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**From:** Alan Butler  
**Sent:** 28/04/2024 7:23:14 PM  
**To:** Council Northernbeaches Mailbox  
**Subject:** DA2024/0356 OBJECTON  
**Attachments:** Submission Objecting to Application DA20240356.docx;

Thank you for receiving our objections to this retrospective Development Application for works done at 2-6 Smith Lane Manly NSW in 2022-2023.

Regards  
Alan Butler  
93 Pittwater Road Manly NSW 2095  
Ph [REDACTED]  
[REDACTED]

28<sup>h</sup> April 2024

**OBJECTION**  
**DA2024/0356 – 2-6 Smith Lane Manly**  
**RETROSPECTIVE DEVELOPMENT APPLICATION FOR UNAUTHORISED WORKS**

**IMPORTANT NOTE 1:** We have been unable to visit Northern Beaches Council (NBC) offices, so we are preparing this objection based on the documents listed on the NBC Development Applications portal. We have included our views on the Heritage Implications as they are referenced in the MLEP and MDCP because the applicant's formal report is noted as unavailable on-line.

**IMPORTANT NOTE 2:** There seems to be a challenge in addressing the documents, all of which appear to have been prepared after all demolitions, concrete pours, new interior finishes and new perimeter wall glazing had been completed and the newly created spaces fully occupied. The challenge is that the notion of "existing" is totally distorted because all the plans and professional reports, submitted in support of this retrospective Development Application, were prepared in 2024 but relate to a premises which was substantially altered from December 2022 until completion for occupation in mid 2023. This perspective is reversed in NBC's Building Assessment Referral Response which, in part states, "Details demonstrating compliance (with the Fire Safety Certificate) are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate" - *the building is already fully occupied during the current DA exhibition period.*

**DOCUMENT 1 Building Assessment Referral Response: OUR OBJECTIONS**

Given that this is a retrospective application for both DA and BIC, the Building Assessment Referral Response report (dated 12/4/2024) defers a number of BCA and Premises Standards potential non-compliances to when a Construction Certificate will be determined. This is not addressing matters that BCA Vision's report (dated 19/2/2024, Report Ref No P240011) may have accepted or omitted and NBC does not appear to be applying a timeline with any urgency, given the works are unauthorised yet occupied.

**DOCUMENT 2 Notification Map: OUR OBJECTIONS**

The notification map is dated 10/04/2024. It initiates the misleading data being supplied in this application. The map highlights the whole of the property ownership which is the whole of Lots 1 and 2 in Sec 4 DP2427 but the site and location involved with the retrospective DA, that states a change of use from a garage to commercial office use, only relates to a portion of the buildings fronting Smith Lane, a small portion of the overall 744M2 parcel zoned E1 Local Centre.

**DOCUMENT 3 Report – Statement of Environmental Effects: OBJECTIONS**

This document is dated 26/03/2024. It refers to a "Notice of Intention to Give a Development Control Order EPA2023/0231" which we do not understand and cannot find.

The report acknowledges the site is within the Pittwater Road Conservation Area under Manly Local Environmental Plan 2013 then dismisses any heritage relevance because the site is not identified as a heritage item. BUT under the Manly Development Control Plan indicates

applicants must give NBC officers the opportunity to determine whether a DA, including “change of use” may have potential heritage impacts.

In this instance we argue THE APPLICANT HAS WILLFULLY DEMOLISHED AND REMOVED SIGNIFICANTLY IMPORTANT, INTACT, HERITAGE ITEMS AND ARTIFACTS, including the large existing, original brick reverberating pastry oven, the side firebox, original cast iron bakery oven faces complete with 1240mm long cast iron buck stays and tie rods that were visible and recessed into the Smith Lane brickwork. The recesses remain and are shown in the photos within this report. This involved demolition and removal of tonnes of original fire bricks in part of the existing two storey building, beside the 27M2 garage area wrongly stated as the scope of changes.

Section 3 of report: “Proposal” indicates the ground floor area as 93M2 including the 27M2 that the change of use of the garage contributes, but the existing ground floor office area was at least 20M2 smaller because the old Bakery Oven existed in place and was walled off, prior to the 2022-2023 demolition works.

We strongly object to the applicant’s efforts to deceive rather than having issues with a change of use of the garage to an office area. We hope NBC agrees and hold the applicants to account.

Section 4.3 of report: “Manly LEP 2013” summary compliance table, Part 5 Miscellaneous Provisions, 5.10 Heritage conservation is marked “N/A” which we object to as incorrect. They demolished and removed a heritage cast iron and all brick elements of an intact reverberating pastry oven, buck stays and tie rods. Clause 6.11 Active Street Frontage (Smith Lane) is marked as being “N/A – no change to existing facade” which we object to as being incorrect. See photo of the Smith Lane facade in the report and the recesses in the brickwork where the cast iron buck stays have been removed are clearly obvious.

E1 Zone Local Centre: “Objectives of the Zone” include the claim that “the use serves the needs of people who live, work. In and visit the area”. The recent investment in converting sections of the current buildings into further office space to accommodate more tenants ignored the opportunity to address the very real short comings of the site and this sub-section in particular in two key areas: (1) access and facilities for disabled; and (2) toilet facilities for all 6 ground floor shops staff and their customers as well as all existing and new tenants in the extended commercial offices and their clients/visitors. THERE IS ONLY ONE SINGLE TOILET (“which is NON-ACCESSIBLE”) FOR THE USE OF ALL NON-RESIDENCES ON THE TOTAL “LOCAL CENTRE” SITE AND WITHIN 500 METRES. The opportunity was there with this investment to improve this unfortunate situation, but it has currently been ignored and unaddressed.

Part 5 Miscellaneous Provisions (expanded), 5.10 Heritage Conservation. “Development consent is required if making changes to a building, works or a relic in a heritage conservation area”. We object to the fact that NBC Officers were not given the opportunity to assess the significance of the ancient reverberating pastry oven and associated items because the applicants secreted the demolition works. Consequently, the Statement of Environmental Effects, written in 2024 only looks at the 27M2 of garage as a “change of use”, when the scope of works actually involved much more renovation work including an additional 20+M2 of office use expansion by demolishing the oven on the ground floor of the existing two storey building.

Part 6 Additional Local Provisions (expanded), 6.1 Acid Sulphate Soils; 6.2 Earthworks. We object because the report is in error. Earthworks were carried out involving demolition of existing slabs in the “garage” area and where the ancient oven were, excavation was carried out and a substantial new concrete slab poured. We do not know what depths were involved but what happened is in contradiction to the professional’s report which states consideration is “not applicable because the proposal does not include earthworks”.

Manly DCP Clause 3.6 Accessibility, Objective 1 is failed dramatically: “ensure that any refurbishments to existing buildings provide improved levels of access and facilities for people with disabilities” – We object because accessway widths, new Smith Street access width, new access threshold levels and adequate toilet facilities are not considered or provided.

(ii) Health and safety of the occupants (and neighbours): The fire risks of access from and to this expanded commercial office space have been increased significantly with the introduction of new glazed windows on external walls which form “on site boundaries” between the offices and other site businesses or residents as well as solo emergency exist paths. One new large window on the south side of the old garage proposing a change of use, fronts the overall site’s commercial garbage and waste bin area. Another new large window cut into the north face brickwork, close to Smith Lane, fronts the sole existing access pathway for 4 of the 6 residential flats above the shop fronts facing Pittwater Road. In our view this presents an intolerable fire safety risk, hence our objection.

#### **DOCUMENT 4 Survey: WE HAVE NO OBJECTIONS**

#### **DOCUMENT 5 Report - Traffic: OUR OBJECTIONS**

This report was dated 26/3/2024 and prepared by Traffix. Sadly, this report appears to be a template that has been filled in hastily because the errors and apparent lack of understanding for the road directions, speed limits, trafficable directions, etc abound. For example: Smith Lane is sign posted at 40kph not 50kph; it is a two directional traffic route, not one way; it runs North South not East West; the assumption that the expanded commercial offices will not generate additional traffic or parking issues is not substantiated nor does it take into consideration whether the facility houses one business or many, hot desked or single office areas. There is no appreciation of the numbers of workers on site. We object to the accuracy and conclusions of this whole report.

As NBC knows the residential parking scheme is a hot topic and we expect many objections will focus on parking, etc. This important topic has been given scant and unsubstantiated treatment by Traffix. They appear to view this retrospective “cover application” as a fait au compli.

#### **DOCUMENT 6 Master Set of Plans by Action Plans: OUR OBJECTIONS**

These plans are dated 26/3/2024, so we wonder what plans were used to conduct demolitions and building works from December 2022 to mid 2023.

Primarily we object to the way these plans show what the applicant wants to declare rather than what was there in December 2022 and what they planned to change.

Sheet 1 - the cover page has the site in the wrong place along Pittwater Road.

Sheets 2 & 3 - the Site Analysis plans show a photo with a car parked in a No Standing area which has become a more regular event sign the occupation of the extended offices. They show only the single garage as the “Subject Area” but although an extensive sediment erosion fence on 3 sides of the general area, and mis-names bins area, show very little else.

Sheet 4 – Ground Floor plan – does not use the Legend for existing/demolished/existing office space no change/ subject area/or as built either accurately nor truthfully. The drawings are silent on the area where the old pastry oven was before it was demolished, only hatching is as “existing office space”.

Sheet 5 – Existing First floor plan – no comment needed.

### **DOCUMENT 7 BCA Compliance Report by BCA Vision: OUR OBJECTIONS**

This report was dated 19/2/2024. Whilst this report addresses some shortcomings that need to be addressed, but it still seems like much of it has been filled in on a template or a previous report was used as a skeleton, eg the description of the site introduces new Lot numbers like "Lot 5" and "Lot 9". Further, because by the time BCA Vision was commissioned, what they saw as "Lot 9" was fully completed (demolished pastry oven, new floor slab, resheeted walls and ceiling etc were masked) so this report advised "*Lot 9, which contains the existing approved commercial office, has not been further altered and in this regard this report is in relation to the Lot 5 portion only*". So the single garage, change of use to commercial offices was the only focus. We strongly object to this gross omission and considerable inaccuracy of scope & cost. The area of Fire Hazards, Fire Construction between tenancies and other parties as well as Fire Protection are addressed but generally treated lightly. We object to this in terms of: (i) the whole of site (744M2) fire safety risks (Clause EP1.3 need for hydrants on sites over 500M2); (ii) Clause EP2.2 evacuation pathways in case of fire and (iii) Clause 3.2 involving the time for on-site occupants to evacuate and (iv) the construction of walls between adjacent uses and in egress pathways. We object to what has been proposed and is now built because we believe there is inadequate consideration of fire separation and safe egress pathways for both the whole of site and the commercial offices.

### **DOCUMENT 8 Heritage Impact Statement: OUR OBJECTIONS**

On the NBC DA portal this document was listed and marked "DO NOT RELEASE ONLINE".

We have already addressed the Objections we have for the scant regard given by this owner and applicant to matters of heritage in their works on this site.

We Object to this document being unavailable on line, if it even exists.

We have in our possession a report on this Old Bakery Building, Smith Lane Manly, by an acknowledged Heritage Consultant, Cecelia Wells, dated 12/7/1996. In that report she advises, amongst many other things:

- The Historical, Aesthetic, Social and Technical significance of this building and its original pastry oven;
- The high significance of the brick bakery oven and all its related cast iron, internal fittings, cast iron buck stays and the tie rods;

The secretive manner in which the heritage items were removed cannot be tolerated in our modern society. We hope NBC will address this too.

### **DOCUMENT 9 Waste Management Plan: OUR OBJECTIONS**

As presented, this document sums up this whole retrospective application and the dismissive attitude the applicant appears to have for the correct process of Local Government planning and building in the Northern Beaches and beyond. It may also raise a question about how NBC deals with unauthorised construction and retrospective applications for DA and Building approvals.

The document on line is blank.

The standard NBC Waste Management Plan template has been uploaded with no items filled in.

Kindest regards

Alan Butler

93 Pittwater Road Manly NSW 2095

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