

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1526
Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 2 DP 877793, 25 The Corso MANLY NSW 2095 Lot CP SP 12989, 19 - 23 The Corso MANLY NSW 2095 Lot 1 DP 877793, 27 The Corso MANLY NSW 2095
Proposed Development:	Alterations and additions to an existing pub
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Iris Ivanhoe Property Pty Ltd
Applicant:	Iris Capital
Application Lodged:	21/09/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	06/10/2022 to 20/10/2022
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Yes
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,808,853.00

EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to an existing pub, known as the Ivanhoe Hotel, which is located on the Corso, Manly.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the works to the Hotel result in a variation of more than 10% to the development standard contained within Clause 6.16 Gross Floor Area in Zone B2 of the MLEP 2013. Specifically, subclause 4 of Clause 6.16 of the MLEP limits the gross floor area of a retail premises to no more than 1000m², with the existing Hotel already exceeding this threshold and being a type of retail premises by definition. The alterations associated with the Hotel, reduce the amount from retail gross floor area from 1580m² to 1540m². However, due to the reconfiguration of the retail floor area, result in a technical breach of the development standard.

Concerns raised within in the objections predominantly related to consideration of the Manly Place Plan and an inaccuracy within the submitted Waste Management Plan.

Critical assessment issues included the variation to the development standard contained within Clause 6.16 Gross Floor Area in Zone B2 of the MLEP 2013, and non-compliance with the signage controls of the MDCP 2013. These elements are acceptable on merit. The proposal does not seek to alter approved patron numbers or hours of operation.

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

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the Ivanhoe Hotel as follows:

- Ground floor and first floor reconfiguration including removal of the ground floor kitchen;
- Removal of the bottle shop from within No. 25 The Corso and replacement in No. 23 The Corso.
- Inclusion of Sports Bar at 25 and 27 The Corso;
- Reconfiguration of voids;
- Some minor structural modifications;
- Signage to the Corso and Market Place frontages;
- Change of use of Level 1 from storage to ancillary office;
Amendments to building access and services, including stairs and floor finishes; and
- Minor modifications to access, services, flooring and structure;
- Replacement of the Corso and Market Place facades, including new windows.

The proposal does not seek to alter approved patron numbers or hours of operation.

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 - 4.6 Exceptions to development standards

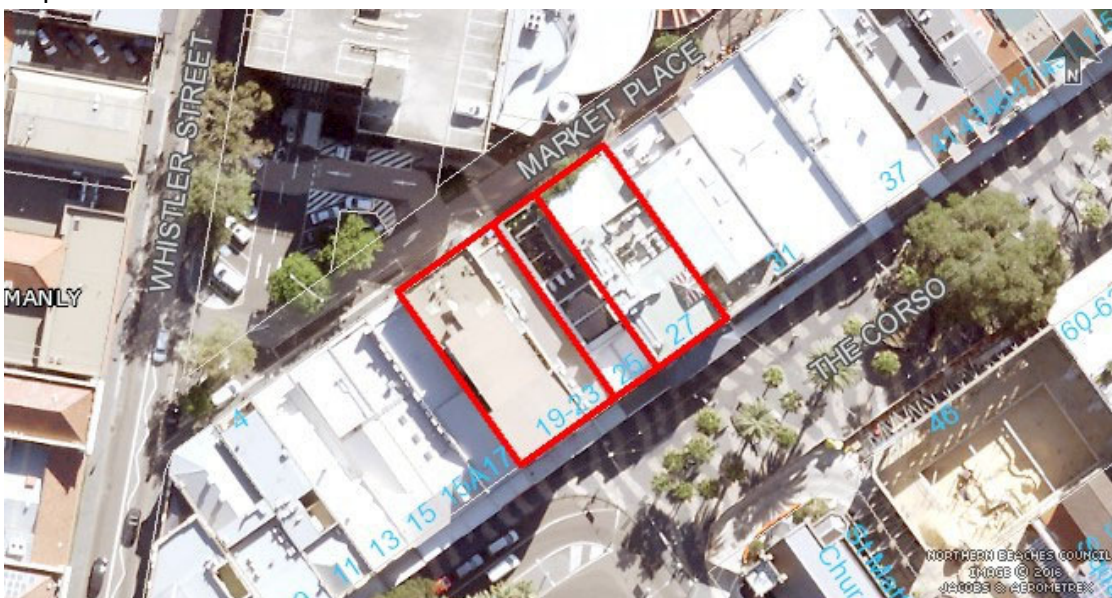
Manly Local Environmental Plan 2013 - 5.21 Flood planning

- Manly Local Environmental Plan 2013 - 6.12 Essential services
- Manly Local Environmental Plan 2013 - 6.16 Gross floor area in Zone B2
- Manly Development Control Plan - 3.9 Mechanical Plant Equipment
- Manly Development Control Plan - 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor
- Manly Development Control Plan - 4.2.5.4 Car Parking and Access
- Manly Development Control Plan - 4.4.3 Signage

SITE DESCRIPTION

Property Description:	<p>Lot 2 DP 877793, 25 The Corso MANLY NSW 2095 Lot CP SP 12989, 19 - 23 The Corso MANLY NSW 2095 Lot 1 DP 877793, 27 The Corso MANLY NSW 2095</p>
Detailed Site Description:	<p>The subject site consists of three allotments located on the north-western side of The Corso, Manly, comprising Nos. 19-23, 25 and 27.</p> <p>The site is regular in shape with frontages of 36.885 metres along The Corso and 36.69 metres along Market Place, and a depth of 31.215 metres. The site has a surveyed area of 1,143.7m².</p> <p>The site is located within the B2 Local Centre zone and accommodates a two- to four-storey pub known as the Ivanhoe Hotel.</p> <p>The site is level and contains no vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by mixed use and commercial premises.</p>

Map:



SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- DA196/2008 for alterations and additions to the Ivanhoe Hotel was refused by Council on 9 October 2008. A subsequent appeal via the NSW Land and Environment Court was upheld on 17 December 2008.
- DA196/2008 Part 2 for modification of Development Consent DA196/2008 was approved by Council on 7 July 2009.
- Pre-lodgement meeting PLM2018/0134 was held on 26 June 2018 to discuss alterations and additions to existing building.
- DA2019/0211 for alterations and additions to a hotel, including new signage was approved by Council on 11 June 2019.
- DA2019/0574 for change of use to a pub, alterations and additions to the premises, fit out and signage was approved by Council on 3 October 2019.
- Mod2019/0558 for modification of Development Consent DA2019/0574 was approved by Council on 20 December 2019.
- DA2019/0512 for alterations and additions to an existing shop top housing development was refused by the Northern Beaches Local Planning Panel on 1 April 2020.
- DA2020/1711 for alterations and additions to an existing shop top housing development was approved by the Northern Beaches Local Planning Panel on 7 April 2021.
- DA2021/0019 for termination of the existing strata plans and subdivision of one lot into two was approved by the Northern Beaches Local Planning Panel on 19 May 2021.
- Pre-lodgement meeting PLM2021/0112 was held on 3 June 2021 to discuss alterations and additions shop top housing development
- Pre-lodgement meeting PLM2021/0234 was held on 22 October 2021 to discuss alterations and additions and change of use of an existing commercial/retail building
- DA2022/0643 for alterations and additions to the existing building to allow for shop top housing and a pub is currently under assessment.
- Mod2022/0103 for modification of Development Consent DA2008/196 was withdrawn by the Applicant on 12 August 2022.
- Mod2022/0104 modification of Development Consent DA2019/0574 was withdrawn by the Applicant on 12 August 2022.

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	None applicable.

of any planning agreement	
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the variation to the development standard that limits gross floor area of retail premises in the B2 Local Centre zone. The required information was provided on 24 October 2022.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a recommended condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a recommended 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>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.

Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 06/10/2022 to 20/10/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Ms Catherine Gai Griffin	67 Stuart Street MANLY NSW 2095
Mr Paul Robert Jules Gilet	12 / 38 - 42 The Corso MANLY NSW 2095

The following issues were raised in the submissions:

- Assessment of the application should consider the Manly Place Plan.
- The Waste Management Plan refers to North Sydney Council and does not detail management of bins outside the building in Market Place, which currently impacts on amenity and pedestrian movements.
- The use of the pub results in unreasonable noise impacts to nearby residential premises.

The above issues are addressed as follows:

Manly Place Plan

Comment:

The Manly Place Plan is currently being developed by Council and has not yet been drafted or placed on public exhibited. As such, it is not a matter for consideration under this assessment.

Waste Management Plan

Comment:

A condition of consent requiring amendment of the Waste Management Plan to refer to Northern Beaches Council has been included in the recommendation. The recommended condition has also specified that waste bins are to remain in the garbage room until such time as waste collection is scheduled and are to be replaced into the garbage room immediately after collection. The Waste Management Plan is otherwise sufficient in addressing the requirements for the proposed development, being for alterations and additions only, rather than an intensification of the pub use. Concerns of nuisance created by bins can be reported to Council for investigation.

Noise Impacts

Comment:

The proposed development does not result in intensification of the Ivanhoe Hotel use, rather its rationalisation of use as such, it is not anticipated to result in additional noise impacts. The proposed development has been reviewed by Council's Environmental Health Officer (including in relation to noise generation), who is supportive of the works, subject to recommended conditions of consent. Concern about specific events of unreasonable noise because of the Ivanhoe Hotel operation can be reported to NSW Police or Council for investigation, as are unrelated to this development application, rather the operation of the existing, lawful Hotel.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported, subject to recommended conditions</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Industrial)	<p>Supported, subject to recommended conditions</p> <p>Noise related comments: The acoustic assessment by Renzo Tonin & Associates 29 August 2022 advises (partial extracts):</p> <ol style="list-style-type: none"> 1. Current trading restrictions are; <ul style="list-style-type: none"> - Trading hours are as follows: The premises may trade 24 hours per day Monday to Saturday and 5am on midnight on Sundays. Subject to the following: <ol style="list-style-type: none"> i The first floor bar and outdoor areas shall be closed to patrons between 3am and 7am Tuesday to Sunday and between midnight Sunday and 7am the following day, other than for the purposes of egress by patrons to and from the upper levels, and i Entry to the Hotel through the TAB must not be permitted from the Corso between 11pm and 9am the following day. - The bottleshop may trade between 9am and midnight, daily - The Coffee Shop may trade between 7am and 2.30am the following day, 7 days a week, but from 1am daily, only patrons of the Hotel are permitted to access these facilities. - From 1am daily the Pizza Shop shall serve only patrons of the Hotel and no takeaway service is permitted. <p>2. Treatments required: The acoustic treatments necessary to ensure that compliant noise</p>

emissions from the operation of the new Sports Bar and Gaming Area are as follows:

- Acoustic lining (minimum NRC 0.8) to be installed to underside of 70% of ceiling area in new Indoor Gaming and Sports Bar areas.
- New glazed elements to the Sports Bar façade to be minimum 6.38mm laminated (Rw 33). Any operable element to have acoustic seals (q-lon or equal).
- Gaming area to have background music only (70dB(A)L10 noise limit) when measured at the Market Place external louvres. Noise levels on gaming machines are to be set such that the 70dB(A)L10 noise limit is not exceeded. Gaming machines not to have coin drop trays.
- Sports bar can have moderate music noise levels (77dB(A)L10 noise limit). Base/low frequency contribution to music to be limited as per table below.
- Allowable music noise spectrums:

Table 12: Music Noise Limits Noise Source Permissible Music Noise Level Within Bar(table not reproduced here)

- The inside face of the chimney/ventilation voids are to be lined with noise absorptive material (other than where they are louvred for ventilation purposes). Lining to consist of 50mm Echosoft or similar material suitable for outdoor use with NRC no less than 0.8.
- Any new mechanical plant that is installed as part of the refurbishment works is to be acoustically treated such that compliance with the noise emission goals in section 4.1 are achieved. Detailed review should be conducted at CC stage once plant selections are finalised.
- No queuing in external areas after midnight.
- Bar should trade with windows and doors closed on the Corso façade after midnight.
- Garbage/bottles should not be taken outside for disposal after 10pm.
- Signage to be installed reminding patrons to be quiet when entering or leaving the premises.

Essentially the issues for EH are noise related:

- No impact on original operating conditions/hours.
- Review of plant at CC stage
- Compliance with all recommendations at OC stage
- Any ongoing conditions required.

- Therefore Environmental Health supports the proposal subject to conditions.

Environmental Health (Food Premises, Skin Pen.)	<p>Supported, subject to recommended conditions</p> <p>Environmental Health supports the proposal subject to conditions</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported without conditions</p> <p>The proposed DA generally complies with the flood controls in the LEP and DCP. The works involve internal alterations and alterations to The Corso and Market Lane elevations.</p> <p>The lower level switch and bin room at No 23 adjacent to Market Lane are proposed to be raised 700mm above existing footpath. The finished floor level will be 6.08m AHD.</p> <p>The site is not flood effected in the 1% AEP however in the PMF can have depths up to 300mm.</p>
Strategic and Place Planning (Heritage Officer)	<p>Supported, subject to recommended conditions</p> <p>HERITAGE COMMENTS</p> <p>Discussion of reason for referral</p> <p>The proposal has been referred to Heritage as the site is part of a group listed heritage item, being Item I106 - Group of commercial buildings - All numbers, The Corso. The site is also located within the C2 - Town Centre Conservation Area and in the vicinity of a number of heritage items:</p> <p>Item I113 - St Matthews Church and church hall - 44 The Corso (corner The Corso and Darley Road)</p> <p>Item I104 - Street trees - The Corso (from Whistler Street to Sydney Road)</p>
	<p>Details of heritage items affected</p> <p>Item I106 - Group of commercial buildings</p> <p><u>Statement of significance:</u></p> <p>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></p> <p>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 to the ocean. 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.</p>

Item C2 - Town Centre Heritage Conservation AreaStatement of significance:

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.

Item I113 - St Matthews Church and church hallStatement of Significance:

The church is a well consistently detailed but sombre example of Interwar Gothic style. The interior detailing and fittings are of a high quality of design, exhibiting a contrasting lightness to the exterior. As this building is seen in the round, the spatial effect on the north eastern side is of significance and it makes an important landmark and identifies the junction of the Corso with Darley Road. It makes a major contribution to the Corso.

Physical Description:

The building is Inter-War Gothic style with set back buttresses. The walls are dark purple/brown face brick on coursed rubble sandstone base. Window sills, heads and tracery, door architraves, copings and parapets are in ashlar sandstone. The main windows are in figurative stained glass by John Radecki set in mullions of sandstone in bas tracery style. The smaller windows are in patterned coloured glass. The roofs are slate with copper rainwater heads and downpipes. The front garden beds, flanking the sandstone entrance steps, are bordered with brick. These are thought to date from the 1864 church.

Item I104 - Street treesStatement of significance:

Part of earliest planting on The Corso c.1850's by H.G. Smith. Historic and aesthetic importance to the streetscape.

Physical description:

Centre planting of Ficus Macrophylla (Moreton Bay Fig) Remnant Palm planting (Phoenix Canariensis) of 1928.

Other relevant heritage listings

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
Australian Heritage Register	No	

NSW State Heritage Register	No	
National Trust of Aust (NSW) Register	No	
RAIA Register of 20th Century Buildings of Significance	No	
Other	N/A	

Consideration of Application

This application seeks consent for alterations and refurbishment works to the existing buildings at 23 - 27 The Corso to make changes to the approved DA 2019/0574 and DA 2008/196 to improve the internal layout along with some changes to the approved elevations to both The Corso and Market Lane. The proposal includes; the demolition of the existing improvements within 23, 25 and 27 The Corso, relocation of the bottle shop, reconfiguration to the internal layout, removal of the approved voids contained within No. 23 The Corso and creation of new voids within No 25 The Corso, creation of new openings into the existing wall between No 23 and 25 The Corso, structural alterations and additional signage to both The Corso and Market Place facades. Alterations to the approved front façade, facing The Corso, across No. 23, includes two additional glazed openings and replacement of the existing ground floor windows with Annetta windows at No. 25 and 27 The Corso, which are proposed to have frosted film applied to the bottom glazing panel.

Alterations to the approved rear facade, facing Market Place, includes a new large panel and entry door with metal louvres for the gaming room replacing a large portion of the approved rendered facade. New works in the laneways within the conservation area must improve and enhance the remaining historic fabric and character, whilst allowing for appropriate change and activation. Metal louvres are not considered compatible with the heritage values of the conservation area, therefore, the metal louvres must be replaced with a compatible material.

It is noted that, there is an existing suspended identification sign on the front facade of No 25 The Corso and a new additional suspended sign has been proposed. Also, a new suspended sign has been proposed for No 27 The Corso to the front facade in addition to the existing two suspended identification signs. The proposed additional suspended signs are not consistent with the following controls of Manly DCP 2013:

Clause 4.4.3.1 Controls for all Development Types

Maximum number of Signs

a) In relation to shopfronts, a maximum of 2 identification signs will be permitted per frontage (for example 1 fascia and 1 hamper sign)

4.4.3.2 Signage on Heritage listed items and in Conservation Areas

4.4.3.3 Controls for Particular Development Types

Therefore, the additional suspended signs must be deleted and the requirement of signage for the subject site must be limited to the replacement of the existing signs.

Therefore, no objections are raised on heritage grounds, subject to two conditions.

Consider against the provisions of CL5.10 of Manly LEP 2013.

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

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	Supported, subject to recommended conditions 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.
NSW Police - Licensing (Clubs, Hotels, Pubs)	Supported without conditions The application was referred to NSW Police with reference to the licensed premises. As no comment was received within 14 days in accordance with the Memorandum of Understanding between Council and NSW Police dated 2 January 2020, it is assumed no objections are raised.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP (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 (Industry and Employment) 2021

Section 3.6 and 3.11 of Chapter 3 require Council to determine consistency with the objectives stipulated under Subsection 3.1 (1)(a) of the SEPP and to assess the proposal against the assessment criteria of Schedule 5. The objectives of this chapter aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

A condition of consent has been recommended to delete the proposed new signage on the Corso frontage. The remaining signage is assessed as follows:

Matters for Consideration	Comment	Complies
1. Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The subject site is zoned B2 Local Centre. The proposed development is permissible within this area. The subject site is located on the pedestrianised Corso and Market Lane, characterised by commercial premises, including shops, cafes and bars. As such, the signage associated with the proposed development is consistent and compatible with the existing and desired future character of the area.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No specific theme for outdoor advertising exists in the locality. However, the proposed signage is anticipated to be complementary to the colours and finishes of existing development in the street.	YES
2. Special areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The subject site is not classified as, or within the vicinity of environmentally sensitive areas, or rural landscapes. The subject site forms part of heritage-listed Item 106 Group of Commercial	YES

	Buildings and is within the Town Centre Conservation Area. The proposed signage will not detract from the amenity or visual quality of nearby open space areas, waterways, or residential areas.	
3. Views and vistas		
Does the proposal obscure or compromise important views?	The proposed signage does not obscure or compromise important views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage does not project beyond the building area and therefore does not impact upon the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not unreasonably obscure any other advertisements.	YES
4. Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is consistent with other existing comparable uses within the street, and within the zoning of the site, and is therefore appropriate in the streetscape and setting.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed development and associated signage have been designed in a clear and modern manner, and therefore create visual interest within the streetscape.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage is located only at key points on the building (being adjacent to pedestrian entries) and therefore do not create visual clutter.	YES
Does the proposal screen unsightliness?	The proposed development does not give rise to unsightliness. The proposed signage is neat and limited to key points on the building.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage does not protrude beyond the building.	YES
Does the proposal require ongoing vegetation management?	The proposed signage does not require vegetation management.	YES
5. Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is of compatible scale and proportion to the building and the existing buildings in the street.	YES
Does the proposal respect important features of the site or building, or both?	The proposed signage does not detract from important features of the site or building.	YES
Does the proposal show innovation and	The proposed signage is located	YES

imagination in its relationship to the site or building, or both?	logically to achieve an adequate level of exposure, while remaining visually compatible with the building and the streetscape.	
6. Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage will not require safety devices, platforms or lighting devices, as the signage is lit internally.	YES
7. Illumination		
Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	Illumination of the proposed signage will not result in unreasonable or unacceptable glare or affect safety.	YES
Can the intensity of the illumination be adjusted, if necessary?	Illumination of the proposed signage can be adjusted by technicians, as required.	YES
Is the illumination subject to a curfew?	The proposed signage will be illuminated for the hours of operation of the pub only.	YES
8. Safety		
Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage will not reduce the safety of any public road, pedestrian or cyclist.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage does not obscure any sightlines and will therefore not reduce pedestrian safety.	YES

Accordingly, the proposed signage is of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of this chapter and its underlying objectives. It should be noted that the proposed two under awning signs fronting the Corso are not deemed acceptable from a heritage perspective and have been recommended to be deleted from the plans.

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 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 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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10m	No. 19-23: 9.8m	-	Yes
		No. 25: 9.4m	-	Yes
		No. 27: 13.8m	NA	No - Existing
Floor Space Ratio	2.5:1 (2,859.25m ²) Plus 0.5:1 per Clause 4.4(2A) of MLEP 2013 Total: 3:1 (3,431.1m ²)	2,668.2m ² 2.33:1	-	Yes
Gross Floor Area in Zone B2	Min. 25% GFA as Commercial	1,832.7m ² (68.7%)	-	Yes
		Max. 1,000m ² per premises	No. 19-21: 287.7m ²	-
			Ivanhoe: 1,540.2m ²	54.02%

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes
6.16 Gross floor area in Zone B2	No

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Clause 6.16 Gross Floor Area in Zone B2
-----------------------	---

Requirement:	Max. 1,000m ² per premises
Proposed:	Ivanhoe Hotel: 1,540.2m ²
Percentage variation to requirement:	54.02%

Assessment of request to vary a development standard:

The following assessment of the variation to the development standard contained within Clause 6.16 Gross Floor Area in Zone B2 has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(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.*

(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 6.16 Gross Floor Area in Zone B2 is not expressly excluded from the operation of this clause.

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) Assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the*

circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objective of the development standard is achieved, notwithstanding the non-compliance with the development standard. In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6 (3)(a).

(b) that 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.'

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The Applicant's written request argues, in part:

"The objective of cl. 6.16 is as follows:

(1) The objective of this clause is to provide for the viability of Zone B2 Local Centre and encourage the development, expansion and diversity of business activities, that will contribute to the economic growth, retention of local services and employment opportunities in local centres.

The existing and proposed GFA that exceed the maximum permitted are entirely consistent with the above objective, as the works will continue the diversity of business activity and enhance the economic contribution that this site provides, in the context of the Manly Town Centre. The reconfiguration of the

GFA (despite the minor reduction), will enhance the viability of the premise and aid the diversity of business activity within the existing building. This will also provide for continued employment opportunities in a venue which is proposed to be renovated to meet the desired standards for a premises of this type and in this location.

Therefore, despite exceeding the maximum permitted retail space, the objective of this clause is upheld."

...

"There are sufficient environmental planning grounds, despite non-compliance with cl. 6.16 as:

- *there is no change to the building envelope that would otherwise adversely impact the amenity or solar enjoyment of properties neighbouring the site*
- *the affected parts of the building will enhance the activation of the premises to the streetscape, providing an active composition to the Town Centre to aid the vibrancy of this*
- *there is no visible evidence of the non-compliant retail area of the building that would otherwise offend the streetscape or context of the site, nor any discernible impacts to the surrounds*
- *the non-compliant retail GFA does not alter any views within the vicinity of the site, nor does it alter any existing landscape characteristics*
- *the public domain surrounding the site will be enhanced with the quantum of GFA that will allow for visible activation to the context, as well as direct overlooking which will assist to ensure public safety through opportunities for passive surveillance.*

On balance, the proposed GFA breach achieves a planning purpose by continuing the use of the premises for a retail purpose as desired in this location. The planning purpose of cl. 6.16 is achieved by promoting the continued diversity of retail offering that this site provides to the precinct, as well as aiding the continued economic growth of the premises and extending continued employment opportunities, particularly for those proximate to the site.

Therefore, having regard to the above, there are sufficient environmental planning grounds to permit variation to cl. 6.16."

The above justification is agreed with by the Assessing Officer. Specifically, the following is noted:

- While the proposal results in reconfigured floor plates, the overall development results in a reduction in overall gross floor area.
- The proposed amendments do not result in any unreasonable impact with respect to the amenity of the locality, in that there is no intensification of the hotel use.
- The alteration to the floor area is not visible from the streetscape or public domain.
- The proposed alterations allow for re-development of the hotel without unreasonable impact.

In this regard, the Applicant's written request has demonstrated that 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 Clauses 1.3 (c) and (g) of the EPA Act. Therefore, the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by Clause 4.6 (3)(b). Council is satisfied that the Applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration

must be given to the underlying objectives of the Gross Floor Area in Zone B2 development standard and the objectives of the B2 Local Centre zone. An assessment against these objectives is provided below.

Objective of the Development Standard

The objective of Clause 6.16 Gross Floor Area in Zone B2 is addressed as follows:

The objective of this clause is to provide for the viability of Zone B2 Local Centre and encourage the development, expansion and diversity of business activities, that will contribute to economic growth, retention of local services and employment opportunities in local centres.

Comment:

The proposed development retains the use of the site as pub (Ivanhoe Hotel). The resulting development provides for the viability of the B2 Local Centre zone, retains the existing diversity of business activity, ensures economic growth, and retention of local services and employment in the Manly Town Centre.

Objectives of the Zone

The objectives of the B2 Local Centre zone are addressed as follows:

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 for the purpose of a pub (Ivanhoe Hotel). The use services the needs of the people who live in, work in, and visit the local area.

To encourage employment opportunities in accessible locations.

Comment:

The proposed development retains the existing employment opportunities in an accessible location.

To maximise public transport patronage and encourage walking and cycling.

Comment:

The subject site is located on the pedestrianised portion of Manly, being The Corso, thereby encouraging walking and cycling.

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 works retain the existing amenity levels (noise, odour, delivery arrangements or use of machinery) of the Ivanhoe hotel use.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment:

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the the development standard contained within Clause 6.16 Gross Floor Area in Zone B2 is assumed by the Local Planning Panel.

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 subject site is partially classified as flood prone land (medium risk). The proposed development has been reviewed by Council's Stormwater and Floodplain Engineering team, who are supportive of the proposal, subject to recommended conditions of consent. As such, the consent authority can be satisfied that the proposed development is acceptable in relation to the matters above 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 subject site is partially classified as flood prone land (medium risk). The proposed development has been reviewed by Council's Stormwater and Floodplain Engineering team, who are supportive of the proposal, subject to recommended conditions of consent. As such, it is considered that the proposed development is acceptable in relation to the matters above at (a) through (d).

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, except for vehicular access, as the site abuts pedestrianised land at its two frontages (The Corso and Market Place). The proposed development retains and relies upon these existing services.

6.16 Gross floor area in Zone B2

Subclause (3) of Clause 6.16 requires that development consent must not be granted to the erection of a building on land in Zone B2 Local Centre unless the consent authority is satisfied that at least 25% of the gross floor area of the building will be used as commercial premises, and Subclause (4) requires that development consent must not be granted for development on land to which this clause applies if the gross floor area of any retail premises on the land would exceed 1,000 square metres.

Comment:

In the case of Subclause (3), it is noted that the proposed modifications do not result in the erection of a building, rather modification to an existing building and does not strictly apply. In the case of Subclause (4), as was discussed in the Clause 4.6 section of the development, the total retail (pub) floor space is 1,540.2m², being a reduction from the existing 1,560.88m², due to the inclusion of additional voids and is acceptable as is addressed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of the MLEP 2013.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1,143.7m²	Requirement	Proposed		% Variation	Complies
4.2.3 Setbacks Controls in LEP Zone B1 and B2	0m	0m		-	Yes
4.4.3 Signage	Max. 2 signs per frontage	The Corso	No. 23: 3	NA	As approved (DA2019/0574)
			No. 25: 1	-	Yes
			No. 27: 1	-	Yes
		Market Place	3	50%	No
4.4.3 Signage - Under Awning Signs (The Corso) *	Min. 3m from other under awning sign	Sign 1: >3m		-	Yes
		Sign 2: >3m		-	Yes
	Min. 2.6m above ground	Sign 1: 2.6m		-	Yes
		Sign 2: 2.6m		-	Yes
	Max. 2.5m length	Sign 1: <2.5m		-	Yes
		Sign 2: <2.5m		-	Yes
	Max. 400mm width	Sign 1: 400mm		-	Yes
		Sign 2: 400mm		-	Yes
	Max. 500mm depth	Sign 1: 400mm		-	Yes
		Sign 2: 400mm		-	Yes
	90 degrees from building face	Sign 1: 90 degrees		-	Yes
		Sign 2: 90 degrees		-	Yes
Secured by post(s) no more than 50mm diameter	Sign 1: <50mm		-	Yes	
	Sign 2: <50mm		-	Yes	
4.4.3 Signage - Flush Wall Signs (Market Place) **	Min. 2.6m above ground	Sign 3: 2.2m		15.38%	No
		Sign 4: 3m		-	Yes
		Sign 5: 3.7m		-	Yes

	Must not project beyond wall laterally or vertically	Sign 3: Wholly on wall	-	Yes
		Sign 4: Wholly on wall	-	Yes
		Sign 5: Wholly on wall	-	Yes
	Area: Max. 3 x distance to ground	Sign 3: <3 x height	-	Yes
		Sign 4: <3 x height	-	Yes
		Sign 5: <3 x height	-	Yes
Schedule 3 Parking and Access	Commercial: 1 space per 40m ² of gross floor area 287.7m ² = 8 spaces	0 spaces	NA	No - Existing
	Residential: 0.6 spaces per 1-bed = 2.4 1 space per 2-bed = 6 = 9 spaces Visitor: 0.25 spaces per dwelling = 3 spaces	0 spaces	NA	No - Existing
	Pub: 1 space per 4m ² of licensed floor area 1,540.2m ² = 385 spaces	0 spaces	NA	No - Existing

* One under awning sign proposed fronting No. 25 The Corso (Sign 1), and one under awning sign fronting No. 27 The Corso (Sign 2).

** Signs are all located at the portion of the site known as 23 The Corso. Signs are assessed from top to bottom as they appear on the proposed plans. One sign in the approximate location of Sign 3 was approved under DA2019/0574.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes

3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.6 Energy efficiency/conservation requirements for non-residential developments	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	Yes	Yes
4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	No	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
4.2.5.4 Car Parking and Access	No	Yes
4.2.5.6 Late Night Venues	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.3 Signage	No	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

Detailed Assessment

3.9 Mechanical Plant Equipment

Conditions have been included in the recommendation relating to certification of the mechanical ventilation works. Such works are internal at the ground and first floors relating to reconfiguration of the existing ventilation voids, with no works to external facades, Level 2 or the roof. Works are not anticipated to result in any unreasonable visual or acoustic imposition.

4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

The proposed development includes a minor reduction in floor space due to internal voids and does not lead to additional parking requirements. It should be noted that the existing development does not provide for any vehicular parking, as the site is located on The Corso and Market Lane, which are both accessed by pedestrians only.

Objective 1) To ensure there is adequate provisions for car parking access and loading in future development and redevelopment in all business zones.

Comment:

The proposed development results in no increase to traffic generation when compared to the existing development. Further, the existing development on site provide for no off-street parking or loading facilities. Finally, given the existing pedestrianised portion of land the site is located on, the provision of off-street parking or loading facilities would impact negatively on pedestrian amenity in the vicinity.

Objective 2) To minimise conflicts between pedestrian and vehicular movement systems within the business areas.

Comment:

As no vehicular parking is proposed or existing in this instance, the proposed development will not result in any conflict between pedestrian and vehicular movement in the B2 Local Centre Zone.

4.2.5.4 Car Parking and Access

Vehicular parking is addressed in the section of this report relating to Clause 4.2.4 of the MDCP 2013.

4.4.3 Signage

The proposed development includes three signs on the Market Place frontage (being three flush wall signs), where the maximum is two. Additionally, one of the proposed signs is 2.2 metres above ground, where the minimum height required is 2.6 metres above ground. The proposed modifications are addressed in relation to the objectives of the control as follows:

Objective 1) To ensure that advertising does not detract from the scenic beauty and amenity of the Municipality; harmonises with its surroundings and the buildings to which they are attached.

Comment:

A condition of consent has been recommended to delete the two proposed under awning signs on The Corso frontage, with respect to the comments provided by Council's Heritage Advisor. The remaining signage is consistent with the design and style of the existing Ivanhoe Hotel to the northeast of the subject site, as the development proposes to extend the hotel to the subject site. This demonstrates that the signage is complementary to existing development along the Corso and Market Place and contributes to the visual quality of the area.

Objective 2) To minimise the visual impact by encouraging fewer more effective signs that may otherwise degrade the existing and likely future quality of residential environments or result in excessive, unnecessary signage, visual clutter and confusion caused by a proliferation of signs in local and neighbourhood centres.

Comment:

The subject site is not located within a residential area. The proposed signage (as recommended to be

amended by a condition of consent, detailed above) serves the purpose of way-finding by identifying the use of this proposed modified portion of the Ivanhoe Hotel and for the residential component of the building. The signage is of small dimensions so as not to cause excessive, unnecessary, cluttered or confusing signage.

Objective 3) To permit building and business identification signs which communicate the facilities (including tourist facilities), amenities, goods and services in local and neighbourhood centres which do not interfere with the streetscape or amenity of residents.

Comment:

The proposed signage (as recommended to be amended by a condition of consent, detailed above) serves the purpose of identifying the use of this proposed modified portion of the Ivanhoe Hotel and for the residential component of the building.

Objective 4) Signs should enhance the distinctive urban character and scenic amenity of the Municipality and contribute to the atmosphere of the streets in local and neighbourhood centres and should be designed in sympathy with both the building to which it is attached and any adjoining buildings, taking into account the architectural styles and finishes of buildings in local and neighbourhood centres.

Comment:

As above, the proposed signage (as recommended to be amended by a condition of consent, detailed above) is consistent with the style and design of the remainder of the Ivanhoe Hotel. As such, the proposed signage is suitable with respect to the visual quality of the streetscape along Market Place.

Objective 5) To prevent signage from impacting on the presentation of the heritage item or area to the general public on heritage items and conservation areas.

Comment:

The proposed signage (as recommended to be amended by a condition of consent, detailed above) is consistent with the remainder of the signage on the heritage item, so does not unreasonably impact on the presentation of the heritage item.

Objective 6) To ensure all signage is of high standards of graphic and textural content.

Comment:

The proposed signage is of a high quality design, is clear, and assists in identifying the use of the site.

Objective 7) To encourage co-ordinated advertising in the Industrial Zone by the use of appropriately sized street numbers and complex names, and the use of directory boards to identify multiple unit complexes, so as to reduce adverse impact on the streetscape and confusion to traffic.

Comment:

Not applicable. The subject site is zoned B2 Local Centre.

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 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$18,089 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,808,853.

CONCLUSION

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

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

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

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

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

PLANNING CONCLUSION

This proposal, for alterations and additions to an existing pub, known as the Ivanhoe Hotel has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to a variation to the development standard contained within Clause 6.16 Gross Floor Area in Zone B2 of the MLEP 2013.

Concerns raised with in the objections relate predominantly to consideration of the Manly Place Plan and the correction of an error within the Waste Management Plan. Despite these concerns and unrelated concerns about existing noise, the proposal is considered to be acceptable.

Critical assessment issues included the variation to the development standard contained within Clause

6.16 Gross Floor Area in Zone B2 of the MLEP 2013, and non-compliance with the signage controls of the MDCP 2013. These elements are acceptable on merit.

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.

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 6.16 Gross Floor Area in Zone B2 pursuant to Clause 4.6 of the MLEP 2013, as the Applicant’s written request has adequately addressed the merits required to be demonstrated by subclause (3), and the proposed development will be in the public interest, and the proposed development is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly, the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2022/1526 for Alterations and additions to an existing pub on land at Lot 2 DP 877793, 25 The Corso, MANLY, Lot CP SP 12989, 19 - 23 The Corso, MANLY, Lot 1 DP 877793, 27 The Corso, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA GD 1 00B Ground Floor Proposed Plan Revision P5	19 August 2022	Paul Kelly Design
DA GD 1 02 Ground Floor Proposed Plan P6	18 October 2022	Paul Kelly Design
DA L1 1 00B Level 1 Proposed Plan P4	19 August 2022	Paul Kelly Design
DA L1 1 02 Level 01 Proposed Plan P5	19 August 2022	Paul Kelly Design
DA RF 1 02 Roof Proposed Plan P5	19 August 2022	Paul Kelly Design
DA GD 2 02 Corso Elevation Proposed P5	18 October 2022	Paul Kelly Design
DA GD 2 04 Market Lane Elevation Proposed P4	19 August 2022	Paul Kelly Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By

Building Code of Australia and Accessibility Compliance Assessment Report	25 August 2022	AE&D Group
Acoustic Assessment of Alterations and Additions	29 August 2022	Renzo Tonin & Associates
Structural Engineering Report	26 August 2022	James Taylor & Associates
Fire Engineering DA Statement of Support	26 August 2022	GHD
Heritage Impact Statement	24 August 2022	City Plan

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

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No.	Dated	Prepared By
Demolition & Construction Waste Management Plan	August 2022	Waste Audit

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

2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	19 October 2022

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

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

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 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 sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$18,088.53 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 \$1,808,853.00.

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.

6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

7. **Amendments to the Waste Management Plan**

The following amendments are to be made to the Waste Management Plan:

- i All references to North Sydney Council are to be corrected to refer to Northern Beaches Council.
- i In order to reduce the placement of bins in Market Place, the Waste Management Plan is to be amended to specify that:
 - Waste bins are to remain in the garbage room until such time as waste collection is scheduled; and
 - Waste bins are to be replaced into the garbage room immediately after collection.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

8. **Mechanical Ventilation**

No external mechanical ventilation works are approved as part of this consent. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure consistency with this consent.

9. **Building Code of Australia Fire Safety Requirements**

The Building Code of Australia fire safety measures for the building as detailed and recommended in the BCA & Accessibility Compliance Assessment Report prepared by the AE&D Group, dated 25 August 2022, Report Ref No. 11784.2 Rev 1. and the Fire Engineering DA Statement prepared by GHD dated 26 August 2022 Ref 12553045 Revision 0 are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for health, amenity, access and fire safety for building occupant health and safety.

10. **Access and Facilities for Persons with Disabilities**

Access to and within the building are to be provided for Persons with a Disability in accordance with the Building Code of Australia and AS1428 are to be included as part of the Construction Certificate assessment. 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. **Signage**

The proposed suspended under awning signs fronting The Corso must be deleted from plans. Details demonstrating compliance are to be submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure signage is compatible with the heritage values of the conservation area and The Corso.

12. **Metal Louvres**

The proposed metal louvre screens on the Market Place frontage are to be deleted and replaced with a material that is compatible with the heritage values of the conservation area. Details demonstrating compliance are to be submitted to the Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To ensure the proposed works are compatible with the heritage values of the heritage conservation area.

13. **Plans of Kitchen Design, Construction and Fitout**

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

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

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

14. **Mechanical Ventilation Plans**

Where Mechanical ventilation is required to be installed in the food premises, prior to any Construction Certificate being issued, detailed plans must be submitted to and approved by the Certifier that demonstrate compliance with the following:

- i Australian Standard (AS) 1668.2 “The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings”.

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

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

15. **Acoustic Review of Mechanical Services Prior to Construction Certificate**

An acoustic review of mechanical services shall be carried out prior to the issue of a Construction Certificate to ensure acoustic recommendations of Renzo Tonin & Associates (29 August 2022) will be compliant and respective fixtures fittings and finishes are incorporated into plans, this is to include:

- i The inside face of the chimney/ventilation voids are to be lined with noise absorptive material (other than where they are louvred for ventilation purposes). Lining to consist of 50mm Echosoft or similar material suitable for outdoor use with NRC no less than 0.8.
- i Any new mechanical plant that is installed as part of the refurbishment works is to be acoustically treated such that compliance with the noise emission goals in section 4.1 of the report are achieved. Detailed review should be conducted at CC stage once plant selections are finalised.

Reason: To ensure an acoustic review is undertaken before work commences.

16. **Amendment to Plan of Management**

The Plan of Management shall be updated to specify the following:

Indoor Gaming and Sports Bar Areas:

- i New glazed elements to the Sports Bar façade to be minimum 6.38mm laminated (Rw 33). Any operable element to have acoustic seals (q-lon or equal).
- i Gaming area to have background music only (70dB(A)L10 noise limit) when measured at the Market Place external louvres. Noise levels on gaming machines are to be set such that the 70dB(A)L10 noise limit is not exceeded. Gaming machines not to have coin drop trays.
- i Sports bar can have moderate music noise levels (77dB(A)L10 noise limit). Base/low frequency contribution to music to be limited as per table below.
- i Allowable music noise spectrums: Refer to acoustic assessment table 12 in the acoustic report by Renzo Tonin & Associates (29 August 2022) referenced as TM424-01D02 Acoustic Report for DA Gaming (r3)

General Operation:

- i No queuing in external areas after midnight.
- i Bar should trade with windows and doors closed on the Corso façade after midnight.
- i Garbage/bottles should not be taken outside for disposal after 10pm.
- i Signage to be installed reminding patrons to be quiet when entering or leaving the premises.

Details demonstrating compliance with this condition are to be provided to the satisfaction of Council prior to the issue of the Construction Certificate.

Reason: To ensure operations will continue ongoing to meet noise reduction measures.

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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

19. **Food Hygiene and Safety During Construction Activity**

Where the food business is to continue operating in any form during work being carried out, controls and a food safety plan are to be implemented to ensure food safety is not compromised during this time including contamination by dust/debris.

Reason: To maintain food standards as appropriate during works

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

20. **Kitchen Design, Construction and Fitout of Food Premises Certification**

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating that that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

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

21. **Mechanical Ventilation Certification**

Where Mechanical ventilation is required to be installed in the food premises it must comply with the following:

- i Australian Standard (AS) 1668.2 “The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings”.

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

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

22. **Acoustic Review of Mechanical Services Prior to Occupation Certificate**

An acoustic review of mechanical services shall be carried out by suitably qualified person to determine that all recommendations contained within the acoustic report of Renzo Tonin & Associates dated 29 August 2022 and referenced as TM424-01D02 Acoustic Report for DA Gaming (r3) have been implemented before occupation is permitted.

Reason: To ensure compliance with acoustic requirements to prevent a nuisance to residential receivers.

23. **Fire Safety Matters**

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

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

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

Reason: Statutory requirement of the Environmental Planning and Assessment Regulation 2021.

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

24. **Acoustic Mitigation Measures**

Acoustic mitigation measures noted in the Acoustic Report by Renzo Tonin & Associates dated 29 August 2022 apply with respect to mechanical services only. Operational noise mitigation measures must continue to be managed in accordance with previous consents.

Reason: To ensure appropriate mitigation of noise relating to operation and mechanical services.

25. **Related Consents**

This consent relates to the following previous consents for the Ivanhoe Hotel:

- i DA196/2008
- i DA196/2008 Part 2
- i DA2019/0211
- i DA2019/0574

- i Mod2019/0558

Reason: To ensure consistency with previous consents.

26. **Operation**

Indoor Gaming and Sports Bar Areas:

- i New glazed elements to the Sports Bar façade to be minimum 6.38mm laminated (Rw 33). Any operable element to have acoustic seals (q-lon or equal).
- i Gaming area to have background music only (70dB(A)L10 noise limit) when measured at the Market Place external louvres. Noise levels on gaming machines are to be set such that the 70dB(A)L10 noise limit is not exceeded. Gaming machines not to have coin drop trays.
- i Sports bar can have moderate music noise levels (77dB(A)L10 noise limit). Base/low frequency contribution to music to be limited as per table below.
- i Allowable music noise spectrums: Refer to acoustic assessment table 12 in the acoustic report by Renzo Tonin & Associates (29 August 2022) referenced as TM424-01D02 Acoustic Report for DA Gaming (r3)

General Operation:

- i No queuing in external areas after midnight.
- i Bar should trade with windows and doors closed on the Corso façade after midnight.
- i Garbage/bottles shall not be taken outside for disposal after 10pm.
- i Signage to be installed reminding patrons to be quiet when entering or leaving the premises.

Reason: To ensure operations will continue ongoing to meet noise reduction measures.