non-compliance with planning controls would need to demonstrate a positive public outcome:</p> <ul style="list-style-type: none"> <li>• contributions to the public domain or other public benefits (heritage outcomes, affordability, environmental performance)</li> <li>• reduced impact on adjoining sites (either existing or in relation to future development potential)</li> <li>• a demonstrable improvement in amenity within the proposal (e.g. heritage, streetscape, solar, natural ventilation and cross ventilation performance, overshadowing, privacy and the like) and architectural character.</li> </ul> <p><b>Recommendations</b></p> <ol style="list-style-type: none"> <li>5. Reconsider the rooftop communal open space arrangement and elements exceeding the permitted height. To be integrated with redesign of the internal planning arrangements.</li> <li>6. Future design is to be rigorously modelled and tested from the public domain more widely, along the streetscapes and its integration with the heritage item holistically.</li> </ol> <p><b>Planner comment:</b></p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>Recommendation 5 and 6: The communal rooftop has been deleted. The deletion of the communal open space will ensure that the heritage significance of the subject building will be retained.</li> </ul> <p>Access, vehicular movement and car parking</p> <p>Two street frontages provide opportunities for separating the residential entry from the commercial uses on this narrow site. The intent is noted, however, redesign to address amenity will need to achieve high quality access and definition of the different building uses.</p> <p>No carparking is proposed. The Panel is generally supportive of the sought variation given the tight site, readily available public transport noting a future development as a whole will need to demonstrate a high-quality holistic outcome.</p> <p><b>Recommendations</b></p> <p>None.</p> <p><b>Landscape</b></p> <p>With no Landscape plan prepared there is little to critique noting the location and zero boundary setback provisions. At this early stage, the Panel noted the roof terrace is conceptual and unresolved and would benefit from the expertise of a Landscape Architect to maximise the opportunities for this space and ensure plants are selected and installed in such a fashion as to thrive – such as ensuring planters are of generous proportions and soil depths or can accommodate large similarly generous pots.</p> <p>Where other constraints are not impacted (such as Heritage), the Panel encourages the principal of adaptive reuse and the use of roof tops for communal amenity.</p> <p>Given the much value is realised in winter when sun is in short supply, a pergola is not strictly necessary and as currently proposed appears intrusive. See previous comments regarding urban testing and redesign of the rooftop arrangement of elements.</p> <p>The height and weatherproofing of the lift and stairs needs consideration. Carefully consider BCA balustrade requirements where bench seating is proposed at the perimeter as well as planters to the edges of the parapet walls. These may have implications for the heritage considerations.</p> <p><b>Recommendations</b></p> <p>7. The Panel considers a positive outcome for the design of a rooftop communal open space and its landscape would benefit with the expertise of suitably experienced Landscape Architect.</p> <p><b>Planner comment:</b></p> <ul style="list-style-type: none"> <li>Recommendation 7: Rooftop communal open space deleted</li> </ul>

Internal Referral Body	Comments
	<p><b>Amenity</b></p> <p>The Panel was not supportive of the proposed internal planning arrangements. Amenity for both the commercial and residential components is poor and indicative of proposed yield of both commercial and residential being excessive.</p> <p>A future presentation will need to address the following:</p> <p><u>Accessibility</u></p> <p>While a lift is proposed and supported in principle, it currently only serves the residential uses while the First Floor commercial tenancy has not accessible path of travel.</p> <p>BCA and DDA requirements are to be demonstrated. <u>Entries</u></p> <p>The Panel encourages the intent to separate the residential from commercial. However, as proposed, there are conflicts between the residential entry and entry sequence to the lift. The corridor behind the café (009 on dwg A06) is primarily a service zone for the bins, back-of- house storage, stair linking to the First Floor commercial offices, and access to 2 x WC/bathrooms that may be used by the public and/or commercial tenancies.</p> <p>The Panel acknowledges the lift location has some logic both for managing any sought height exceedances and in attempting to maximise the limited frontages for daylight and natural ventilation amenity along the northern and southern facades, further design testing is required. The Panel encourages the exploration of alternative residential entry design and sequence including testing alternative lift locations to improve resident entry and better separate the commercial and residential uses.</p> <p>The entry conflicts and proposed configuration creates potential CPTED issues for securing access into the residential lift lobby being shared by commercial tenancies and the foyer not being visible from those ground floor tenancies nor the street.</p> <p><u>Commercial</u></p> <ul style="list-style-type: none"> <li>• Ground Floor – the Market Place tenancy may require reconsideration to better resolve the residential entry conflicts identified above.</li> <li>• First floor – offices 104 and 105 are very small, internalised with no access to daylight or natural ventilation which results in long-term poor building performance and amenity over the life of the proposed development.</li> </ul> <p>The Panel suggests the small offices be reconfigured as a single space with 101 and relocate the WC. This would enable an accessible path of</p>

Internal Referral Body	Comments
	<p>travel from a lift and an opportunity for natural daylight and ventilation from the two small southern windows. While these are relatively small windows, the overall amenity would be improved in a consolidated space.</p> <p><u>Residential</u></p> <ul style="list-style-type: none"> <li>· Natural daylight and ventilation</li> </ul> <p>None of the proposed three units achieve adequate daylight and natural ventilation amenity. Fully internalised rooms are not supported as acceptable design quality outcomes. This impacts all bedrooms and the living room of room 202. The Panel does not support small lightwells (the proposed are too small to be considered 'courtyards') as the primary source of daylight, natural ventilation and outlook for future residents over the life of the proposed development.</p> <p>The units relying on lightwells will rely on air-conditioning for day-to-day ventilation amenity, which is not supported.</p> <p>A redesign is required and should investigate whether a larger courtyard space may provide an opportunity for a single unit with the potential for an air flow that could achieve a dual aspect type.</p> <p><u>Layouts</u></p> <p>Bathrooms are not workable. The proposed width of approximate 900mm is insufficient space to use a toilet in the current configuration or to provide needed access to and from the showers.</p> <p><u>Visual privacy</u></p> <p>Resolution of the rooftop communal open space needs to resolve overlooking into the lightwells.</p> <p><b>Recommendations</b></p> <ol style="list-style-type: none"> <li>8. Resolve accessibility of the commercial tenancies.</li> <li>9. Reconsider the design proposition and likely decrease the number of tenancies and residential units to address amenity: <ul style="list-style-type: none"> <li>· program conflicts between the residential and commercial entry and lobbies,</li> <li>· adequate access to natural daylight and ventilation amenity,</li> </ul> </li> </ol>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>· functional room layouts,</li> <li>· visual privacy conflicts,</li> <li>· and adequate building performance over the life of the development.</li> </ul> <p>10. Consider the commercial amenity and the need to also create work environments of the quality needed to attract tenants and provide good working environments for staff.</p> <p><b>Planner comment:</b> Recommendation 8, 9 and 10: The internal floor plan has been substantially amended to address general accessibility and internal amenity of the individual residential apartments.</p> <p><b>Façade treatment/Aesthetics</b> Consider materials that are robust and minimise the need for maintenance over the life cycle of the development. Painted render finishes have not tended to perform well as evidenced throughout the Northern Beaches area. Careful attention to edge detailing and junctions of materials is needed to achieve a sufficiently characterful development that responds sensitively to the heritage fabric of the building, engages with the pedestrian scale, and to continue making a positive contribution to the future urban character for this area. Resolution of the rooftop elements also will be critical in achieving an acceptable urban outcome.</p> <p><b>Recommendations</b></p> <ul style="list-style-type: none"> <li>11. Façade design should be informed by the changes to design to address the issues noted above.</li> <li>12. Material selection should be carefully considered so they positively contribute to the future character of the area noting the heritage sensitivities.</li> <li>13. Attention to edge detail is needed to deliver a fine-grain architectural character of sufficient quality.</li> </ul> <p><b>Planner comment:</b> Recommendations 11 - 13: The materials and finishes have been reviewed by Council's Heritage advisor who has supported the materiality and finishes subject to conditions of consent.</p> <p><b>Sustainability</b> See notes in Amenity regarding better layouts for apartments to ensure good natural light and ventilation for all commercial and residential spaces.  No sustainability measures were presented in the concept proposal. The Panel notes this should include maximising passive design principles, potential for solar power (investigate rooftop pergola subject to heritage provisions).</p>

Internal Referral Body	Comments
	<p>Make sure no gas is used in the provision of services – the hot water should be via heat pump if it can fit, or electric instantaneous, the cooking should be induction</p> <p>In the commercial space, consider one open commercial tenancy, instead of 3 separate spaces, so that the whole commercial space has access to windows for daylight and views.</p> <p><b>Recommendations</b></p> <p>The following aspects of design and servicing can be easily, and cost effectively considered for inclusion:</p> <ol style="list-style-type: none"> <li>14. Decarbonisation of energy supply <ul style="list-style-type: none"> <li>- All services should be electric – avoid gas for cooking, hot water and heating.</li> <li>- Heat pump systems for electric hot water if adequate space otherwise electric instantaneous.</li> <li>- Unshaded roof space is a valuable resource for PV installations.</li> </ul> </li> <li>15. Passive design and thermal performance of building fabric <ul style="list-style-type: none"> <li>- Higher BASIX thermal performance standards that commenced on 1 October 2023 require an average 7-stars NatHERS, with no unit below 6 stars. This is consistent with the National Construction Code for 2022. Given the coastal location a very comfortable indoor environment should be achievable.</li> <li>- Include ceiling fans to all habitable rooms for resident comfort with minimal energy while reducing the need and energy required for air-conditioning.</li> </ul> </li> <li>16. Minimise water use <ul style="list-style-type: none"> <li>- All fixtures and appliances should be water efficient</li> <li>- Water storage for rainwater from the roofs should be included and plumbed to at least the landscaping and toilets if space permits</li> <li>- Landscape design and planting on the rooftop should be water tolerant and suitable for the microclimate.</li> </ul> </li> <li>17. Materials <ul style="list-style-type: none"> <li>- A new area of BASIX, it would be good to understand the approach to this score and embodied carbon reduction strategies.</li> <li>- Address material selections, colours and building performance to mitigate urban heat (and complement the</li> </ul> </li> </ol>

Internal Referral Body	Comments
	<p>heritage outcome).</p> <p><b>Planner comment:</b></p> <ul style="list-style-type: none"> <li>The BASIX Certificate and conditions dictating colours and materials have been incorporated into the recommendations to ensure sustainability and a suitable colour scheme and finish for the development</li> </ul> <p><b>PANEL CONCLUSION</b></p> <p>A re-design should be undertaken that particularly addresses and is informed by the issues of a considered response to the Place, heritage context, proposed massing, streetscape character, relationship of the commercial/retail that engages with the street, access for people, overall amenity, and good building performance.</p> <p>The combination of commercial and residential needs to be carefully considered so this does not undermine the quality of the project.</p> <p><b>The Panel does not support the proposal in its current form. A complete redesign that addresses the issues noted above is required. Any breaching of the height controls or setback controls would need to be supported by an analysis of the benefits compared to a complying scheme.</b></p> <p><b>PLANNER CONCLUSION:</b> The comments made by DSAP have been satisfactorily addressed by the applicant, and as such the proposal is supported.</p>
Building Assessment - Fire and Disability upgrades	<p><b><i>Supported, with conditions</i></b></p> <p>The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i><b>Note:</b> The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p>
NECC (Flooding)	<p><b><i>Supported, with conditions</i></b></p> <p>This proposal is for alterations and additions to an existing structure, including construction of new floors and a new layout of the ground and first</p>

Internal Referral Body	Comments
	<p>floors. This proposal has been assessed against Section 5.4.3 of the Manly DCP and Clause 5.21 of the Manly LEP.</p> <p>The site is within the Medium Flood Risk precinct. The relevant flood details are as follows:  Flood Planning Level: 5.73m AHD - a 300mm freeboard is justified in this area.  1% AEP Level: 5.43m AHD  PMF Level: 5.73m AHD</p> <p>Finished Floor Levels within the proposed development are at 5.68m AHD, the FPL is at 5.73m AHD. Since the proposal is almost entirely an internal refit on the ground floor, this has been assessed as acceptable, providing the bathrooms and bin room are constructed from flood proof materials, and that the lift is flood proofed up to the FPL.</p> <p>Subject to the following conditions, the proposal generally complies with Section 5.4.3 of the Manly DCP and Clause 5.21 of the Manly LEP.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p><b><i>Supported, with conditions</i></b></p> <p>The proposal has been referred to Heritage as the subject site is part of a group listed heritage item, in the vicinity of a number of heritage items and located within a heritage conservation area:</p> <p><b>Item I106 - Group of commercial buildings</b> - all numbers, The Corso</p> <p><b>C2 - Town Centre Conservation Area</b></p> <p><b>Item I108 - Group of commercial buildings</b> - 41–45 The Corso</p> <p><b>Item I104 - Street Trees</b> - The Corso (from Whistler Street to Sydney Road)</p>
	Details of heritage items affected
	<p>Details of the items as contained within the Northern Beaches inventory is as follows:</p> <p><b>Item I106 - Group of Commercial Buildings</b></p> <p><u>Statement of significance</u>  The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort.</p> <p><u>Physical description</u>  The Corso is the NE-SW link between Manly Beach and Manly Cove. It acts as a low scale horizontal corridor which steps down from the harbour</p>



Internal Referral Body	Comments												
	<p>to the ocean. The architecture is generally of the early twentieth century with a number of late 19th century buildings remaining as evidence of the former streetscape. The atmosphere of The Corso is of a 19th century place. Its special qualities include the contrasts of horizontal (low scale architecture) and vertical (planting) dimensions, and urban and natural elements. Of particular importance is the spatial continuity of the streetscape - including horizontal and vertical planes and negative space - from pedestrian level. It has a cohesive character resulting from generally low scale of development on its principle streets, Construction to the property boundaries, slightly higher and distinctive corner buildings and a good level of pedestrian protection and amenity generated by footpath awnings and through-block arcades has produced strongly defined and comfortable urban spaces. These spaces range from the tight enclosure of the arcades through to the openness of the Ocean Beach promenade and the esplanade.</p> <p><b>C2 - Town Centre Conservation Area</b> <u>Statement of significance</u> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.</p> <p><b>Item I108 - Group of commercial buildings</b> <u>Statement of significance</u> The group is of major significance for its contribution to the streetscape of The Corso and as extant 19th century commercial architecture. <u>Physical description</u> Group of (originally) five two storey brick buildings with painted stone face and mixture of slate, iron and tiled roofs. The buildings were originally constructed as a symmetrical group: the two end buildings bearing paired gabled ends over first floor with mock Tudor design in timber and render on the western end and intaglio design on the eastern.</p> <table><tr><th colspan="3">Other relevant heritage listings</th></tr><tr><td>SEPP (Biodiversity and Conservation) 2021</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr></table>	Other relevant heritage listings			SEPP (Biodiversity and Conservation) 2021	No		Australian Heritage Register	No		NSW State Heritage Register	No	
Other relevant heritage listings													
SEPP (Biodiversity and Conservation) 2021	No												
Australian Heritage Register	No												
NSW State Heritage Register	No												

Internal Referral Body	Comments		
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	<p>The proposal seeks consent for partial demolition of the heritage building and the construction of a three-storey commercial/residential development with a rooftop terrace. It is noted that the existing sections/elevations have not been provided in this application.</p> <p>Although, the group listed heritage buildings have been altered in time, the subject building is relatively intact with its surviving small triangular pediments over each window, the moulded cornice at the eaves line, the freeze and architrave. The rear portion of the first floor is also in the original built form and retains the original fabric. <i>"Manly Development Control Plan 2013 - Schedule 6 - The Corso: Site Specific Controls"</i> apply to the site and these controls require to <i>"reinstate slate roofing; colour of façade to match that at No 45"</i>. The site is located within a conservation area and is in a highly prominent location of Manly, with the rear facade facing an early laneway - Market Place. New works proposed to early arcades and laneway should retain, improve and enhance remaining historic fabric and character, whilst allowing for appropriate change and activation that complements their historic uses. It is noted that the proposed colours and materials drawing - A15 is referencing a dark colour on the facade <i>"EXISTING PAINTED BRICK WALL TO BE REPAINTED IN A DARK SHADE IN ORDER TO COMPLEMENT ADJOINING BUILDINGS"</i>. This colour is considered inappropriate within the HCA as the use of dark colours, such as black and dark grey are inconsistent with the significance of the conservation area.</p> <p>The proposed works retain the original fabric at the front portion (facing The Corso) of the property, however the extent of the demolition of the original fabric at the rear is not clear in the submitted drawings. The retained portion of the main roof at the proposed second floor courtyard should allow the interpretation of the original fabric, rather than to be hidden behind a parapet wall. The floor to ceiling height at the rear extension could be lowered from the proposed 3400mm to 3000mm at the ground floor and from 2800mm to 2700 at the upper levels to reduce the overall height and remain within the permissible height limit -10m and reduce the impact of the proposal when viewed from Market Lane. The roof terrace is not acceptable as the proposed balustrades, stair enclosure, lift and the pergola structure are adding to the bulk and scale. The proposed building mass is expected to respect the adjoining buildings to fit comfortably in this heritage context, however, the proposal is exceeding the adjacent buildings on both the elevation and plan view.</p>		

Internal Referral Body	Comments
	<p><b>Revised comments - 12 February 2025</b></p> <p>Amended plans, submitted on 7 February 2025, have not addressed the heritage concerns raised in the previous referral response. The proposed bulk and scale of the proposal is still excessive (Market Place elevation) and do not relate to the bulk and scale of the neighbouring buildings. The proposed height can be reduced to minimise the bulk and scale. It is recommended that the top level either to be further recessed from the lane or the proposed massing should be similar to 45 The Corso. The proposed roof terrace is not acceptable as the proposed balustrades, stair enclosure, lift and the pergola structure are adding to the bulk and scale.</p> <p><b>Revised comments - 18 February 2025</b></p> <p>It is noted that the amended drawings, received on 7 February 2025, provide significant improvements by deleting the roof terrace and reducing the overall height. However, it is considered that the overall height could be further reduced to remain within the 10m height plane. Ideally, underside of the cantilevered first floor extension, at the Market Lane frontage, can line up with the adjacent property at 45 The Corso. The proposed first and second floors are approximately 200mm beyond the building alignment of the adjoining buildings (on the plan) at the Market Lane frontage. It is required to be in line with the building alignment. The proposed materials and colours are considered appropriate except the painted brick colour which is not specified but shown as black on the finishes schedule. Therefore, a revised colour schedule is required.</p> <p>Given the proposal do not involve any works to front facade, and the new additions are not visible from The Corso and the impact of the proposal upon the significance of the conservation area by the works at the Market Lane frontage is considered manageable.</p> <p>Therefore, no objections are raised on heritage grounds, subject to three conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u>  Is a Conservation Management Plan (CMP) Required? No  Has a CMP been provided? No  Is a Heritage Impact Statement required? Yes  Has a Heritage Impact Statement been provided? Yes</p>
Traffic Engineer	<p><b><i>Supported, with conditions</i></b></p> <p><b><u>Proposal description:</u></b> Part demolition for alterations and additions for</p>

Internal Referral Body	Comments
	<p>mixed-use development, including the construction of an additional storey and rooftop terrace. No off-street parking or loading facilities are proposed.</p> <p>The traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> <li>Plans (Master Set) – Revision A, designed by SANDBOX STUDIO, dated 08/07/2024,</li> <li>Traffic and Parking Assessment report, Reference N335/2024/TIA prepared by TTPS dated 16 July 2024,</li> <li>Statement of Environmental Effects prepared by RYAN Planning &amp; Development Pty Ltd,</li> <li>Construction Traffic Management Plan, Reference N335, prepared by TTPS dated 20/08/2024, and</li> <li>Pre-Lodgement Advice (PLM2022/0113) dated 30 June 2022.</li> </ul> <p><b><u>Notes:</u></b></p> <p>There were a number of minor traffic concerns raised in the PLM referral comments dated 30 June 2022 that were requested to be addressed in the DA traffic report.</p> <p><b><u>Parking:</u></b></p> <p>There is a requirement under the DCP for additional parking at the rate of 1 space per 40sqm of commercial/retail premises GFA, 1 parking space for additional dwellings plus some additional visitor parking at 0.25 spaces per dwelling. The existing development on the site provides no off-street parking, and no additional parking is proposed under the development proposal. It is noted that the development site.</p> <ul style="list-style-type: none"> <li>is within close proximity to good Bus and Ferry transport and within walking distance of services and facilities.</li> <li>there are a number of car-share vehicles located nearby.</li> <li>is in a location with a high parking demand on the development frontage and providing a small number of additional offstreet parking spaces for the development would be impractical as it would require the construction of a driveway, which itself would remove parking from on-street.</li> <li>would negatively impact upon pedestrian safety if it provided off-street parking as the increase in vehicle movements to and from the site across a highly pedestrianized area would be undesirable and potentially unsafe.</li> </ul> <p>On the basis of the above comments the absence of parking to support the development is supported.</p> <p>To encourage travel by walking, cycling and public transport and reduce the potential for residents to become car dependent a condition will be imposed preventing residents of the development from obtaining resident parking permits</p> <p><b><u>Traffic Generation</u></b></p>

Internal Referral Body	Comments
	<p>The traffic and parking impact report has concluded that the proposed development is expected to generate more trips by individuals than by vehicles. The peak number of vehicle trips associated with the site will primarily come from staff being dropped off, and these trips are likely to be minimal. The retail component of the development is anticipated to attract visitors who are already in the area, which means it is unlikely to create additional dedicated vehicular trips to the facility. The lack of off-street parking will further encourage reliance on public transport, walking, and cycling. Overall, the development is not opposed in terms of traffic generation.</p> <p><b><u>Loading</u></b></p> <p>The development proposes no off-street loading facility but relies upon the use of the on-street Loading Zones on Market Lane adjacent to the development site. The lack of a Loading Dock is not opposed noting that the Loading Zone on Market Lane in front of the development will be retained and available for deliveries. A limitation on the size of vehicle servicing this development is required as there is a 6m length restriction on trucks entering Whistler Street from Sydney Road. This will be conditioned.</p> <p><b><u>Construction Traffic Management</u></b></p> <p>Construction Traffic Management is a critical issue in this location and a Construction Traffic Management Plan (CTMP) is submitted to demonstrate how the works will be safely managed and constructed. A limitation on the size of any construction vehicles accessing the site has been imposed, given the 6m length restriction on access to Whistler Street. Turning path assessments have been undertaken for vehicles up to 8.8m in length, and they can safely access and manoeuvre to and from the site via Whistler St and the trafficable portion of Market Lane with all available parking spaces occupied. Traffic Control Plans to manage entry and exit to and from the site and to/from Whistler Street have been prepared.</p>
Waste Officer	<p><b><i>Supported, with conditions</i></b>  Waste management Assessment  Supported - subject to conditions</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><b><i>Supported, with conditions</i></b></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

#### 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)**

#### **Housing and Productivity Contribution**

*Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.*

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

#### Comment:

The subject site is a mixed use development incorporating retail, office and residential floor space and is sited within the Greater Sydney region. As such, the contribution is \$ 31,870.90

#### **SEPP (Sustainable Buildings) 2022**

A BASIX certificate has been submitted with the application (see Certificate No. A1745761\_04 dated 4 February 2025).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

#### **SEPP (Transport and Infrastructure) 2021**

#### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or

an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

## **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 residential and 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 residential and 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

### **Principal Development Standards**

<b>Standard</b>	<b>Requirement</b>	<b>Proposed</b>	<b>% Variation</b>	<b>Complies</b>
Height of Buildings:	10m	10.5m	5%	No
Floor Space Ratio	FSR: 2.50:1 (377.5sqm)	FSR: 2.36:1 (364.85sqm)	N/A	Yes

### **Compliance Assessment**

<b>Clause</b>	<b>Compliance with Requirements</b>
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.4 Floor space ratio	Yes

Clause	Compliance with Requirements
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.14 Requirement for development control plans	Yes

#### Detailed Assessment

#### **Zone E1 Local Centre**

##### The underlying objectives of the E1 Local Centre zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

##### Comment:

The proposed development retains the use of the site as mixed use development, including retail premises at ground level and office space at first floor level. This supports the needs of the people who live in, work in, and visit the local area.

- To encourage investment in local commercial development that generates employment opportunities and economic growth.*

##### Comment:

As above, the proposed development retains retail premises at ground level, which will provide employment opportunities. The subject site is accessible in that it is located within short walking distance of regular bus, ferry services and courtesy bus services.

- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

##### Comment:

The subject site is conveniently located within short walking distance of bus and ferry services, as well as walking and cycling paths.

- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*



Comment:

The proposed development includes two separate retail premises on ground floor level.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*

Comment:

The proposed development will not compromise other land uses within the E1 zone.

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

Comment:

The works will upgrade ageing building, which will attract pedestrian traffic to the ground floor commercial premises.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

The scale of the development remains consistent and in harmony with neighbouring development within in the Corso

It is considered that the development satisfies the objectives of the E1 Local Centre zone.

#### **4.3 Height of buildings**

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	10m
Proposed:	10.5m
Percentage variation to requirement:	5%

#### **4.3 Height of buildings**

(1) The objectives of this clause are as follows—

*a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*

Comment:

The proposed development is located within a local centre where buildings are of varying heights and roof forms. Development located within the town centre is

predominantly characterised by a mix commercial and shop top housing developments varying between 3-5 storeys in height. The works are located such that they are not readily perceptible from the public domain along The Corso, and are not unreasonably imposing from other vantage points, such as Market Lane.

The building height, while non-compliant, is generally consistent with the height of the building along the Corso.

*b) to control the bulk and scale of buildings,*

Comment:

The proposed building height will not result in unreasonable building bulk or scale and does not result in any unreasonable physical or visual impacts on surrounding lands. The proposal is also compliant with the floor space ratio control.

*c) to minimise disruption to the following—*

*(i) views to nearby residential development from public spaces (including the harbour and foreshores),*

*(ii) views from nearby residential development to public spaces (including the harbour and foreshores),*

*(iii) views between public spaces (including the harbour and foreshores),*

Comment:

The proposed development is designed and sited so as not to cause unreasonable view loss to or from public or private spaces.

*d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

Comment:

The proposed development is considered to be designed and sited in a manner that adequately mitigates solar access impacts to adjacent properties. The proposed design complies with the relevant controls for sunlight under the MDCP 2013.

*e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses,*

Comment:

Not applicable. The subject site is zoned E1 Local Centre zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance

## **4.6 Exceptions to development standards**

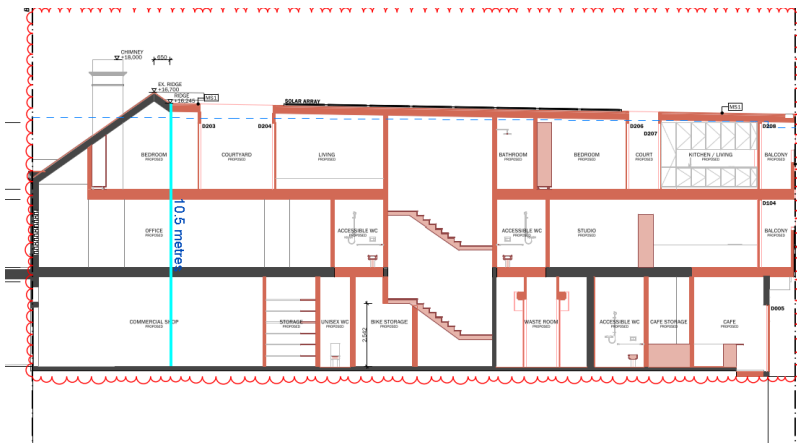
The application seeks consent to vary a development standard as follows:

**Development standard:** Clause 4.3 (Height of Buildings)

**Requirement:** 10m

**Proposed:** 10.5m

**Percentage of variation:** 5%



**Image 1** - Building height calculation

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is/is not accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the MLEP 2013 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

*(1) The objectives of this clause are as follows:*

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 (Height of Buildings) is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

*(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

*(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Comment:

Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.3 is unreasonable or unnecessary in the circumstances of this application for the following reasons:

- The purpose of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards and that the application should be assessed on a greater numerical figure, accounting for the sites constraints and the unique nature of the locality.
- The application is consistent with similar approvals within the area.
- Compliance with the objectives of Clause 4.3 (Height of buildings) of the MLEP 2013.

*(b) there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 *at* [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

The Clause 4.6 Request argues, in part:

- *The subject contravention is seen to be minor in negligible in the context of perceptible form and is regardless not seen to be of a negative visual impact. The variation is noted to only exceed the existing building height to a marginal extent, are below the existing maximum building heights on site and are not observable at the human scale from the public domain. Further, the extent of the contravention is reduced when considered in the context of existing built-form elements on the site that encroach beyond the current maximum building height. So then it is arguably more appropriate to grant consent with the contravention than to enforce the standard that is demonstrated to be redundant in terms of actual outcomes and reduced in extent when considered in the context of the existing building height.*
- *It is considered that forced compliance would ultimately result in degraded outcomes in terms of the broader feasibility of the development, which holistically is seen to impact beneficial outcomes with regard to rejuvenated built form and ameliorated economic activity drivers.*
- *The proposed is seen to be representative of a high-standard architectural design. As is evidenced through the architectural plan set, the proposed has incorporated built-form*

*articulation, considered material selection, streetscape aesthetics, and the general character of the heritage conservation area it is situated within. The proposed design is seen to be in keeping with the established local centre character and is successful in providing built-form rejuvenation of the premise that is not only of high architectural quality but also successful in providing a high level of amenity for its residents whilst preserving the prevailing character of the site as well as the broader locality.*

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3 (Height of Buildings) for the following reasons:

The proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

#### **Public Interest:**

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

#### **Conclusion:**

Council is satisfied as to the matters set out in Clause 4.6 of the MLEP 2013.

It is considered on balance, that having regard to the particular circumstances, that the variation is minor and screened behind, and is lower than the ridgeline of the building facing The Corso, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

#### **5.21 Flood planning**

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

#### **Comment:**

The application has been referred to Council's Flood Engineer, who has reviewed the development in relation to the above matters. The Engineer is supportive of the works, subject to conditions of consent, which have been included in the recommendation of this report. Accordingly, the development is satisfactory with respect to the above matters at (a) through (e).

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment:

The application has been referred to Council's Flood Engineer, who has reviewed the development in relation to the above matters. The Engineer is supportive of the works, subject to conditions of consent, which have been included in the recommendation of this report. Accordingly, the development is satisfactory with respect to the above matters at (a) through (e).

## **6.1 Acid sulfate soils**

Clause 6.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 4, as indicated on Council's Acid Sulfate Soils Planning Map.

Works at depths beyond 2.0m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 2.0 metre below the natural ground surface within a Class 4 acid sulfate soil area are required to be assessed to determine if any impact will occur.

The development proposes to excavate the site to approximately 6m and 7m below the natural ground level. As such, a Preliminary Acid Sulfate Soil Assessment has been undertaken by Douglas Partners dated August 2022. In the assessment, Douglas Partners found that the site has a low probability of having ASS. However, given the proposed depth of excavation, the probability of encountering ASS would be greater. The Preliminary Assessment was referred to Council's Environmental Health Officer who concurred with the findings and imposed a condition which required a Detail site investigation (DSI) be submitted, prior to the issue of a construction certificate.

## **6.2 Earthworks**

The objectives of Clause 6.2 - 'Earthworks' require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

*(b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

*(c) the quality of the fill or the soil to be excavated, or both*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

*(e) the source of any fill material and the destination of any excavated material*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(f) the likelihood of disturbing relics*

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

*(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area*

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **6.9 Foreshore scenic protection area**

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

*(a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*

- (b) measures to protect and improve scenic qualities of the coastline,*
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Comment:

The subject site is within the foreshore scenic protection area and is foreshore land. The proposed development:

- does not unreasonably impact upon the visual amenity of the foreshore and surrounds, and does not result in view loss from a public place to the foreshore,
- is not closely visible from the coastline, so does not impact upon its scenic quality,
- is suitable in its site context, and
- does not result in conflict between land-based and water-based coastal activities.

## 6.12 Essential services

Under this clause, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

Comment:

The subject site is supplied with the above essential services. The proposed development retains and relies upon these services.

## 6.13 Design excellence

Under this clause, development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.

In considering whether development exhibits design excellence, the consent authority must give consideration to whether the development—

- (a) contains buildings that consist of a form, bulk, massing and modulation that are likely to overshadow public open spaces, and*
- (b) is likely to protect and enhance the streetscape and quality of the public realm, and*
- (c) clearly defines the edge of public places, streets, lanes and plazas through separation, setbacks, amenity, and boundary treatments, and*
- (d) minimises street clutter and provides ease of movement and circulation of pedestrian, cycle, vehicular and service access, and*
- (e) encourages casual surveillance and social activity in public places, streets, laneways and plazas, and*
- (f) is sympathetic to its setting, including neighbouring sites and existing or proposed buildings, and*
- (g) protects and enhances the natural topography and vegetation including trees, escarpments or*



*other significant natural features, and*

*(h) promotes vistas from public places to prominent natural and built landmarks, and*

*(i) uses high standards of architectural design, materials and detailing appropriate to the building type and location, and*

*(j) responds to environmental factors such as wind, reflectivity and permeability of surfaces, and*

*(k) coordinates shared utility infrastructure to minimise disruption at street level in public spaces.*

Comment:

The proposed development has been considered against the above objectives and will exhibit design excellence. The proposed changes to the ground floor facade and signage will protect and enhance the current streetscape along The Corso as the changes are directly related to the current use of the premises. Casual surveillance is maintained. The proposal is sympathetic to its setting and site context with no unreasonable or adverse impacts upon neighbouring sites or the topography of the site. The proposed development is minor in nature and will not detract from the current built form of the subject site. The proposed development will satisfy the objectives and is determined to be acceptable in this instance.

## Manly Development Control Plan

### Built Form Controls

<b>Built Form Controls - Site Area: 1,143.7m2</b>	<b>Requirement</b>	<b>Proposed</b>	<b>% Variation*</b>	<b>Complies</b>
4.2.3 Setbacks Controls in LEP Zone B1 and B2	0m	0m	-	Yes
4.4.3 Signage	Max. 2 signs per frontage	No signage proposed	-	N/A

### Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
3.2 Heritage Considerations	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.2.5.3 Security Shutters	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
5.1.2 The Corso	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

## 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**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$12,661 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,266,100.

## **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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- There are sufficient environmental planning grounds to justify the variation.

## **PLANNING CONCLUSION**

This proposal, for alterations and additions and use as shop-top housing at 47 The Corso, Manly. has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the subject site being a heritage item and therefore considered 'sensitive development'.

No objections have been received.

Issues raised by Heritage and DSAP were satisfactory addressed by amended plans and the proposal is deemed to be satisfactory, subject to conditions.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. 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 Northern Beaches Council, as the consent authority, vary the development standard contained within Clause 4.3 Height of Buildings, pursuant to Clause 4.6 of the Manly Local Environmental Plan 2013 because the Applicant’s written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2024/1132 for Alterations and additions and use as shop top housing on land at Lot 6 DP 26171, 47 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
A07	B	Demo floor plans	Sandbox Studio	5 February 2025
A08	B	Proposed floor plans	Sandbox Studio	5 February 2025
A09	B	Proposed floor plans	Sandbox Studio	5 February 2025
A10	B	Accessibility Plans	Sandbox Studio	5 February 2025
A11	B	Accessibility Plans	Sandbox Studio	5 February 2025
A12	B	South East Elevation	Sandbox Studio	5 February 2025
A13	B	North West Elevation	Sandbox Studio	5 February 2025
A14	B	North East Elevation	Sandbox Studio	5 February 2025
A15	B	South West Elevation	Sandbox Studio	5 February 2025

A16	B	Section A-A	Sandbox Studio	5 February 2025
A17	B	Section B-B	Sandbox Studio	5 February 2025
A18	B	Section C-C	Sandbox Studio	5 February 2025
A19	B	View Analysis	Sandbox Studio	5 February 2025
A22	B	Finishes Schedule	Sandbox Studio	5 February 2025
A23	B	Finishes Schedule	Sandbox Studio	5 February 2025
A24	B	Finishes Schedule	Sandbox Studio	5 February 2025
101	A	Stormwater Concept Plan, Roof and Level 2	MBR	19 February 2024
102	A	Stormwater Concept Plan, Ground and Level 1	MBR	19 February 2024
103	A	Sediment and Erosion Control	MBR	19 February 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Operational Plan of Management	1	Ryan Planning	1 July 2024
Traffic and Parking Impact Assessment	-	TTPS	16 July 2024
BASIX Certificate No. A1745761_04	4	Energy Rating Group	4 February 2025
Section J report	-	Energy Rating Group	3 February 2025

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.

**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	Ausgrid Referral Response	N/A

(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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a **shop top housing**, in accordance with the Dictionary of the Manly Local Environmental Plan 2013, as follows:

**shop top housing** means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

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

Reason: To ensure compliance with the terms of this consent.

### 4. **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 Certifier 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 Certifier 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 Certifier 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.

## 5. 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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.

- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
  - (ii) Swimming Pools Amendment Act 2009
  - (iii) Swimming Pools Regulation 2018
  - (iv) Australian Standard AS1926 Swimming Pool Safety
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$12,661.00 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 (as amended).

The monetary contribution is based on a development cost of \$1,266,100.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

## **7. 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 Certifier 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.

## **8. Housing and productivity contribution - Development consents**

1. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition 2, is required to be made:

<b>Contribution Type</b>	<b>Amount</b>
Housing and Productivity Contribution	\$ 31,870.90
<b>Total:</b>	<b>\$ 31,870.90</b>

2. The amount payable at the time of payment is the amount shown in condition 1 as the total housing and productivity contribution adjusted by multiplying it by:

***highest PPI number***

***consent PPI number***

where—

***highest PPI number*** is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made.

***consent PPI number*** is the PPI number last used to adjust HPC rates when consent was granted.

***June quarter 2023 and PPI*** have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

3. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).

5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
- a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
  - b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.

6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **9. National Construction Code (BCA) upgrade requirements and Fire Safety upgrade**

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Report prepared by Atelier Consultancy, dated 15/07/2024, Report No. 220115, including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

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

### **10. National Construction Code (BCA) 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.

Details are to be provided to the Certifier 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.

### **11. Building components and structural soundness**

B1 - All new development (including the bathrooms and bin room on the ground floor) below

the Flood Planning Level of 5.73m AHD shall be designed and constructed from flood compatible materials.

B2 - All new development must be designed to ensure structural integrity up to the Flood Planning Level of 5.73m AHD, taking into account the forces of floodwater, debris load, wave action, buoyancy and immersion.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 5.73m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

The lift must be flood proofed up to the Flood Planning Level of 5.73m AHD, and have any motors located at the top of the lift shaft.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

12. **Floor levels**

C1 - New floor levels within the development shall be set at or above 5.68m AHD.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

13. **Services and Fire Hydrant Enclosure**

Prior to the issue of a Construction Certificate for works above ground slab level, the Certifying Authority is to be provided with plans demonstrating that all Services (Gas meter, water meter & fire hydrant and sprinkler booster valves and the like) are enclosed in a manner that compliments the building and in accordance with the requirements of EP1.3 & EP1.4 of the BCA.

Reason: To ensure essential services are appropriately screened

14. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

15. **Building alignment - Market Lane frontage**

A recess is required to the proposed first and second floors to be in line with the building alignment of the adjoining buildings (on the plan) at the Market Lane frontage. Details demonstrating compliance with this condition is to be submitted and approved by Council's

Heritage Advisor prior to the issue of the Construction Certificate.

Reason: To ensure the impact of the proposed works upon the significance of the HCA is minimised.

**16. External materials and colour scheme**

External colour schemes should be complementary to the heritage conservation area, based on research, and have regard for the setting. Dark colours, such as black and dark grey, are not appropriate. The proposed painted brick colour - which is not specified but shown as black on the finishes schedule is not appropriate. The proposed colour scheme for replacement roof cladding and the repainting on The Corso facade has not been specified. Therefore, a revised colour schedule is required for both Market Lane and The Corso facades. Details demonstrating compliance with this condition are to be submitted to Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To ensure the colour scheme is consistent with the significance of the conservation area.

**17. Compliance with Standards**

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

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

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

**18. Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

**19. Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 20. **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.

### 21. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties: 45 and 49 The Corso, Manly

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

### 22. **Photographic Archival Record**

A photographic archival record of the existing building is to be made, including interiors and exteriors and their setting, generally in accordance with the guidelines issued by the NSW Heritage Division of the Department of Planning and Environment.

This record must be submitted and approved by Council's Heritage Advisor prior to the issue of the Construction Certificate and commencement of any works on-site. The photographic record should be made using digital technology, submitted on archival quality, and should include:

- Location of the building, 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 existing building.

## DURING BUILDING WORK

### 23. **Implementation of Demolition Traffic Management Plan**

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

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

### 24. **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 TfNSW 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.

### 25. **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.

### 26. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.



Reason: For the protection of the environment and human health.

27. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

28. **Maintenance of Sediment and Erosion Controls**

Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

29. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan prepared by Auswide Consulting dated May 2023.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

30. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

## BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

### 31. **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 Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, 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 Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

### 32. **Certification of Works as Executed**

A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:

1. Floor levels for ground floor and shelter in place refuge are set at or above the required level.
2. The lift is flood proofed to the FPL, and any motors associated are located at the top of the lift shaft.
3. The ground floor bathrooms and bin room are constructed from flood proof materials to the FPL.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

### 33. **Building Components and Structural Soundness**

B2 - A suitably qualified structural engineer is to certify the structural integrity of the new development up to the Flood Planning Level of 5.73m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 5.73m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-

prone property and reduce public and private losses in accordance with Council and NSW Government policy.

**34. Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

**35. Geotechnical Certification Prior to Occupation Certificate**

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

**36. Garbage and Recycling Facilities**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

**37. Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from 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) <<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 charges to be paid. Please make early contact with the Co-ordinator, 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 an Occupation Certificate.

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

**38. Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

**39. Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

**40. Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

**41. Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. A Compliance Certificate, issued by the Certifying Authority, shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

**ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

**42. Access for Waste Collection Staff**

All doors and gates used by collection staff must provide unimpeded access to the bins. Should any doors or gates have a requirement to be secured, they must be fitted with a timer

lock set to remain open from 5.00am to 6.00pm on the scheduled day/s of collection. All doors and gates must be able to be latched in the open position to facilitate bin manoeuvring.

All doors and gates used by waste collection staff must be of solid construction. Glass doors are not permitted.

Reason: To ensure unimpeded access to waste bins for collection staff at the appropriate times..

43. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

44. **Graffiti removal**

During ongoing use of the premises, ensure graffiti is removed from the exterior of the building or associated structures, including any fences, site services and retaining/planter bed walls.

Reason: To ensure the safe operation of the premises and to protect the amenity of adjoining premises and the surrounding area.

45. **Deliveries, waste and recycling collection**

Deliveries, waste and recycling collection from the site is to be carried out between 7am and 10pm only to minimise noise.

Reason: To minimise noise to residential receivers.

46. **Commercial Waste Collection Procedure**

Commercial waste and recycling bins must not be placed upon public land on Market Place awaiting collection.

Waste collection arrangements must include a procedure whereby the collection contractor enters the property to retrieve the bins from the dedicated bin storage area and then returns the bins to the dedicated bin storage area immediately after emptying.

Reason: To maintain public amenity in Market Place.

47. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Sunday - 7am - 7pm

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

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

48. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed.

49. **Restriction on size of delivery and service vehicles**

Service and Delivery Vehicles accessing the site from Whistler Street and/or parking in Market Lane are not to exceed 6m in length

Reason: 6m length limit on vehicle access to Whistler Street

50. **Resident/Tenants Parking Permits**

Any residents and/or tenants of the subject site are not eligible for resident parking permits even if they reside in a Permit Parking Scheme area. This condition is to be provided on the property Title.

Reason: to encourage sustainable transport alternatives and ensure that residents/tenants are aware that they are not entitled to a permit