

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1711
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Responsible Officer:	Rebecca Englund
Land to be developed (Address):	Lot 1 SP 12989, 1 / 21 - 23 The Corso MANLY NSW 2095 Lot 2 SP 12989, 2 / 21 - 23 The Corso MANLY NSW 2095 Lot 3 SP 12989, 3 / 21 - 23 The Corso MANLY NSW 2095 Lot 4 SP 12989, 4 / 21 - 23 The Corso MANLY NSW 2095 Lot 5 SP 12989, 5 / 21 - 23 The Corso MANLY NSW 2095 Lot 6 SP 12989, 6 / 21 - 23 The Corso MANLY NSW 2095 Lot 7 SP 12989, 7 / 21 - 23 The Corso MANLY NSW 2095 Lot 8 SP 12989, 8 / 21 - 23 The Corso MANLY NSW 2095 Lot 9 SP 12989, 9 / 21 - 23 The Corso MANLY NSW 2095 Lot 10 SP 12989, 10 / 21 - 23 The Corso MANLY NSW 2095 Lot 11 SP 12989, 11 / 21 - 23 The Corso MANLY NSW 2095 Lot 12 SP 12989, 12 / 21 - 23 The Corso MANLY NSW 2095 Lot 13 SP 12989, 13 / 21 - 23 The Corso MANLY NSW 2095 Lot CP SP 12989, 19 - 23 The Corso MANLY NSW 2095
Proposed Development:	Alterations and additions to an existing shop top housing development
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:	Proprietors of Strata Plan 12989
Applicant:	Hilrok Properties Pty Ltd

Application Lodged:	29/12/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	14/01/2021 to 28/01/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 48.2% 4.4 Floor space ratio: 4.3%
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,721,675.00
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EXECUTIVE SUMMARY

Council is in receipt of development application DA2020/1711 for alterations and additions to the existing shop top housing development.

The site is zoned B2 Local Centre under the provisions of Manly Local Environmental Plan 2013 (MLEP 2013) and the proposed development is permissible with consent.

The application was notified in accordance with Council's Community Participation Plan and no (0) submissions were received.

The existing building is nominated as an item of local heritage significance, and is located within a heritage conservation area (The Town Centre Heritage Conservation Area). Whilst the application seeks consent for the demolition of minor structures on the ground floor and changes to the ground floor layout, the majority of the works proposed could ordinarily be carried out without consent, if not for the heritage listing of the building.

The application involves the replacement of structures above the height plane. Whilst the height of the building remains unchanged, the proposal will result in a technical breach of the height of buildings development standards prescribed by clause 4.3 of MLEP 2013, with a variation of 48.2%. The proposal also seeks consent to demolish a secondary/redundant internal staircase, which results in an increase to the gross floor area and intensification of the existing non-compliance with the FSR development standard prescribed by clause 4.4 of MLEP 2013 by 4.3%. The applicant's written requests to vary these development standards satisfactorily address the matters required, and overall, the consent authority can be satisfied of the relevant matters of clause 4.6 of MLEP 2013.

In light of the extent of the building height development standard, the application is referred to the Northern Beaches Local Planning Panel for determination. Subject to conditions of consent, the consent authority can be satisfied that the proposal is consistent with the aims and objectives of the relevant plans and policies, and the application is recommended for approval.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for alterations and additions to the existing shop top housing development, including:

- Exterior conservation works to side elevations and The Corso frontage, including the replacement of the existing awning,
- Modifications to the Market Place frontage, including a new awning,
- Replacement of the top floor roof,
- Repairs to the Level 3 roof terrace,
- Upgrade of the residential entrance from The Corso through to the central stair,
- Incorporation of a new garbage store room on the ground floor,
- Provision of an accessible toilet on the ground floor,
- Conservation works to central stair, landings and to original fabric within units,
- New kitchen joinery and bathroom fit-out to each residential unit,
- Demolition of internal stairs connecting The Corso to Level 1 residences and closure of opening to 23 The Corso,
- Replacement of doors and windows (restoration of existing, where possible), and
- Paint and new floor coverings throughout.

It is noted that if not for the local heritage listing of the building, the majority of the works proposed would ordinarily be exempt development under the provisions of *SEPP (Exempt and Complying Development Codes) 2008*.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

- Manly Local Environmental Plan 2013 - Zone B2 Local Centre
- Manly Local Environmental Plan 2013 - 4.3 Height of buildings
- Manly Local Environmental Plan 2013 - 4.4 Floor space ratio
- Manly Local Environmental Plan 2013 - 6.4 Stormwater management
- Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
- Manly Local Environmental Plan 2013 - 6.11 Active street frontages
- Manly Local Environmental Plan 2013 - 6.16 Gross floor area in Zone B2
- Manly Development Control Plan - 4.4.4.1 Awnings in LEP B1 and B2 Business Zones

SITE DESCRIPTION

Property Description:	Lot 1 SP 12989 , 1 / 21 - 23 The Corso MANLY NSW 2095 Lot 2 SP 12989 , 2 / 21 - 23 The Corso MANLY NSW 2095 Lot 3 SP 12989 , 3 / 21 - 23 The Corso MANLY NSW 2095 Lot 4 SP 12989 , 4 / 21 - 23 The Corso MANLY NSW 2095 Lot 5 SP 12989 , 5 / 21 - 23 The Corso MANLY NSW 2095 Lot 6 SP 12989 , 6 / 21 - 23 The Corso MANLY NSW 2095 Lot 7 SP 12989 , 7 / 21 - 23 The Corso MANLY NSW 2095 Lot 8 SP 12989 , 8 / 21 - 23 The Corso MANLY NSW 2095 Lot 9 SP 12989 , 9 / 21 - 23 The Corso MANLY NSW 2095 Lot 10 SP 12989 , 10 / 21 - 23 The Corso MANLY NSW 2095 Lot 11 SP 12989 , 11 / 21 - 23 The Corso MANLY NSW 2095 Lot 12 SP 12989 , 12 / 21 - 23 The Corso MANLY NSW
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	<p>2095 Lot 13 SP 12989 , 13 / 21 - 23 The Corso MANLY NSW 2095 Lot CP SP 12989 , 19 - 23 The Corso MANLY NSW 2095</p>
<p>Detailed Site Description:</p>	<p>The site is trapezoidal in shape, with a 16.835m wide frontage to The Corso, a 16.76m wide frontage to Market Place, a depth of 31.2m and a total area of 523.9m². The site is situated on the northern side of The Corso, opposite its intersection with Darley Road. The site currently contains an existing four storey shop top housing development (19-21 The Corso) and a two storey retail/commercial building (23 The Corso). The works the subject of this application are limited to the existing four storey shop top housing development at 19-21 The Corso.</p> <p>The existing four storey shop top housing development comprises:</p> <ul style="list-style-type: none"> • Ground floor retail presenting to The Corso, • Ground floor office space presenting to Market Place, • Residential access from both The Corso and Market Place, • 4 x 1 bedroom units and 6 x 2 bedroom units across Levels 1-3 • Communal laundry facilities on Level 3 • Communal open space (roof terrace) on Level 3 <p>The existing building is identified as an item of local heritage significance, and is located within a heritage conservation area. A small portion of the northern corner of the site is identified as being prone to flooding.</p>

Map:



SITE HISTORY

On 23 May 2019, Development Application DA2019/0512 was lodged with Council, seeking consent for alterations and additions to the existing shop top housing development at 19-21 The Corso. Whilst the proposal sought consent for the works the subject of the current application, DA2019/0512 also sought consent for:

- The reduction/enclosure of the existing light wells on both side elevations, resulting in additional floor space and an increase to the existing non-conforming FSR.
- The incorporation of a lift.
- The incorporation of a new, additional unit in the area currently occupied by the communal roof terrace (wholly above the 10m height limit).
- Demolition of internal walls within all units to create open plan living areas.
- Removal of ground floor office space.
- Removal of residential access to The Corso.

On 1 April 2020, Development Application DA2019/0512 was refused by the NBLPP for the following reasons:

1. *The application fails to meet the provision of the SEPP 65 Design Quality of Residential Apartment Development together with the Apartment Design Guide in relation to the provision of communal open space.*
2. *The proposal fails to satisfactorily address good design and amenity as specified in section 1.3 (a), (c) and (g) of the Environmental Planning and Assessment Act 1979.*
3. *The proposal fails to achieve the particular aims of Manly Local Environmental Plan 2013 section 1.2(2)(a)(iv) to ensure all development appropriately responds to environmental constraints and does not adversely affect the character, amenity or heritage of Manly or its existing permanent residential population.*

On 10 September 2020, a prelodgement meeting was held with respect to the works the subject of this

application.

On 26 November 2020, Council issued an Order with respect to the property to require the upgrading of the existing building with regard to Fire Safety.

On 29 December 2020, the subject development application was lodged with Council.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for commercial & residential purposes for an extended period of time. The proposed development does not disturb the substrate of the site and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 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 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of</p>

Section 4.15 Matters for Consideration'	Comments
	Australia (BCA). This matter has been addressed via a condition of consent.
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	No submissions were received.
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 14/01/2021 to 28/01/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported, with 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>

Internal Referral Body	Comments
	<p><i>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.</i></p> <p><i>THE APPROVAL RELATES TO 19-21 THE CORSO ONLY. PART OF THE PROPERTY KNOWN AS 23 IS SUBJECT TO APPROVED DA2019/0574.</i></p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported, no conditions.</p> <p>The property is not affected by the 1% AEP flood event, but the Market Place entrance is just within the Medium Flood Risk Precinct with a Flood Planning Level of 5.7m AHD. With a floor level of 6.06m AHD, the proposed alterations are generally above the FPL. No flood related objections.</p>
Road Reserve	<p>Supported, no conditions.</p> <p>No impact on existing road infrastructure. Any new shop awnings to be conditioned if necessary by Development Engineering. Historical encroachments above street level are not considered significant.</p>
Strategic and Place Planning (Heritage Officer)	<p>Supported, no conditions.</p> <p><u>Reason for referral</u></p> <p>The proposal has been referred to Heritage as the subject property is part of group heritage item, being Item 1106 - Group of commercial buildings - All numbers, The Corso. The property is also located in C2 - Town Centre Conservation Area and within the vicinity of a number of heritage items as listed in Schedule 5 of Manly LEP 2013.</p> <p><u>Details of Heritage Items</u></p> <p>Item 1106 - Group of commercial buildings</p> <ul style="list-style-type: none"> • Statement of significance: 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. • Physical description: 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

Internal Referral Body	Comments
	<p>amenity generated by footpath awnings and through-block arcades has produced strongly defined and comfortable urban spaces.</p> <p>Item C2 - Town Centre Heritage Conservation Area</p> <ul style="list-style-type: none"> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings. <p>Item I107 - Commercial building</p> <ul style="list-style-type: none"> Statement of significance: One of the most elaborate facades featured in The Corso, contributes aesthetically and historically to The Corso streetscape. Physical description: 2 storey rendered brick building of late Victorian period with elaborate Italianate rendered decoration above ground floor. Architectural significance in intricacy and detailing of pediment and in general abundance of motif and ornament including garlands, globes, acanthus leaf, palmate and intaglio decoration. 21/7/99 Community Aid Abroad shop. Some glass survives, however has been painted. Original form of shop survives beneath modern building. <p>Item I113 - St Matthews Church and church hall</p> <ul style="list-style-type: none"> Statement 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

Internal Referral Body	Comments
	<p>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 and wrought iron ornate rail fences. These are thought to date from the 1864 church.</p> <p>Item I104 - Street trees</p> <ul style="list-style-type: none"> • Statement 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. <p><u>Consideration of Application</u></p> <p>The proposal seeks consent for alterations and refurbishment works to the existing building and external conservation works to the front façade facing The Corso. The proposed works do not involve any additions to the bulk and scale of the existing building. The existing building at 19-21 The Corso, is in a very prominent location and is visible from various angles and distances; from The Corso, Market Place, Whistler Street and Sydney Road.</p> <p>It is noted that the front façade (above the awning level) has been proposed to be restored without any change, other than the “like for like” replacement of the existing windows. Proposed internal alterations are considered acceptable from a heritage perspective.</p> <p>It is considered that the proposed works are mainly for refurbishment and conservation purposes and will not have an adverse impact upon the significance of the heritage item and the Manly Town Centre Conservation Area.</p> <p>Therefore, no objections are raised to this application on heritage grounds.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u></p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>
Strategic and Place Planning	

Internal Referral Body	Comments
(Urban Design)	<p>Supported, no conditions.</p> <p>The proposal generally proposes no change to the overall form and scale of the building. The proposed alterations to the rear façade will improve the presentation of the building to Market Place and the amenity of the rear units. The responses to the previous Urban Design Comments are as follows:</p> <p>1. There is no proposed increase of building bulk except the glass balustrades on the roof terrace which is over the 10m building height control. The balustrades should be set-backed from the building edges to create a non-trafficable area to minimise overlooking/ privacy issues into neighbouring developments and also to be less visible from street level. Response: No change is proposed to the existing roof terrace.</p> <p>2. The light wells are not proposed to be reduced in size but there will be new windows altered and added in the light wells and on the party walls at the common boundaries. Fire engineered solutions using sprinklers are proposed to be used. As such, there should be no exposed pipes or building services/elements on the heritage building facades. Response: No exposed pipes will be located on the heritage facades.</p> <p>3. Compliance with the Disability access code should be demonstrated as there is no lift proposed for the four storey building. Response: Accessibility Review report has been provided.</p>
Waste Officer	Supported, with conditions.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - Remediation of Land

Clause 7(1)(a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential and retail/office purposes for a significant period of time with no prior land uses. Furthermore, the application does not involve any works that will disturb the substrate. In this regard it is considered that the site poses no risk of

contamination and therefore, no further consideration is required under Clause 7(1)(b) and (c) of SEPP 55 and the land is considered to be suitable for the proposed continuation of the residential & retail/office land use proposed.

SEPP 65 - Design Quality of Residential Apartment Development

In accordance with clause 4(1) of SEPP 65, the policy applies to shop top housing development is the development relates to the "substantial redevelopment or the substantial refurbishment of an existing building". As noted earlier, the majority of the works proposed would ordinarily be classified as exempt development if it were not for the local heritage listing of the building. The works proposed, which are primarily maintenance of a deteriorating older building, are not considered to be substantial, and as such, the provisions of SEPP 65 are not considered to be applicable.

SEPP (Building Sustainability Index: BASIX) 2004

BASIX certificates have been submitted with the application in relation to each individual unit. A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificates.

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	15.858m (existing) 14.82m (proposed new works)	4.82m or 48.2%	No
Floor Space Ratio	2.5:1	2.61:1	46.84m ² or 4.3%	No
Gross floor area in Zone B2	Maximum 1000m ²	159.4m ²	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	No
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes

Clause	Compliance with Requirements
6.4 Stormwater management	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.16 Gross floor area in Zone B2	Yes

Detailed Assessment

Zone B2 Local Centre

The proposed development is consistent with the objectives of the B2 Local Centre zone, 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 ground floor of the development provides retail and business floor space that contribute to the range of uses along The Corso and the wider Manly Town Centre locality.

- *To encourage employment opportunities in accessible locations.*

Comment: The building contributes to employment generation with both business and retail tenancies on the ground floor presenting to The Corso and Market Place.

- *To maximise public transport patronage and encourage walking and cycling.*

Comment: The site is located in a highly accessible area, in close proximity to public transport, including the main bus stops and ferry services at Manly Wharf. The site is also centrally located on The Corso, surrounded by a range of retail premises, restaurants and services, such that residents of the development have easy and direct access to the services they require.

- *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 resultant shop top housing development is anticipated in the zone and has been in existence for a number of years. The works proposed will improve the amenity of the dwellings and tenancies, and provide a greater contribution to the public domain.

4.3 Height of buildings

and clause 4.6 Exceptions to development standards

With a maximum height of 14.82m, the proposed works are non-compliant with the 10m maximum building height prescribed by clause 4.3 of MLEP 2013. The maximum building height is a development standard, as defined by the EP&A Act, and as such, the provisions of clause 4.6 of MLEP 2013 can be applied.

Pursuant to clause 4.6(2) of MLEP 2013, consent may be granted for development even though the development contravenes a development standard prescribed by an environmental planning instrument. Whilst this clause not not apply to those standards expressly excluded, the maximum building height is not expressly excluded and thus the clause can be applied in this instance.

Extent of height breach

The proposed works reach a maximum height of 14.82m, representative of a 48.2% variation of the 10m development standard. Whilst not numerically insignificant, the breach is more of a technicality, where by the proposal seeks consent to replace the existing roof structure and other structural elements that are above the 10m height limit. The application does not seek consent to increase the height of any part of the existing building, and the current maximum height of 15.585m (to the top of the parapet fronting The Corso) remains unchanged.

Has the Applicant's submission addressed the relevant criteria?

Pursuant to clause 4.6(4) of MLEP 2013, consent can only be granted if the consent authority is satisfied that the applicant's written request to vary the development standard has addressed the criteria of clause 4.6(3) of MLEP 2013. The application was supported by a detailed submission (attached) addressing the provisions of clauses 4.3 and 4.6 of MLEP 2013. The submission is considered with regard to the criteria of clause 4.6(3) of MLEP 2013, as follows:

- a. *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,*

Comment: In accordance with the decision of the NSW LEC in the matter of *Wehbe v Pittwater Council* [2007] NSWLEC 827, one way in which strict compliance with a development standard may be found to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are achieved, despite non-compliance with the development standard. The applicant's submission relies upon this method.

The applicant's submission satisfactorily demonstrates that compliance with the building height development standard is both unreasonable and unnecessary in this instance, as the objectives of the control are otherwise achieved.

- 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, "environmental planning grounds" were found to be grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects prescribed by clause 1.3 of that Act. The environmental planning grounds put forward by the applicant include:

- The works do not increase the existing height or scale of the development,
- The new works are maintained below the maximum height of the existing building,
- The works facilitate the refurbishment and retention of the locally heritage listed development,
- The works do not attribute to any unreasonable impacts upon the amenity of the locality, and
- The development is consistent with the underlying objectives of the standard and the B2 zone.

The applicant has satisfactorily demonstrated that the works are consistent with the objects of the EP&A Act, specifically the following objects of the EP&A Act:

- The development promotes the orderly and economic use and development of the land, in so far as the proposed replacement of ageing structural elements of a heritage listed building is an orderly response to the development of the site,
- The development promotes the sustainable management of built and cultural heritage, in so far as the proposed non-compliance facilitates the refurbishment and preservation of a locally listed heritage building, and
- The development promotes the proper construction and maintenance of buildings, in so far as the proposed non-compliance wholly relates to necessary maintenance of the ageing development and the application facilitated

Therefore, the consent authority can be satisfied that the applicant's request has satisfactorily addressed the matters prescribed by clause 4.6(3) of MLEP 2013.

Is the proposal in the public's interest?

Under the provisions of clause 4.6(4)(a) of MLEP 2013, consent must not be granted to a proposal that contravenes a development standard unless the proposed development (as a whole) 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 to be carried out.

The proposed development is consistent with the relevant objectives of the height of buildings development standard, as follows:

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

Comment: Despite replacement of existing structures above the height plane, the height and roof form of the development remains unchanged. The existing building is identified as an item of local heritage significance within a heritage conservation area, and as such, it is reasonable to say that the retention and refurbishment of the existing building is consistent with the desired character of the area, which aims to retain and preserve contributory items.

- b. *to control the bulk and scale of buildings,*

Comment: Despite technical non-compliance with the 10m height limit, the bulk and scale of the development remains unchanged.

- c. *to minimise disruption to the following—*

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

Comment: As the height and bulk of the development remains unchanged, the proposal will not result in any disruption of views.

- d. *to provide solar access to public and private open spaces and maintain adequate sunlight access*

to private open spaces and to habitable rooms of adjacent dwellings,

Comment: As the height and bulk of the development remains unchanged, the proposal will not result in any disruption of solar access to adjoining public and private places. The proposal seeks consent for minor modifications to openings on the Market Lane facade, which will facilitate additional solar access and ventilation into the associated dwellings and the ground floor business premises.

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

Comment: N/A - the site is not within a recreation or environmental protection zone.

As discussed with regard to the B2 Local Centre Zone of MLEP 2013, the proposal is consistent with the objectives of the B2 zone.

As such, the proposal is considered to be in the public's interest.

Has concurrence been obtained?

Pursuant to clause 4.6(4)(b) of MLEP 2013, development consent must not be granted to a development that contravenes a development standard unless the concurrence of the Secretary has been obtained. In accordance with Planning Circular PS 18-003 (dated 21 February 2018) issued by the NSW Department of Planning and Environment, the Secretary's concurrence may be assumed in this instance as the application is to be determined by the Northern Beaches Local Planning Panel.

Conclusion

Overall, the consent authority can be satisfied of the matters prescribed by clause 4.6 of MLEP 2013, and the proposal can be supported, despite contravention of the building height development standard.

4.4 Floor space ratio

and clause 4.6 Exceptions to development standards

With a FSR of 2.61:1, the proposed works are non-compliant with the 2.5:1 maximum FSR prescribed by clause 4.4 of MLEP 2013. The maximum FSR is a development standard, as defined by the EP&A Act, and as such, the provisions of clause 4.6 of MLEP 2013 can be applied.

Pursuant to clause 4.6(2) of MLEP 2013, consent may be granted for development even though the development contravenes a development standard prescribed by an environmental planning instrument. Whilst this clause does not apply to those standards expressly excluded, the maximum FSR is not expressly excluded and thus the clause can be applied in this instance.

Extent of FSR breach

The existing building has a FSR of 2.59:1 (1356.84m² GFA). The application does not propose any additional floor space beyond the existing external walls of the building, but rather proposes the deletion of an internal staircase that was previously excluded from the FSR calculation. The deletion of the internal stair results in an additional 9m² of GFA, or 2% of the existing GFA.

As such, the proposed development will result in a FSR calculation of 2.61:1 (1365.84m² GFA), representative of a 55.84m² or 4.3% variation to the maximum FSR (1310m²).

Has the Applicant's submission addressed the relevant criteria?

Pursuant to clause 4.6(4) of MLEP 2013, consent can only be granted if the consent authority is satisfied that the applicant's written request to vary the development standard has addressed the criteria of clause 4.6(3) of MLEP 2013. The application was supported by a detailed submission (attached) addressing the provisions of clauses 4.4 and 4.6 of MLEP 2013. The submission is considered with regard to the criteria of clause 4.6(3) of MLEP 2013, as follows:

- a. *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,*

Comment: In accordance with the decision of the NSW LEC in the matter of *Wehbe v Pittwater Council* [2007] NSWLEC 827, one way in which strict compliance with a development standard may be found to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are achieved, despite non-compliance with the development standard. The applicant's submission relies upon this method.

The applicant's submission satisfactorily demonstrates that compliance with the FSR development standard is both unreasonable and unnecessary in this instance, as the objectives of the control are otherwise achieved.

- 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, "environmental planning grounds" were found to be grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects prescribed by clause 1.3 of that Act. The environmental planning grounds put forward by the applicant include:

- The additional GFA is minor,
- The development does not alter the bulk or scale of the existing building, which is the primary function of the FSR control,
- The works do not attribute to any unreasonable impacts upon the amenity of the locality, and
- The development is consistent with the underlying objectives of the standard and the B2 zone.

The applicant has satisfactorily demonstrated that the works are consistent with the objects of the EP&A Act, specifically that the requested variation will facilitate the orderly and economic development (refurbishment) of the existing heritage listed building.

- The proposed development promotes orderly development, in so far as the non-compliance arises from the removal of a redundant internal staircase and the additional floor space is more appropriately included within the ground floor retail tenancy, and
- The proposed development promotes the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants, in so far as the redundant stairway is to be removed to achieve appropriate fire separation between the two adjoining buildings.

Therefore, the consent authority can be satisfied that the applicant's request has satisfactorily addressed the matters prescribed by clause 4.6(3) of MLEP 2013.

Is the proposal in the public's interest?

Under the provisions of clause 4.6(4)(a) of MLEP 2013, consent must not be granted to a proposal that contravenes a development standard unless the proposed development (as a whole) 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 to be carried out.

The proposed development is consistent with the relevant objectives of the FSR development standard, as follows:

- a. *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*

Comment: The proposed additional floor space is a result of the proposed demolition of an existing internal staircase. The proposal does not seek consent for additional floor space beyond the external walls of the existing building, and as such, the bulk and scale of the building remains unchanged. The proposed refurbishment of the existing locally listed heritage item is consistent with the desired streetscape character of the area, in so far as it is located within a local heritage conservation area which aims to preserve contributory items.

- b. *to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*

Comment: The proposed development does not alter the bulk or density of the existing development, and as the built form of the development remains unchanged, the proposal will not obscure important landscape and townscape features.

- c. *to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*

Comment: Whilst the proposal seeks to improve the aesthetic appearance of an ageing development, the proposal will not alter the form of the development or the visual relationship between the development and the character of the area.

- d. *to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*

Comment: The proposal does not give rise to any adverse environmental impacts.

- e. *to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

Comment: The demolition of the existing internal staircase will facilitate a minor increase to the frontage of the ground floor retail premises, which is consistent with this objective to encourage development and expansion of business activities in local centres.

As discussed with regard to the B2 Local Centre Zone of MLEP 2013, the proposal is consistent with the objectives of the B2 zone.

As such, the proposal is considered to be in the public's interest.

Has concurrence been obtained?

Pursuant to clause 4.6(4)(b) of MLEP 2013, development consent must not be granted to a development that contravenes a development standard unless the concurrence of the Secretary has been obtained. In accordance with Planning Circular PS 18-003 (dated 21 February 2018) issued by the NSW Department of Planning and Environment, the Secretary's concurrence may be assumed in this instance as the application is to be determined by the Northern Beaches Local Planning Panel.

Conclusion

Overall, the consent authority can be satisfied of the matters prescribed by clause 4.6 of MLEP 2013, and the proposal can be supported, despite contravention of the FSR development standard.

6.4 Stormwater management

The application proposes the refurbishment of the existing development, with no change to the existing area/footprint of the development or the stormwater management regime. In this respect, the consent authority can be satisfied of the matters prescribed by clause 6.5 of MLEP 2013, as follows:

- a. *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*

Comment: Not applicable - The existing building covers the entire site, and no changes are proposed in this regard.

- b. *includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*

Comment: Stormwater retention is not practicable on this site and is not required under the provisions of Council's Water Management Policy, as the proposal does not seek to increase hard surfaces on the site.

- c. *avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Comment: The existing building drains into Council's stormwater infrastructure system, and this arrangement is to be retained in the proposed development. The proposed development will not result in any adverse impacts of stormwater runoff on adjoining properties.

6.9 Foreshore scenic protection area

The consent authority can be satisfied that the matters listed by clause 6.9 of MLEP 2013 have been considered, as follows:

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

Comment: Noting that the built form of the building remains unchanged, the proposed

development will not result in any adverse impacts upon the visual amenity of the harbour or coastal foreshore, particularly with respect to overshadowing or views.

b. measures to protect and improve scenic qualities of the coastline,

Comment: The proposal seeks to refurbish the locally heritage listed building, which includes restoration of the facades of the building, improving the aesthetic appearance of the development and in turn, the scenic quality of The Corso.

c. suitability of development given its type, location and design and its relationship with and impact on the foreshore,

Comment: The existing building remains suitable for its location, being a contributory item to the heritage significance of The Corso.

d. measures to reduce the potential for conflict between land-based and water-based coastal activities.

Comment: The proposed development does not result in any conflict between land-based and water-based activities.

6.11 Active street frontages

The site is on land identified as "Active street frontages" on the Active Street Frontages Map and is subject to the provisions of 6.11 of MLEP 2013. In accordance with clause 6.11(3), development consent must not be granted to the erection of a building or the change of use of a building unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use. Despite minor changes to the allocation of uses on the ground floor, the proposed development maintains business premises to Market Place and retail premises to The Corso, such that both street frontages are appropriately activated.

6.16 Gross floor area in Zone B2

Clause 6.16(3) of MLEP 2013 prescribes that development consent must not be granted to the erection of a building [emphasis added] 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. It is noted that the language used in clause 6.16(3) differs from that used in clause 6.16(4), which relates to development on land to which this clause applies. Clause 6.16(3) of MLEP 2013 is not considered to be applicable in relation to the proposal, which seeks consent for alterations and additions to an existing building, as opposed to the erection of a building.

With a retail floor space of 159.4m², the proposal is consistent with the provisions of 6.16(4) of MLEP 2013, which limit the amount of retail floor space within a development to 1000m².

Manly Development Control Plan

Built Form Controls

With the exception of a minor change to the gross floor area calculation (as a result of the removal of secondary internal stairs and the incorporation of additional service/plant areas), the application does not propose to alter the built form of the existing building. The proposed development is appropriately categorised as alterations and additions and assessment of the existing built form against the MDCP

2013 built form controls is not required.

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
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.2.5.3 Security Shutters	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	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

4.4.4.1 Awnings in LEP B1 and B2 Business Zones

The application proposes to rebuild the existing awning along The Corso frontage and proposes a new awning along the Market Place frontage. The two proposed awnings are considered separately, as follows:

The Corso

The proposed replacement awning is to align with the existing awning which sits 3.1m above the pavement. Whilst inconsistent with the 3.5m minimum dimension prescribed by this control, the proposal is consistent with the requirement for awnings to be aligned with the height and width of adjoining awnings, which is considered to be more important in the streetscape context. Conditions of consent are recommended to require appropriate lighting and to prevent the incorporation of under awning signage.

Market Place

The application proposes a new awning along the frontage presenting to Market Place. Whilst consistent with the 3.5m minimum height prescribed by this control (with a height of 3.7m), the proposed awning would be an anomaly in the streetscape, noting a distinct absence of awnings along Market Place. Further, the proposed awning may interrupt service access and maintenance of the sewer mains located along the footpath adjacent to the building, which has not been addressed in the application. As such, the awning to Market Place is not supported and a condition is recommended to delete the proposed awning from the proposal.

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 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$27,217 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,721,675.

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 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and

- Codes and Policies of Council.

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

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

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

Council is satisfied that:

1) The Applicant's written requests under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

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

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

The proposed development provides for the retention/preservation of the existing heritage item, improving the amenity for both residents/tenants of the development and the buildings aesthetic contribution to the wider town centre.

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 building height and FSR development standards prescribed by clause 4.3 Height of Building and clause 4.4 Floor Space Ratio pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) and the proposed development will be in the public interest and 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 DA2020/1711 for Alterations and additions to an existing shop top housing development on land at Lot 1 SP 12989, 1 / 21 - 23 The Corso, MANLY, Lot 2 SP 12989, 2 / 21 - 23 The Corso, MANLY, Lot 3 SP 12989, 3 / 21 - 23 The Corso, MANLY, Lot 4 SP 12989, 4 / 21 - 23 The Corso, MANLY, Lot 5 SP 12989, 5 / 21 - 23 The Corso, MANLY, Lot 6 SP 12989, 6 / 21 - 23 The Corso, MANLY, Lot 7 SP 12989, 7 / 21 - 23 The Corso, MANLY, Lot 8 SP 12989, 8 / 21 - 23 The Corso, MANLY, Lot 9 SP 12989, 9 / 21 - 23 The Corso, MANLY, Lot 10 SP 12989, 10 / 21 - 23 The Corso, MANLY, Lot 11 SP 12989, 11 / 21 - 23 The Corso, MANLY, Lot 12 SP 12989, 12 / 21 - 23 The Corso, MANLY, Lot 13 SP 12989, 13 / 21 - 23 The Corso, MANLY, Lot CP SP 12989, 19 - 23 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
Existing and Demolition Ground Floor Plan, revision A	11 December 2020	NBRS Architecture
Existing and Demolition First Floor, revision A	11 December 2020	NBRS Architecture
Existing and Demolition Second Plan, revision A	11 December 2020	NBRS Architecture
Existing and Demolition Third Plan, revision A	11 December 2020	NBRS Architecture
Proposed Ground Floor Plan, revision A	11 December 2020	NBRS Architecture
Proposed First Floor Plan, revision B	3 March 2021	NBRS Architecture
Proposed Second Floor Plan, revision A	11 December 2020	NBRS Architecture
Proposed Third Floor Plan, revision A	11 December 2020	NBRS Architecture
Elevation - The Corso, revision A	11 December 2020	NBRS Architecture
Elevation - Market Lane, revision A	11 December 2020	NBRS Architecture
Elevation - East, revision A	11 December 2020	NBRS Architecture
Elevation - West, revision A	11 December 2020	NBRS Architecture
Lightwell - Long Section A, revision A	11 December 2020	NBRS Architecture

Lightwell - Long Section B, revision A	11 December 2020	NBRS Architecture
Lightwell - Cross Section A, revision A	11 December 2020	NBRS Architecture
Lightwell - Cross Section B, revision A	11 December 2020	NBRS Architecture
Schedule of Colours and Materials, revision A	11 December 2020	NBRS Architecture

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Building Code of Australia - Fire Safety Upgrade Report	25 May 2020	City Plan
BASIX Certificate A401570, A402015, A401786, A401805, A402019, A402020, A402021, A402022, A402024 and A402025	17 December 2020	JN Consulting

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

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

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

2. **Approved Land Use**

This consent authorises the use of the building at 19-21 The Corso, Manly for the purpose of a shop top housing development.

In particular, this consent authorises the use of the small tenancy in the northern corner of the ground floor (fronting Market Place) for business premises and the larger tenancy in the eastern corner of the ground floor (fronting The Corso) for retail premises.

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

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

3. **Prescribed Conditions**

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

hours, and

(iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

- A. the name and licence number of the principal contractor, and
- B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the

development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (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 7.12 Contributions Plan 2019

A monetary contribution of \$27,216.75 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 2019. The monetary contribution is based on a development cost of \$2,721,675.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

6. **Security Bond**

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

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

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 approved plans**

The following amendments are to be made to the approved plans:

- The awning proposed on the Market Place elevation is not authorised by this consent and is to be removed from all plans.

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

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

8. **Boundary Identification Survey**

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

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

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

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

9. **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 Certifying Authority prior to the issue of the Construction Certificate.

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

10. **BCA Compliance**

Necessary measures to achieve compliance with the Building Code of Australia shall not compromise the heritage significance of the development. With the exception of down pipes, no services or conduits shall be visible from the public domain, or should result in any damage to the heritage fabric of the development.

Reason: To preserve the heritage significance of the development.

11. **Waste and Recycling Requirements**

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. **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 Certifying Authority.

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

13. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

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

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

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

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

15. **External lighting**

Suitable lighting is to be incorporated into the underside of the new awning to The Corso.

Details demonstrating consistency with this requirement are to be provided to the Principal Certifying Authority prior to the issuance of the occupation certificate.

Reason: To ensure pedestrian safety.

16. **Garbage and Recycling Facilities**

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

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

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

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

17. **Colours and Materials**

The as-built development is to be finished in accordance with the Approved Schedule of Colours and Materials referenced in Condition 1 of this consent.

Details demonstrating consistency with this requirement are to be submitted to the Principal Certifying Authority prior to the issuance of the occupation certificate.

Reason: To ensure that the finishes of the development are consistent with that anticipated by this consent.

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

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

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

Reason: To ensure waste and recycling facilities are provided.

19. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

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

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

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

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

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

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

Reason: To create encumbrances on the land.

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

22. **Commercial Waste and Recycling Storage**

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

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

