

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2020/0232
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<b>Responsible Officer:</b>	Jordan Davies
<b>Land to be developed (Address):</b>	Lot 1 DP 76807, 29 - 33 Pittwater Road MANLY NSW 2095
<b>Proposed Development:</b>	Modification of Development Consent DA2019/0083 granted for alterations and additions to an existing Mixed Use Development
<b>Zoning:</b>	Manly LEP2013 - Land zoned B2 Local Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Jsalt Pty Ltd
<b>Applicant:</b>	Jsalt Pty Ltd

<b>Application Lodged:</b>	02/06/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	09/06/2020 to 23/06/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### Executive Summary

This modification application seeks to modify an existing consent DA2019/0083 for 'Alterations and additions to a mixed use development'. The modification application is referred to the Development Determination Panel (DDP) as it is a Section 4.55(2) Modification to a previous determination of the DDP.

The modifications involve internal floor layout changes to the commercial and boarding house component of the mixed use development. The majority of the changes relate to building services include bathrooms, lift locations and fire stair locations. Minor external alterations are proposed to compliment those internal modifications and the proposal is supported by Council's Heritage Officer with the proposed development being located within the Pittwater Road Heritage Conservation Area and in proximity to Local Heritage Items. The visual appearance of the building remains generally

consistent of that approved under DA2019/0083 and the overall height, footprint, bulk and scale of the building remains unchanged.

The proposal also seeks to allow staging of the development via modified conditions of consent relating to the development contributions applicable to the approved Third Level commercial component of the development. The staging would allow for the additional third level commercial component to be undertaken under Stage 2, with the remaining works upon existing ground floor, first floor and second floor under Stage 1. The staging of the proposal allows for the orderly and economic development of land and the relevant development contributions can be applied at the appropriate stage.

The application was notified for a period of 14 Days and no submissions were received.

The modification to the approved development is not considered to generate any additional amenity impacts and the modification results in a development that is substantially the same as originally approved under DA2019/0083. Therefore, the proposal is recommended for approval to the DDP.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal is to modify the existing approval DA2019/0083 which was for alterations and additions to a mixed use development. The modifications involve two components, the first being the modification to the design of the building and changes to internal layout, and the second being the proposal to modify the consent conditions to allow the development to occur in two stages.

The architectural changes to the various levels are as follows:

### Ground Floor (Commercial)

- Disabled unisex toilet to be relocated
- Passenger lift has door facing east at this level.
- Fire stair to the north of the new passenger lift revised.
- Passenger lift in the south east corner of the development has been deleted.
- The awning on Denison Street has been extended west to encompass the new door to the lift lobby.
- The large shop has been extended and a dedicated toilet & sink added under the new stair up to the first floor Gym.
- Inclusion of a platform lift and steps up to the parking exit, which now discharges to Denison Street.
- The electrical room has been relocated to sit behind (west of) the disabled toilet (accessible off the delivery bay).
- Changes to shop layout and commercial space ground floor.

### First Floor (Commercial)

- Passenger lift in the south east corner of the development has been deleted.
- The new passenger lift opens on the south side, directly into the general Gym area.
- Fire stair to the north of the new passenger lift to be revised.
- A small plant room has been provided at first floor level (south west corner).
- Changes to layout of commercial floor area (Gym).

### Second Floor (Boarding House)

- Passenger lift in the south east corner of the development has been deleted – Bedrooms B9 & B10 are now unaffected.
- Bedrooms B3 & B4 are now to have skylights added.
- Small cooking appliances added to each bedroom.
- Communal laundry maintained and re-planned.
- The new passenger lift opens on the south side, directly into the central hallway.

- Fire stair to the north & west of the new passenger lift to be revised.

#### Third Floor (New Commercial Floor approved under DA2019/0083)

- Passenger lift in the south east corner of the development has been deleted.
- The new passenger lift is now between Suite 3 & Suite 4.
- All of the toilets in the commercial suites now have a shower included and the planning of the commercial suites has been revised to accommodate the overall changes.
- The skylights to the bedrooms below are shown.

#### Proposed Staging

The applicant seeks to amend the consent conditions to allow staging of the development to occur in the following way:

- **Stage 1** - Carry out refurbishment works and approved alterations to the existing Ground Floor, First Floor and Second Floor Levels of the existing building in accordance with the approved development consent and approved architectural plans (as amended).
- **Stage 2** - Construct the additional Third Floor Level over the existing building levels of the existing building in accordance with the approved development consent and approved architectural plans (as amended).

The following conditions are upon the consent for DA2019/0083 which are required to be satisfied prior to the issue of a construction certificate:

- **Condition 6 Development Contribution Commercial** - This consent condition requires the payment of development contributions as a result of the additional 286.3sqm floor area proposed upon the Third Floor.
- **Condition 7 Development Contribution Car Parking** - This consent condition requires the payment of development contributions for five (5) off-street car parking spaces to off-set the shortfall of car parking spaces as a result of the additional floor area generated by the Third Floor.

The proposal may be staged in way in which the applicant proposes, with the construction of the third floor not occurring until Stage 2. Council supports this approach by the applicant. Therefore, it is appropriate to amend the consent conditions to require the payment of the development contributions required under Stage 2 as required by Conditions 6 and 7. The amended floor plan for the Third Level includes an additional 5.3sqm of floor area and condition 6 will be updated accordingly to cater for the additional floor area.

The additional 5.3sqm of commercial floorspace does not generate demand for additional car parking in accordance with the DCP. See detailed discussion in the Development Contributions Referral response later in this report.

#### Comment on Cooking Facilities

The proposed development introduces a cooktop within each room within the existing boarding house component of the development. There are existing bench spaces and sinks within each boarding room approved under the original 1992 boarding house application. Upon review of the approved plans for DA2019/0083, bedroom 16 was relocated and replaced the existing commercial kitchen. Therefore, under the current approved plans for DA2019/0083 there are no cooking facilities for the boarding house component of the development.

A boarding house by definition under the Manly LEP allows for private cooking facilities within each room and does not necessarily require a communal kitchen. Therefore, the inclusion of a cooktop within each room is consistent with the definition of a boarding house under the Manly LEP and this component of the modification is supported. The development standards contained under Clause 30 of *SEPP (Affordable Rental Housing) 2009* do not apply to minor alterations and additions to a boarding house. The proposal is considered to consist of minor alterations to the boarding house component and therefore the standards within the SEPP do not apply.

## 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 Development Control Plan - 4.4.4.1 Awnings in LEP B1 and B2 Business Zones

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 76807 , 29 - 33 Pittwater Road MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The site consists of one (1) allotment located on the western side of Pittwater Road, Manly.</p> <p>The site is irregular in shape with frontages of 14.02m along Pittwater Road and 14.325m along Kangaroo Lane, and an average Depth of 48.35m with a frontage to Denison Street. The site has a surveyed area of 665.3sqm.</p> <p>The site is located within the B2 Local Centre Zone and accommodates a three storey mixed use development. Currently the ground floor consists of commercial floor area and park, the second floor commercial floor area (gym) and the third floor consisting of an 18 room boarding house.</p>

The site is relatively level and does not include any significant vegetation.

#### Description of Surrounding/Adjoining Development

Adjoining and surrounding developments consist of mixed use development, commercial and residential uses. The site immediately to the south is a Heritage Building and is subject to a development consent (DA2017/1229) for construction of a mixed use development including alterations and additions and use of the heritage building as a serviced apartment and construction of a residential flat building.

Map:



#### SITE HISTORY

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

- **DA72/92** - Construction of an 18 Room Boarding house upon Level 2, consent granted by Manly Council on 4 June 1993.
- **DA2019/0083** - Alterations and additions to a mixed use development' was approved by the Northern Beaches Development Determination Panel on 10 July 2019. The proposal included internal alterations to the existing Ground Floor (Commercial), Level 1 (Gym/Commercial) and Level 2 (Boarding House). The proposal included a new Level 3 component consisting of 286.3sqm of additional commercial floor space.
- **Mod2019/0361** sought to correct an error in the consent and to modify conditions 12 and 21 of DA2019/0083. The modification application was approved on 31/07/2019.
- **Mod2019/0377** sought to correct an error in the consent and to modify condition 21 within the revised Notice of Determination issued on 31/07/2019. The modification application was approved on 12/08/2019.
- **DA2020/0142** was submitted for a similar proposal to DA2019/0083. This application sought the

proposal to be considered under the new Northern Beaches Contribution Plan. The application was subsequently withdrawn on 18 May 2020.

### Application History

The original application included one (1) additional boarding house room. The additional boarding house room had the potential to require one (1) additional car space to be provided within the development or, require additional parking contributions. The applicant therefore chose to remove the additional boarding room from the proposal and retain 18 rooms as originally approved under the 1992 application. An amended floor plan was provided deleting the room.

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/0083, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

<b>Section 4.55 (2) - Other Modifications</b>	<b>Comments</b>
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/0083 for the following reasons:</p> <p>The general form and building envelope is maintained, with minor internal alterations only.</p> <p>The proposed land uses remain the same throughout the development, with minor changes to floor area only throughout the building.</p>

<b>Section 4.55 (2) - Other Modifications</b>	<b>Comments</b>
	<p>The car parking arrangements and access arrangements to the building remain the same.</p> <p>There are no new amenity impacts introduced through the proposal.</p>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2019/0083 did not require concurrence from the relevant Minister, public authority or approval body.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Environmental Plan 2011 and Manly Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
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	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

Section 4.15 'Matters for Consideration'	Comments
instrument	on 13 April 2018. The subject site has been used for commercial and boarding house purpose for an extended period of time. The proposed development retains the existing use 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&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 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 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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 in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;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 in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts	<p>(i) <b>Environmental Impact</b></p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the</p>



Section 4.15 'Matters for Consideration'	Comments
on the natural and built environment and social and economic impacts in the locality	<p>Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/06/2020 to 23/06/2020 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>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
NECC (Development Engineering)	The proposed modifications do not alter the original assessment by Development Engineering.

Internal Referral Body	Comments
	No objection to approval with no additional or modified conditions of consent recommended.
Strategic and Place Planning (Heritage Officer)	<b>HERITAGE COMMENTS</b>
	Discussion of reason for referral
	<p>The proposal has been referred to heritage as the subject property is within the <b>Pittwater Road Conservation Area</b>, adjacent to heritage items, being <b>Item I198 -Pair of houses</b> - 25–27 Pittwater Road and <b>Item I164 - Natural escarpment</b> - Kangaroo Reserve Park and within the vicinity of a number of heritage items:</p> <p><b>Item I199 - Group of commercial and residential buildings</b> - 35–49 Pittwater Road</p> <p><b>Item I134 - Row house</b> - 26 Denison Street</p> <p><b>Item I135 - Row house</b> - 28 Denison Street</p> <p><b>Item I136 - Row house</b> - 30 Denison Street</p> <p><b>Item I137 - Row house</b> - 32 Denison Street</p> <p><b>Item I138 - Row house</b> - 34 Denison Street</p> <p><b>Item I139 - Row house</b> - 36 Denison Street</p> <p><b>Item I140 - Row house</b> - 38 Denison Street</p>
	Details of heritage items affected
	<p>Details of the conservation area and the heritage items as contained within the Heritage inventory are:</p> <p><b>C1 - Pittwater Road Conservation Area</b>  <u>Statement of significance:</u>  Constructed between 1880 and 1963, this street pattern is distinctive and underpins the urban character of the area. The streets remain unaltered in their alignment, although the names of Malvern, Pine and North Steyne are now names for what were Whistler, Middle Harbour and East Steyne respectively.  <u>Physical description:</u>  The streetscape of Pittwater Road is a winding vista of late 19th and early 20th century commercial and residential architecture of generally one or two floors - although there are exceptions such as the four storey private hotel. The streetscape provides a 19th century atmosphere due to it's scale, width and the number of extant Victorian structures.</p> <p><b>Item I198 -Pair of houses</b>  <u>Statement of significance:</u></p>

Internal Referral Body	Comments
	<p>25 Pittwater Road includes a substantial single storey double fronted residence designed in the Federation Queen Anne style of architecture. 27 Pittwater Road is a small Federation style cottage. The buildings are related in scale, mass and period.</p> <p><u>Physical description:</u></p> <p>No.25 Pittwater: Brick bungalow with slate roof and terra-cotta roof ornament with Federation style detailing, including timber columns and valence to verandah; steeply pitched gable roof with simple barge board and timber decoration on stucco beneath gable end. Bay window has coloured square pane fanlights and vaguely Art-Nouveau influence in window head repeated on front of building. The picket fence is not original.</p> <p>No. 27 Pittwater: Painted brick and tile bungalow similar in style and mass to No. 25 Pittwater but shallow pitch to gable. Special elements include the shell or fan motif in timber verandah brackets and the gable in the verandah creating a central portico.</p> <p><b><i>Item I164 - Natural escarpment</i></b></p> <p><u>Statement of significance:</u></p> <p>Reserve and local streets associated by name and planning layout.</p> <p><u>Physical description:</u></p> <p>Natural landscape context to the Reserve together with natural rock outcrop. Significant remnant indigenous flora.</p> <p><b><i>Item I199 - Group of commercial and residential buildings</i></b></p> <p><u>Statement of significance:</u></p> <p>This item is a group of unusual early Twentieth Century terraced two storey residences with shops at each end. Listed due to its originality and uniqueness of concept, layout and mixture of materials. Significance in contribution to streetscape and in relationship to late 19th century development locally.</p> <p><u>Physical description:</u></p> <p>Group of 8 terraced buildings comprising 6 terraced two storey houses (rendered at ground floor level and timbered first floor) with rendered two storey (projecting as one storey shops) buildings at each end. Bullnose verandah roofs to residences have reversed bullnose up to sill level on first floor. Projecting 'gable end' of roof forms pediment over central pair. Rendered pediments over shop fronts, window hoods over first floor windows, Italianate render decoration to ground floor or residences.</p> <p><b><i>Items I134 - I135 - I136 - I137 - I138 - I139 - I140 - Row houses</i></b></p> <p><u>Statement of significance:</u></p> <p>A group of seven Victorian Rustic Gothic style terraces, aesthetically significant as representative of the style, and historically significant as early Manly terraces.</p> <p><u>Physical description:</u></p> <p>Significant elements include decorative timber barge boards, bullnose verandahs, cast iron brackets and fringes and chimney pots. Gabled corrugated iron roof, with three front facing gables, to No's.38, 32 and 26. Each gable featuring elaborate timber fretwork, and slightly curved triangular timberlouvred vent. Iron lace frieze</p>

Internal Referral Body	Comments		
	work. Corrugated iron skillion roofed verandahs elaborate drip moulds over front doors and timber framed double hinge windows to each facade.		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application		
	<p>This site is subject to a current planning consent for a first floor rear addition, which was approved by the Northern Beaches Development Determination Panel on 10 July 2019 (DA2019/0083). Following this DA two modification applications were approved.</p> <p>This modification application seeks consent for modifications to the approved DA2019/0083, including internal alterations and minor changes to the external configuration. Changes to the southern elevation includes rebuilding the southern boundary wall to rectify the boundary alignment. Changes to Denison Street elevation include the extension of the ground floor awning towards the west to encompass the new door to the lift lobby.</p> <p>It is noted that the proposal does not alter the bulk and scale of the building from the approved DA and the additional impact upon the significance of the conservation area and the heritage items in the vicinity, will be acceptable.</p> <p>It is also noted that the signage is not included in this application.</p> <p>Therefore, no objections are raised to this application on heritage grounds, subject to the imposition of one condition requiring the details of the third level balustrade/handrail.</p> <p><u>Consider against the provisions of CL5.10 of MLEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? No - A HIS had been provided for DA2019/0083</p>		

Internal Referral Body	Comments		
	<table><tr><th>Further Comments</th></tr><tr><td>COMPLETED BY: Oya Guner, Heritage Advisor  DATE: 22 January 2021</td></tr></table>	Further Comments	COMPLETED BY: Oya Guner, Heritage Advisor  DATE: 22 January 2021
Further Comments			
COMPLETED BY: Oya Guner, Heritage Advisor  DATE: 22 January 2021			
Strategic and Place Planning (S94 Warriewood Valley)	<p>The Assessment Officer has advised that the Modification Application (MOD2020/0232) seeks approval for alterations and additions to DA2019/0083 resulting in an additional 5.3sqm of commercial GFA. The modification application also seeks to stage the development as follows:</p> <ul style="list-style-type: none"><li>• Stage 1 – alterations and additions to the existing ground floor, first floor and second floor</li><li>• Stage 2 – construction of a new third floor. (comprising the additional 5.3sqm of commercial GFA)</li></ul> <p><b>Development Chronology</b></p> <p>There have been a number of development applications on the subject site as follows:</p> <p>1. DA2019/0083 sought consent for alterations and additions to existing Mixed Use Development. The application was approved on 10 July 2019.</p> <p>Conditions 6 and 7 of DA2019/0083 imposed the payment of development contributions attributable to commercial development and car parking (which is now proposed to be within Stage 2 of MOD2020/0232), in accordance with Manly Section 94 Contributions Plan 2004 (being in force on 9 Sept 2017). Condition 6 and 7 read as follows:</p> <p><b>6. Development Contribution – Commercial</b></p> <p><i>A contribution is to be paid for the provision, extension or augmentation of traffic and parking, environmental programs, streetscape and landscaping, community facilities and administration that will, or are likely to be, required as a consequence of development in the area. Total contribution for this development for alterations and additions to an existing Mixed Use Development shall be in accordance with the contribution charges as at the date of the payment. The charges may vary at the time of payment in accordance with Council's Contributions plan to effect changes in land values, construction costs and the Consumer Price Index. This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable</i></p>		

Internal Referral Body	Comments
	<p><i>shall be in accordance with Council's Contributions Plan effective July 2009 as follows;</i></p> <p><i>The calculations for DA2019/0083 are as follows:</i></p> <p><i>\$28,036.34 per 100m<sup>2</sup> GFA in Manly CBD precinct</i></p> <p><i>Additional Floor Area = 286.3m<sup>2</sup></i></p> <p><i>\$28,036.34 x 2.863</i></p> <p><i>= \$80,268.04</i></p> <p><i>Total Contribution applicable = \$80,268.04</i></p> <p><i>Note: Contribution fees are adjusted on the 1st July each year and are based on the March CPI figures.</i></p> <p><b>7. Development Contribution - Car Parking</b></p> <p><i>Payment of contribution in lieu of five car parking spaces which cannot be provided on a site within Zone B2 Local Centre under the Manly Local Environmental Plan 2013, shall be made in accordance with the provisions of Council's Contributions Plan 2004, pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979. The current amount of contribution for each parking space not provided on site is \$37,392.78 per space. The charges may vary at the time of payment in accordance with Council's Contributions plan to effect changes in land values, construction costs and the Consumer Price Index.</i></p> <p><i>Total contribution for this development of alterations and additions to an existing Mixed Use Development at 29-31 Pittwater Road [sic], Manly is \$186,963.90. The amount of the payment shall be in accordance with the Contribution charges as at the date of the payment and must be paid prior to issue of the Construction Certificate.</i></p> <p><i>The calculations for DA2019/0083 are as follows: 5 x \$37,392.78 = \$186,963.90</i></p> <p><i>Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.</i></p> <p>Council records indicate that at the time of preparing this referral response, the development contribution payments remain outstanding.</p>

Internal Referral Body	Comments
	<p>2. Mod2019/0361 sought to correct an error in the consent and to modify conditions 12 and 21 of DA2019/0083. The modification application was approved on 31/07/2019. The contribution conditions 6 and 7 of DA2019/0083 remained unchanged.</p> <p>3. Mod2019/0377 sought to correct an error in the consent and to modify condition 21 within the revised Notice of Determination issued on 31/07/2019. The modification application was approved on 12/08/2019. The contribution conditions 6 and 7 of DA2019/0083 remained unchanged.</p> <p>4. A separate Development Application (DA2020/0142) was lodged on 17 February 2020 for a generally similar proposal, with minor alterations to the approved form of the development. The application was withdrawn on 18 May 2020.</p> <p>5. Mod2020/0232 – the current application.</p> <p><b><i>Assessment of the Modification (MOD2020/0232)</i></b></p> <p>The modification application requests amendments to conditions 6 and 7 of DA2019/0083 to allow the contribution payment to be staged in accordance with the proposed staging of the development. The modification application also proposes an increase of 5.3sqm in the commercial gross floor area.</p> <p>At the time of original consent, 10 July 2019, the Manly Section 94 Contributions Plan 2004 was the applicable contributions plan.</p> <p>Although the Manly Section 94 Contributions Plan 2004 was repealed on 13/07/2019, MOD2020/0232 must be considered against the contribution plan in force at the time of the original determination, being the Manly Section 94 Contributions Plan 2004.</p> <p>The existing contribution condition requires payment of \$80,268.04 for commercial floorspace and \$186,963.90 for car parking. Due to the need to amend the existing contribution condition in line with the requested staging sequence and additional floor space (5.3sqm), the existing contribution condition must be updated to reflect the current CPI adjustment. This will ensure that both the original contribution and the new contribution (levied for the additional 5.3sqm of GFA) have the same base year for the purposes of the CPI calculation at the time of payment.</p> <p>It is noted that this adjustment, while increasing the contribution amount in the consent, is not increasing the required contribution above what would otherwise be required at the time of payment. It is simply bringing the base year forward for the purposes of calculating the CPI adjustment at time of payment. At the time of payment, the</p>

Internal Referral Body	Comments
	<p>CPI will be calculated from the date of consent for MOD2020/0232.</p> <p>The additional 5.3sqm of commercial floorspace does not generate demand for an additional levy for car parking. DA2019/0083 required to provide parking for an additional 286.3sqm of commercial floor space area. Parking for commercial GFA is 1 car parking space per 40sqm. Therefore, 8 car parking spaces were required for the additional GFA (7.15 rounded up to 8). Of these 8 spaces, 3 spaces were provided on-site, and the remaining 5 spaces were levied in DA2019/0083 (Condition 7). MOD2020/0232 involves 291.6sqm of GFA (5.3sqm increase). This requires parking of 7.29 spaces, also rounded up to 8. Therefore, Condition 7 of DA2019/0083 relating to parking for the commercial GFA will be unchanged (except for the readjustment of the base year).</p> <p>Based on the proposed changes and staging sequence under MOD2020/0232, changes to Condition 6 and 7 of DA2019/0083 are supported subject to the following matters being supported by the Assessment Planner:</p> <ol style="list-style-type: none"> <li>1. The description of the approved development clearly states this is a development in Stages, and expressly stating the description of each Stage.</li> </ol> <p><b>Stage 1</b> – Carry out refurbishment works and approved alterations to the existing Ground Floor, First Floor and Second Floor Levels – does not involve the contribution payment to council and Condition 6 of the DA2019/0083 will be modified to the same effect.</p> <p><b>Stage 2</b> – Construct the additional Third Floor Level over the existing building levels of the existing building - will involve the payment of \$83,860.17 for additional commercial floor area and \$191,674.55 for car parking to council and Conditions 6 &amp; 7 of the DA2019/0083 will be modified to the same effect.</p> <p>Draft conditions to replace existing conditions 6 and 7 of DA2019/0083 have been provided.</p> <p><i>Note: The contribution conditions have been determined based on current CPI figures. If this development application is not determined before 28 April 2021, contribution conditions will need to be recalculated.</i></p>
Traffic Engineer	<p>The application seeks the following significant architectural amendments;</p> <p><u>Ground Floor:</u> The shop area at the front of the property has increased from 128m<sup>2</sup> to 133m<sup>2</sup> and the commercial space has also increased from 105m<sup>2</sup> to 109m<sup>2</sup>.</p>



Internal Referral Body	Comments
	<p><u>First Floor:</u> The Gross Floor Area (GFA) at this level has reduced slightly from 601m<sup>2</sup> to 594m<sup>2</sup>. This is due to the 'new' stair in the south east corner which provides access directly into the Gym.</p> <p><u>Second Floor:</u> Bedroom 19 added, with communal laundry maintained and re-planned.</p> <p>The GFA at this level has increased from 536m<sup>2</sup> to 548m<sup>2</sup>. This is due to the removal of one lift and the more efficient arrangement of the stairs &amp; new lift.</p> <p>The overall height of the approved development and the general external configuration remains consistent with the approved development originally considered by Council in its determination of DA2019/0083.</p> <p>As such, no objections are raised to the proposed alterations/additions.</p>
Waste Officer	<p>Waste Management Assessment Recommendation - approval without conditions This is a commercial building not serviced by Council Waste Management Services.</p>

### 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)

Nil

### 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
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#### Principal Development Standards

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	15m	12.8m	12.8m	N/A	Yes
Floor Space Ratio	FSR: 2.5:1 (1,663,25sqm)	FSR: 2.49:1 (1654.8sqm)	FSR: 2.49:1 (1660.1sqm)	N/A	Yes
Gross floor area in Zone B2	25% Commercial GFA, maximum 1000sqm per premises	Commercial GFA: 67.7% (1,119.9sqm) No retail proposed	Commercial GFA: 67.7% (1125.2sqm) No retail proposed	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.4 Stormwater management	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.16 Gross floor area in Zone B2	Yes
Schedule 5 Environmental heritage	Yes

#### Manly Development Control Plan

#### 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
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Performance, and Water Sensitive Urban Design)		
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.6 Energy efficiency/conservation requirements for non-residential developments	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	Yes	Yes
4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.2.5.3 Security Shutters	Yes	Yes
4.2.5.4 Car Parking and Access	Yes	Yes
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

#### Detailed Assessment

##### **4.4.4.1 Awnings in LEP B1 and B2 Business Zones**

The modifications involve a minor extension to the approved awning on Denison Street which has a height of 2.4m above ground level. The awning height was deemed suitable under the original application and the minor extension of the awning proposed under this modification application is acceptable, being consistent with the already approved height.

## **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**

Section 7.12 contributions were levied on the Development Application.

## **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

In summary, a detailed assessment has been required for the following specific issues:

- Staging of development and contributions; and
- Alterations to the layout of the building.

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 approval to Modification Application No. Mod2020/0232 for Modification of Development Consent DA2019/0083 granted for alterations and additions to an existing Mixed Use Development on land at Lot 1 DP 76807,29 - 33 Pittwater Road, MANLY, subject to the conditions printed below:

### **A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

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

#### **a) Modification Approved Plans**

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
PR-01, Issue D	May 2020	Alastair Robb Architects
PR-02, Issue D	February 2021	Alastair Robb Architects
PR-03, Issue D	May 2020	Alastair Robb Architects
PR-04, Issue C	May 2020	Alastair Robb Architects
PR-05, Issue D	May 2020	Alastair Robb Architects
PR-06, Issue A	May 2020	Alastair Robb Architects

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

### **B. Add Condition 1C 'Staging of development' under Operational Conditions to read as follows:**

The development may be staged in the following way:

- **Stage 1** - Carry out refurbishment works and approved alterations to the existing Ground Floor, First Floor and Second Floor Levels of the existing building in accordance with the approved development consent and approved architectural plans (as amended).
- **Stage 2** - Construct the additional Third Floor Level over the existing building levels of the existing building in accordance with the approved development consent and approved architectural plans (as amended).

*Reason: To ensure the orderly and economic development of land.*

**C. Modify Condition 6 'Development Contributions - Commercial' to read as follows:**

**Stage 2 - Development Contribution – Commercial**

A contribution of \$83,860.17 for commercial floorspace is to be paid for the provision, extension or augmentation of local infrastructure that will, or is likely to, be required as a consequence this development pursuant to section 7.11 of the Environmental Planning and Assessment Act 1979 and the Manly Section 94 Contributions Plan 2004 (as amended).

The contribution shall be paid to Council prior to the release of the Construction Certificate for Stage 2. The contribution must be adjusted by CPI at the time of payment. CPI should be taken from the date of consent for MOD2020/0232.

The contribution has been determined as follows:

Total contribution applicable per DA2019/0083	\$80,268.04
CPI adjustment to Dec 2020	1.02519548
CPI adjusted total contribution for DA2019/0087 as at Feb 2021	\$82,290.43
Additional floor area per MOD2020/0232	5.3sqm
Commercial/ Retail in Manly Precinct (per 100sqm GFA)	\$29,617.62
Total contribution applicable for additional 5.3sqm	\$1,569.73
<b>Total contribution for commercial development</b>	<b>\$83,860.17</b>

*Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development*

**D. Amend Condition 6 'Development Contributions - Car Parking' to read as follows:**

**Stage 2 - Development Contribution – Car Parking**

A contribution of \$191,674.55 for car parking is to be paid for the provision, extension or augmentation of local infrastructure that will, or is likely to, be required as a consequence this development pursuant to section 7.11 of the Environmental Planning and Assessment Act 1979 and the Manly Section 94 Contributions Plan 2004 (as amended).

The contribution shall be paid to Council prior to the release of the Construction Certificate for Stage 2. The contribution must be adjusted by CPI at the time of payment. CPI should be taken from the date of consent for MOD2020/0232.

The contribution has been determined as follows:

Total contribution applicable per DA2019/0083	\$186,963.90
5 x \$37,392.78 = \$186,963.90	
CPI adjustment to Dec 2020	1.02519548
CPI adjusted total contribution applicable per DA2019/0087 as at Feb 2021	\$191,674.55
<b>Total contribution for Car Parking</b>	<b>\$191,674.55</b>

*Reason: To enable the provision of public amenities and services required/anticipated as a*

*consequence of increased demand resulting from the development.*