

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0023
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 1 DP 72587, 1 Kalinya Street NEWPORT NSW 2106 Lot 1 DP 527172, 1 Kalinya Street NEWPORT NSW 2106
Proposed Development:	Change of use of Level 1 of a hotel (The Newport) from residential accommodation to office/staff rooms including minor internal works
Zoning:	B2 Local Centre E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Hemmes Trading Pty Ltd
Applicant:	Hemmes Property Pty Ltd

Application Lodged:	18/01/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	24/01/2023 to 07/02/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 532,587.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks to change the use of Level 1 of the building from residential accommodation to office/staff rooms to support the ongoing use of the site as a commercial premises. There will be minor internal alterations associated with the change of use. These include:

- demolition of three internal walls and some wash/WC amenities
- construction of an internal wall to create a plant room
- construction of internal columns to office/meeting room
- internal fit-out of office, staff rooms, meeting rooms and locker room.

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

Pittwater Local Environmental Plan 2014 - Zone B2 Local Centre

Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014

Pittwater 21 Development Control Plan - B8.3 Construction and Demolition - Waste Minimisation

Pittwater 21 Development Control Plan - C2.6 Adaptable Housing and Accessibility

SITE DESCRIPTION

Property Description:	Lot 1 DP 72587 , 1 Kalinya Street NEWPORT NSW 2106 Lot 1 DP 527172 , 1 Kalinya Street NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of two (2) allotments located on the western side of Kalinya Street and southern side of Queens Parade. The works are proposed at 1 Kalinya Street, Newport (Lot 1 DP 72587), at a property commonly known as "The Newport".</p> <p>The site is irregular in shape with a frontage of 51.31m along Kalinya Street and a secondary frontage of 105.485m along Queens Parade. The site has a surveyed area of approximately 1.04ha.</p> <p>The primary building is situated in the north-east corner of the site and includes a public pub, restaurant, and drive</p>

through liquor store. The upper (Level 1) floor of this building is approved for residential accommodation use. Smaller stand-alone food outlets and bars are situated around the premises, spread throughout the large terrace area (beer garden). The parking area wraps around the south-western boundary of the site, with vehicular access to Kalinya Street to the east and Queens Parade to the north.

Adjoining and surrounding development is characterised by a mix of uses including medium density residential development to the southeast, commercial premises to the north and east, a public carpark to the northeast and the Pittwater Waterway to the west.

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:

- **N0484/15** - Development Application for alterations and additions to the existing hotel (Newport Arms Hotel), to provide for an increase to the size of the outdoor terrace and the incorporation of pizza ovens and associated ventilation - Approved 10 March 2015
- **N0103/16** - Development Application for alterations and additions to an existing hotel, including internal building refurbishments - Approved 06 May 2016
- **N0103/16/S96/1** - Modification of consent N0103/16 for the alterations and additions to an existing hotel, including internal building refurbishments - Approved 17/10/2017
- **Mod2018/0350** - Modification of consent N0037/16 granted for the construction of a new pavilion structure within the existing garden terrace. Modification includes alterations to the approved pavilion structure and the addition of an internal bar - Approved 18/10/2018

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	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. 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. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a 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 matter has been addressed via a condition of consent.</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 matter has been addressed via a condition of consent.</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 condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of	(i) Environmental Impact

Section 4.15 Matters for Consideration	Comments
the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 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 24/01/2023 to 07/02/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>

Internal Referral Body	Comments
Environmental Health (Industrial)	<p>General Comments</p> <p>Environmental Health has reviewed the proposed works, it appears that these will be minor internal works that should not affect the amenity of the surrounding area</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>Proposal does not appear to interfere with the food premises at this location</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
NECC (Coast and Catchments)	<p>SUPPORTED WITHOUT CONDITIONS</p> <p>The application has been assessed in consideration of the:</p> <ul style="list-style-type: none"> • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience & Hazards) 2021; • Pittwater LEP 2014 and Pittwater 21 DCP; and • plans and supporting documents lodged with this DA. <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to this DA. The proposed development is considered to be consistent with the objects, as set out under Part 1 Section 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Chapter 2 of SEPP (R & H) applies to this DA. On internal assessment the DA satisfies requirements under Divisions 3, 4, and 5 of SEPP R&H. As such it is considered that the application does comply with the provisions of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 Development on Foreshore Area The subject property is affected by the foreshore building line and Part</p>

Internal Referral Body	Comments							
	<p>7, Clause 7.8 –Limited development on foreshore area of Pittwater LEP 2014 applies for any development within the foreshore area. As none of the proposed development is located seaward of the foreshore building line, the DA satisfies the provisions of Clause 7.8 - Limited development on foreshore area.</p> <p>Pittwater 21 DCP Estuarine Risk Management The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council’s Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.9 Estuarine Hazard Controls will apply to any proposed development of the site. As the proposed development is located well above the adopted Estuarine Planning Level it satisfies the requirements of the B3.9 Estuarine Hazard Controls.</p> <p>No other coastal planning or development controls relevant to the subject subdivision proposal were identified.</p>							
NECC (Development Engineering)	<p>28/03/2023: Development Application is for the change of use of Level 1 of the hotel building, from accommodation to office/staff rooms supporting the use of the hotel as a Commercial premises.</p> <p>Geotech Part of the site is identified by the LEP as ‘Geotechnical Hazard H1, as proposed works are not located within the identified Geotechnical Hazard area, hence No Geotechnical Risk assessment is required.</p> <p>No objections to approval subject to conditions as recommended.</p>							
NECC (Riparian Lands and Creeks)	<p>Supported. This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy <p>The proposal is for change of use and minor internal works and as such is considered unlikely to have any impacts on the biophysical, hydrological or ecological integrity of nearby Pittwater estuary, or the quantity and quality of surface and ground water flows that it receives.</p>							
Strategic and Place Planning (Heritage Officer)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #cccccc;">HERITAGE COMMENTS</td> </tr> <tr> <td>Discussion of reason for referral</td> </tr> <tr> <td>The proposal has been referred to Heritage as the subject site is a heritage item</td> </tr> <tr> <td>Newport Arms Hotel</td> </tr> <tr> <td>Details of heritage items affected</td> </tr> <tr> <td>Details of the item as contained within the Northern Beaches inventory is as follows:</td> </tr> <tr> <td><u>Statement of Significance</u></td> </tr> </table>	HERITAGE COMMENTS	Discussion of reason for referral	The proposal has been referred to Heritage as the subject site is a heritage item	Newport Arms Hotel	Details of heritage items affected	Details of the item as contained within the Northern Beaches inventory is as follows:	<u>Statement of Significance</u>
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<u>Statement of Significance</u>								

Internal Referral Body	Comments	
	<p>The Newport Arms is of high local historic and social significance due to its continuous operation as a pub in the Pittwater area since 1880 and as it is the oldest pub in the area. It hosted royal visitors touring the area in 1881, and was part of the recreational activities of day-trippers in the 1890s. It is also significant for its association with Sydney pioneer Edward Jeanerett, and its aesthetic contribution to the street and maritime landscape.</p> <p>The Newport Arms Hotel was rebuilt following extensive damage by fire in 1971 and the hotel building has undergone extensive alterations and additions, particularly over the past 25 years and, accordingly, the physical fabric including the exterior and interiors of the hotel building are not included in the listing.</p> <p><u>Physical Description</u> The creative architectural design of the 1992-3 refurbishment has resulted in an attractive, stylish finish to both the buildings and surrounds. The gardens, incorporating the beer garden, extend down towards the water and the jetty, providing outstanding views from the upper floor of the hotel and the beer garden. Shrubs and trees abound and a creative mix of paving, pathways and lawns combine to provide a well planned, informal outdoor area for patrons. Although the building has been modified over recent years, it remains very much in tune with the overall image of Newport; not impinging in any way on either the ecological or aesthetic components of the area</p>	
	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	
	RAIA Register of 20th Century Buildings of Significance	No
	Other	N/A
	Consideration of Application	
	<p>The proposal seeks consent for alterations and additions to the internal layout of Level 1 and to change its use to office and staff rooms. The site is listed as a local heritage item however it is listed for its cultural, social and historic values more so than the hotel building's physical character. As indicated by the inventory information, the fabric of the building proposed for modification is not of heritage significance. Heritage raises no objections to the</p>	

Internal Referral Body	Comments
	<p>proposal as no fabric of significance is being impacted, and the change of use will support the continued ongoing use of the site as a pub. The ongoing use of the site for a pub is important to the heritage significance of the site.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>
Traffic Engineer	<p>The development has been subject to a number of applications over the years with alterations and additions to the existing hotel including internal refurbishments. Consent No. N0103/16 included the removal of internal walls and installation of a new mechanical plant room on Level 1. Historically Level 1 had been used as hotel accommodation, however it has not been used for such purposes for over ten years. The current Development Application proposes the change of use of Level 1 of the hotel building to office/staff rooms, supporting the use of the hotel as a commercial premises.</p> <p>The alterations associated with this change of use include:</p> <ul style="list-style-type: none"> • demolition of three internal walls and some wash/WC amenities • construction of an internal wall to create a plant room • construction of internal columns to office/meeting room including internal refurbishments. • internal fit-out of office, staff rooms, meeting rooms and locker room. <p>The Statement of Environmental Effects does not provide any further details or information regarding traffic and parking. The development currently has an on-site car park for visitors and staff and there is also the Queens Street/Kalinya Street Council car park as well as on-street parking nearby. The internal alterations associated with this change are considered to be minor and are unlikely to have any significant impacts to traffic and parking.</p> <p>The proposal can be supported subject to the recommended Conditions.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped

- headlands and rock platforms,
- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

The proposal has been reviewed by Council's Coastal Engineer and Riparian Lands Officer who have raise no objection to the proposal. The works relate to minor internal changes and are not anticipated to impact the above mentioned cultural and environmental aspects.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

As detailed above, the proposed development has been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause 1.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse
 - ii) impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal has been reviewed by Council's Coastal Engineer and Riparian Lands Officer who have raise no objection to the proposal. The works relate to minor internal changes and are not anticipated to impact the above mentioned cultural and environmental aspects.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

Council's Coastal Engineer has reviewed the proposed development and is satisfied that the development is not likely to cause increased risk of coastal hazards on other land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

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:	8.5m	The proposal relates to internal works only - The proposal will not alter the building height	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

Zone B2 Local Centre

The proposal will maintain the use of the site as a "Commercial premises" which is permissible within the B2 Local Centre zone. The change of use of the upper floor to office/staff rooms will support the primary use and operation of the site as a food and drink premises and as such is considered to meet the objectives of the zone.

5.10 Heritage conservation

The proposal has been referred to Heritage as the subject site is a heritage item, being Newport Arms Hotel.

Please refer to Council Strategic and Place Planning (Heritage Officer) referral comments in this report for further details. In summary, Council's Heritage Officer has raised no objections to the proposal as no fabric of significance is being impacted, and the change of use will support the continued ongoing use of the site as a pub. The ongoing use of the site for a pub is important to the heritage significance of the site.

7.7 Geotechnical hazards

Part of the site is identified by the LEP as 'Geotechnical Hazard H1, however, as proposed works are not located within the identified Geotechnical Hazard area. Additionally, the proposal relates to minor internal works on the upper floor level and a change of use and does not involve earthworks. As such, no Geotechnical Risk assessment is required in this instance. The proposal has been reviewed by Council's Development Engineer who has raised no objection to the proposal subject to recommended conditions.

Pittwater 21 Development Control Plan

Built Form Controls

As the proposal relates to a change of use and internal changes, the overall built form of the approved development remains unchanged.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.9 Estuarine Hazard - Business, Light Industrial and Other Development	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	No	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C2.1 Landscaping	Yes	Yes
C2.2 Safety and Security	Yes	Yes
C2.5 View Sharing	Yes	Yes
C2.6 Adaptable Housing and Accessibility	Yes	Yes
C2.8 Energy and Water Conservation	Yes	Yes
C2.9 Waste and Recycling Facilities	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
C2.21 Food Premises Design Standards	Yes	Yes
C2.22 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014

The proposal has been referred to Heritage as the subject site is a heritage item, being Newport Arms Hotel.

Please refer to Council Strategic and Place Planning (Heritage Officer) referral comments in this report for further details. In summary, Council's Heritage Officer has raised no objections to the proposal as no fabric of significance is being impacted, and the change of use will support the continued ongoing use of the site as a pub. The ongoing use of the site for a pub is important to the heritage significance of the site.

B8.3 Construction and Demolition - Waste Minimisation

The application has not been accompanied by a Waste Management Plan. To ensure the proper disposal of builder's waste, a suitable condition has been included with this consent requiring the applicant to submit a detailed Waste Management Plan to the Certifying Authority prior to the issue of the Construction Certificate. The Waste Management Plan must be prepared in accordance with Council's Waste Management Guidelines. Subject to compliance with the conditions of consent, the proposal will demonstrate consistency with the requirements and outcomes of this control.

C2.6 Adaptable Housing and Accessibility

The application is supported with a Accessibility Report. This report has been reviewed by Building Assessment Officer who has raised no objections subject to recommended conditions.

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 \$5,326 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$532,587.

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;
- Pittwater Local Environment Plan;
- Pittwater 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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2023/0023 for Change of use of Level 1 of a hotel (The Newport) from residential accommodation to office/staff rooms including minor internal works on land at Lot 1 DP 72587, 1 Kalinya Street, NEWPORT, Lot 1 DP 527172, 1 Kalinya Street, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
10622-DEMO-01 Rev.G - DEMOLITION PLAN - LEVEL 1	17/11/2022	MERIVALE
10622-SK-01 Rev.G - PROPOSED PLAN - LEVEL 1	17/11/2022	MERIVALE

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
ACCESS COMPLIANCE ASSESSMENT REPORT (PROJECT # 12197.1 REV #1)	12/01/2023	AE&D Pty Ltd
BUILDING CODE OF AUSTRALIA COMPLIANCE ASSESSMENT REPORT	23/11/2022	AE&D Pty Ltd

(12197 – Rev 1)		
Fire Engineering Support Statement	02/11/2022	MCD Fire Engineering Pty Ltd

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**

No approval is granted for the use of the site as a "tourist and visitor accommodation" or "residential accommodation" as defined within Dictionary of the Pittwater Local Environmental Plan 2014.

Any variation to the use and/occupancy of "Level 1" beyond the scope of that identified within the approved plans (10622-SK-01 Rev.G - PROPOSED PLAN - LEVEL 1 dated 17/11/2022) will require the submission to Council of a new development application.

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

3. **Traffic Management**

Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Certifier.

Reason: To ensure pedestrian safety and continued efficient network operation.

4. **Staff and Contractor Parking**

The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use on-site parking where available.

Reason: To ensure minimum impact of construction activity on local parking amenity.

5. **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.

6. **No approval for signage**

No approval is granted under this Development Consent for signs (as defined under Pittwater Local Environment Plan 2014 and State Environmental Planning Policy No. 64). A separate

Development Application for any signs must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage.

7. Scope of Approved Works and Use

The approved use and works subject of this consent shall be restricted solely to the portion of the upper level "level 1" of the existing building as shown on the approved plans referenced within condition 1.

This application does not authorise any physical works, change of use, or change in operational details beyond this area nominated within the approved plans.

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

8. 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 \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (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

9. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$5,325.87 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 \$532,587.00.

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.

10. Security Bond

A bond (determined from cost of works) of \$2,000 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

11. **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.

12. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

15. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

16. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

17. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

18. **Hours of Operation of Commercial Premises**

The hours of operation are to be restricted to the approved hours of the hotel.

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

19. **Noise general**

The ongoing use of the premises must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

20. **Amenity**

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Gareth David, Planner

The application is determined on 05/05/2023, under the delegated authority of:



Steven Findlay, Manager Development Assessments