

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2023/0720
Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 101 DP 1247422, 22 Wentworth Street MANLY NSW 2095 Lot 100 DP 1276056, 19 - 21 South Steyne MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2022/1000 granted for Demolition works, alterations and additions to existing buildings and construction of new mixed use buildings including 2 levels of basement and stratum subdivision
Zoning:	Manly LEP2013 - Land zoned E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Royal Far West
Applicant:	Royal Far West

Application Lodged:	17/01/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	29/01/2024 to 12/02/2024
Advertised:	25/01/2024
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application seeks to modify development consent DA2022/1000 which granted consent to "Demolition works, alterations and additions to existing buildings and construction of new mixed-use buildings". The consent was granted on 15 December 2022 by the Sydney North Planning Panel.

The application is submitted under a Section 4.55(1A) Modification Application.

The proposed modifications are as follows:

- Modification of basement level plans including adjustment of setbacks from site boundaries, internal re-planning of basement levels and coordination of structural services and lift cores.
- Minor modification to accommodate the retention of an existing fire egress stair within C.C.K building.
- Modifications to the upper level plans to coordinate with re-planning of basement egress stairs, lifts cores and car parking exhaust riser locations.
- A 15m² reduction in commercial/retail floor space.
- The revised basement design proposes a total supply of 213 car parking spaces, comprising of 50 CCK/ Drummond House spaces (including two van spaces), 89 residential spaces, 5 residential visitor spaces, 69 commercial spaces and no car share space. The total quantum of car spaces will continue to satisfy the requirement of the Concept Approval to provide a minimum of 184 spaces for the total development.

The application also seeks the modification to the following conditions:

- Condition 1 - To refer to the modified plans and documentation prepared in support of this application.
- Condition 14 - To refer to the amended civil and stormwater plans.
- Condition 89 - Modification of condition to read "prior to issue of the relevant of an Occupation Certificate."
- Modification of the description of the approved development to more accurately reference the proposed development and land to which the application relates, with the additional wording to be included as underlined "Demolition works, alterations and additions to existing buildings and construction of new mixed use buildings including 2 levels of basement and stratum subdivision.

ASSESSMENT INTRODUCTION

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

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

proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 6.13 Design excellence

SITE DESCRIPTION

Property Description:	<p>Lot 101 DP 1247422 , 22 Wentworth Street MANLY NSW 2095</p> <p>Lot 100 DP 1276056 , 19 - 21 South Steyne MANLY NSW 2095</p>
Detailed Site Description:	<p>The subject site consists of two (2) allotments located within the Manly Town Centre and fronting Manly Beach. The site known as 19-21 South Steyne (Lot 100 DP 1276056) and is located on the corner of South Steyne and Wentworth Street. The site known as 22 Wentworth Street (Lot 101 DP 1247422) and has a frontage to Wentworth Street. Together they form the subject site.</p> <p>The subject site is 'L' shape with a frontage of 79m along South Steyne, a frontage of 105m along Wentworth Street. The site has a surveyed area of 6398.4m².</p> <p>The site is located within the B2 Local Centre zone under the Manly LEP. The is owned by the organisation 'Royal Far West (RFW)' and operates out of the buildings located within the site. The RFW site is currently occupied by a clinical services and school building known as CCK (approved under Stage 1 of the concept approval), a short stay residential facility for children and their families located within Drummond House, boarding house accommodation, a redundant school facility, a co-working office facility (WOTSO) and a car parking area. Drummond House is listed as a local heritage item pursuant to Manly Local Environmental Plan 2013 (MLEP) and contains short term family accommodation as well as kitchen, lounge and breakout spaces.</p> <p>The site is relatively flat with a slight fall towards the south-eastern corner. The small portion of the site is partially flood affected, with flooding identified along the front boundary of the site adjoining South Steyne and Wentworth Street. The site does not contain any significant vegetation or high value trees. The site is not identified as having any biodiversity values or containing threatened species. The site is not located within a heritage conservation area, however contains the locally listed heritage item 'Drummond House' and fronts Wentworth Street which the road reserve is identified as a landscape heritage item. The public reserve along South Steyne is a listed heritage landscape item and contains heritage listed Norfolk Pine trees.</p>

The site faces Manly Beach and is in a visually prominent location in the highly popular beachside suburb.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by mixed use buildings of varying height and scales. Being located within the B2 Zone, the majority of landscaping is within the road reserve and consisting of street trees (some of which are heritage listed). The buildings to the south-east of the site which front South Steyne are varied in height between 5 and 9 stories. The buildings to the north-west of the site fronting South Steyne are between 2 and 5 stories. The buildings fronting Wentworth Street across the road to the north-west are five 4 stories fronting the street, with the central portion being 8 stories. The majority of buildings comprising of a nil setback providing commercial and retail tenancies fronting the footpath.

Immediately adjoining the sites south-western boundary is Manly Village Primary School, with the existing CCK Building A sharing this boundary. Located at 25-27 Victoria Parade is a 5 storey residential flat building and at 29 Victoria Parade is a 3 storey residential flat building (heritage item). Building B and Building C share a common boundary with this two buildings. At 31 Victoria Parade is a 6 storey residential flat building which has recently been subject to development above the existing heritage item. At 15-16 South Steyne is a two storey building (heritage item) which operates as a medical centre.

As can be seen by the above description, the range of buildings are varied in height and scale, with a number of locally listed heritage items adjoining the site with varies uses. It is noted that the sites 25-27 and No. 29 are not within the B2 Zone and are zoned R3 Medium Density Residential.

Map:



SITE HISTORY

The relevant history of the site with regards to the relevant approvals and concept approval under Part 3A is as follows:

- A concept approval for the subject site redevelopment was granted by the Planning Assessment Commission (PAC) as a delegate of the Minister for Planning and Infrastructure on 18 April 2013 subject to conditions. The concept approval was granted under the now repealed *Part 3A of the EP&A Act 1979*. The concept approval for the mixed use development described as:
 - a) Use of the site for a mixed use development with associated hospital facility, “Centre for Excellence”;
 - b) Indicative building envelopes for buildings to a maximum height of 8 storeys;
 - c) Tourist and visitor accommodation, residential, retail/commercial and hospital/medical uses to a maximum FSR of 3:1;
 - d) Basement car parking for 184 car spaces; and
 - e) Landscaping area throughout the site.
- Stages 1 and 2 of the concept approval we approved by the former Manly Council under DA253/2014 on 6 May 2015, with the works undertaken under this approval being described as:

Demolition of existing “Elsie Hill Building”, construction of a six (6) story building “Centre for Child Health and Learning” (know as Building A, CCK Building) two (2) levels of basement car parking for (53) cars and the use of the building as clinical, educational and office facilities, alterations to Drummond House to connect to the new centre and landscape works.

Stage 1 consisted of Demolition of Elise Hill Building and Stage 2 consisted of Construction of the CCK building and alterations to Drummond House to connect Drummond House to the

CCK building.

- The approval for Stages 1 and 2 under DA253/2014 was modified by MOD2018/0640, MOD2018/0285 and DA253/2014/1 following the original granting of consent. A final occupation certificate was issued for DA253/2014 on 3 April 2019 and Stages 1 and 2 have been implemented and are operational.
- A pre-lodgment meeting (PLM2020/0144) was held with Northern Beaches Council on 23 July 2020 where the applicant sought Council's feedback on progression of Stages 3 and 4 of the concept approval under a future development application. Upon consideration of the proposal, Council advised the applicant that the scheme submitted in the pre-lodgement meeting was not considered 'generally consistent' with the Part 3A Concept approval and therefore, advised the applicant that the concept should be modified prior to lodgement of a development application to Council.
- The PLM plans were presented to the Northern Beaches Design and Sustainability Panel (DSAP) on 28 October 2021, with detailed minutes provided by the DSAP following the meeting.
- Another pre-lodgment meeting (PLM2022/0262) was held with Council on 11 November 2021, in particular to seek technical feedback from Council's referral staff regarding the the latest proposal which required the concept approval to be modified.
- Following the pre-lodgment meetings with Council, an application to modify the Concept Plan approval pursuant to Section 75W of the *EP&A Act 1979* was submitted to Key Sites Assessments within the Department of Planning, Industry & Environment (DoP). Following consideration by the DoP, modification to the concept approval under MP 10_0159 MOD 1 was approved on 20 April 2022. The modifications can be generally described as an amended layout and footprint of the development, removal the use 'tourist and visitor accommodation and removal 16 South Steyne from the site and amended the maximum height from RL31.14 to RL 32.35. Together with the plan changes, amended terms of approval were provided in Schedule 2 of the Minister Approval (a copy of which forms part of the documentation submitted with this development application).
- Development application DA2022/1000 was submitted to Council on 30 June 2022.
- Development application DA2022/1000 was approved on 15 December 2022 by the Sydney North Planning Panel.

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 DA2022/1000, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
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 proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> - The reduction to the basement level pulls the basement away from the street boundary which allows for construction materials and machinery to be contained within the site during construction of the basement, reducing the impact upon the road reserve. - The reduction to the basement level reduces the amount of excavation and construction dewatering during the life of the project, which is a lesser environmental impact. - The reduced basement pulls away from the adjoining properties which minimised construction risk and disturbance of the adjoining properties. - The reduction of the basement allow for increased deep soil landscaping along the site boundaries. - The amount of parking, although reduced, remains compliant with the minimum number of parking spaces required under the concept approval and Council's traffic engineers are satisfied with the quantum of parking provided. - The overall form, visual appearance and scale of the building is unchanged.
(b) 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 consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/1000 for the following reasons:</p> <ul style="list-style-type: none"> - The overall form, visual appearance and scale of the building is unchanged. Minor internal changes to the units and the basement configuration does not affect the overall visual appearance and outcome of the development. A 15m² reduction is to the commercial GFA is only required due to reconfiguration of lifts.
(c) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental

Section 4.55(1A) - Other Modifications	Comments
(i) the regulations, if the regulations so require, or (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	Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation 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 modification 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 4.55 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:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent.

Section 4.15 'Matters for Consideration'	Comments
Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>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 documentation has been submitted and an updated SEPP 65 statement has been submitted.</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 - 2001: 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 the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

Consistency with Concept Approval on the Site under Part 3A

As outlined in the 'site history' at the beginning of this report, the site has a concept approval under the now repealed 'Part 3A' of the *EP&A Act 1979*.

The Concept Approval (MP10_0159 MOD 1) established the fundamental design and built form parameters applicable to the future development of the site. As part of the assessment and the granting of consent to DA2022/1000, Council undertook a detailed assessment of the development application against the concept approval and the terms outlined in the approval document. The detailed assessment was contained within Attachment 1 of the assessment report for DA2022/1000. The detailed assessment concluded that DA2022/1000 was generally consistent with the concept approval and therefore development consent was granted.

The relevant test for the modification application is that the development remain 'substantially the same' as the consent granted under DA2022/1000. For the reasons outlined within the above table, Council is satisfied that the minor amendments to the approved development will result in a development that is 'substantially the same' as the consent granted under DA2022/1000.

The modification application does not change the land use, height, footprint and siting of buildings. A minor 15m² reduction in commercial GFA is proposed however this remains consistent with the concept approval, which nominates the first three (3) levels of Building C to contain commercial floor area. The 15m² reduction (or 0.5% reduction of commercial GFA) results in a development substantially the same as the original consent and generally consistent with the concept approval.

The concept approval required 'Basement car parking for not less than 184 car spaces'. The approved development has 217 parking spaces. The proposed revised basement design proposes 213 parking spaces and therefore, the proposal will continue to satisfy the concept approval and remain substantially the same as the original development application.

Overall, the proposal as modified continues to be generally consistent with the concept approval and substantially the same as the original consent granted.

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 application has been publicly exhibited from 29/01/2024 to 12/02/2024 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	Supported with conditions
Environmental Health (Acid Sulfate)	<p>General Comments</p> <p>This application is seeking consent for modifications to DA2022/1000. Modifications include;</p> <p>Modification of basement level plans including adjustment of setbacks from site boundaries, internal replanning of basement levels and coordination of structural services and lift cores.</p> <ul style="list-style-type: none"> • Minor modification to accommodate the retention of an existing fire egress stair within C.C.K building. • Modifications to the upper level plans to coordinate with replanning of basement egress stairs, lifts cores and car parking exhaust riser locations. • A 15m² reduction in commercial/retail floor space. • The revised basement design proposes a total supply of 213 car parking spaces, comprising of 50 CCK/ Drummond House spaces (including two van spaces), 89 residential spaces, 5 residential visitor spaces, 69 commercial spaces and no car share space. The total quantum of car spaces will continue to satisfy the requirement of the Concept Approval to provide a minimum of 184 spaces for the total development. <p>The proposed modifications do not change the Acid Sulfate Soils outcome from DA2022/1000 therefore the original condition still applies.</p>
Environmental Health (Contaminated Lands)	<p>General Comments</p> <p>This application is seeking consent for modifications to DA2022/1000. Modifications include;</p> <p>Modification of basement level plans including adjustment of setbacks from site boundaries, internal replanning of basement levels and coordination of structural services and lift cores.</p> <ul style="list-style-type: none"> • Minor modification to accommodate the retention of an existing fire egress stair within C.C.K building. • Modifications to the upper level plans to coordinate with replanning of basement egress stairs, lifts cores and car parking exhaust riser locations. • A 15m² reduction in commercial/retail floor space. • The revised basement design proposes a total supply of 213 car parking spaces, comprising of 50 CCK/ Drummond House spaces (including two van spaces), 89 residential spaces, 5 residential visitor spaces, 69 commercial spaces and no car share space. The total quantum of car spaces will continue to satisfy the requirement of the Concept Approval to provide a minimum of 184 spaces for the total development.

Internal Referral Body	Comments
	Environmental Health recommends approval subject to conditions.
Environmental Health (Industrial)	<p>General Comments</p> <p>This application is seeking consent for modifications to DA2022/1000. Modifications include;</p> <p>Modification of basement level plans including adjustment of setbacks from site boundaries, internal replanning of basement levels and coordination of structural services and lift cores.</p> <ul style="list-style-type: none"> • Minor modification to accommodate the retention of an existing fire egress stair within C.C.K building. • Modifications to the upper level plans to coordinate with replanning of basement egress stairs, lifts cores and car parking exhaust riser locations. • A 15m² reduction in commercial/retail floor space. • The revised basement design proposes a total supply of 213 car parking spaces, comprising of 50 CCK/ Drummond House spaces (including two van spaces), 89 residential spaces, 5 residential visitor spaces, 69 commercial spaces and no car share space. The total quantum of car spaces will continue to satisfy the requirement of the Concept Approval to provide a minimum of 184 spaces for the total development. <p>The proposed internal modifications do not negatively impact the original acoustic assessment outcome for DA2022/1000. Therefore the original conditions still apply.</p> <p>Environmental Health recommends approval.</p>
Landscape Officer	The application is for modification to development consent DA2022/1000 as described in reports and as illustrated in plans, and these are noted. The landscape outcome as approved under the development consent is not altered and thus Landscape Referral raise no concerns.
NECC (Coast and Catchments)	<p>The proposal seeks approval for modification of development consent DA 2022/1000 granted for demolition works, alterations and additions to an existing building and construction of new mixed use building.</p> <p>The proposed modifications include modification of basement level plans including adjustment of setbacks from site boundaries, internal replanning of basement levels and coordination of structural services and lift cores. Minor modification to accommodate the retention of an existing fire egress stair within C.C.K building. Modifications to the upper level plans to coordinate with replanning of basement egress stairs, lifts cores and car parking exhaust riser locations. A 15m² reduction in commercial/retail floor space.</p>

Internal Referral Body	Comments
	<p>The subject property is located within the 'Coastal Use Area' maps of the Coastal Zone, and also in the Foreshore Scenic Protection area,</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> § Supplied plans and reports; § Coastal Management Act 2016 § State Environmental Planning Policy (Resilience & Hazards) 2021 § Relevant LEP and DCP Clauses <p>The objectives and requirement of the CMA 2016, SEPP -R & H 2021 and relevant LEP and DCP Clauses have been met.</p> <p>The proposed modifications appear consistent with the design intent of the original proposal.</p> <p>No conditions in additions to those for the original development application are considered necessary</p>
NECC (Development Engineering)	<p>The proposed modifications to the basement and other modifications are acceptable. The updated engineering plans are also acceptable.</p> <p>Development Engineering support the proposal subject to the modification of condition 1 to reflect the amended engineering plans by Northrop, Job Number 200211, Drawing Numbers CV-8000, CV-80001, CV-8050, CV8051, CV-8110, CV-8210, CV-8220, CV-8230 and CV-8250 Revision 02 dated 18.12.2023.</p> <p>The original consent did not include a condition for the certification and provision of work as executed details for the completed works required in the road reserve which has been included in accordance with Council's requirements.</p>
NECC (Flooding)	<p>The proposal is for modifications to DA2022/1000. The works involve interior alterations and the reduction of commercial/retail space.</p> <p>None of the works result in decreased floor levels or the extension of the previously approved property bounds further into the flood zone. There are no flood planning objections subject to the retention of consent from DA2022/1000.</p>

Internal Referral Body	Comments
NECC (Water Management)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WMD Policy), and; • Relevant LEP and DCP clauses; <p>The proposal is for modifications to DA2022/1000. The works involve interior alterations and the reduction of commercial/retail space.</p> <p>The proposal includes minor modification to the stormwater quality system with an increase of stormwater cartridge to meet the water quality requirements.</p> <p>Dewatering of groundwater is subject to WaterNSW approvals and comments, refer to the WaterNSW General Terms of Approval (IDAS1145460) issued on 5 October 2022.</p> <p>NECC Water Management has no objections to the modification.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This application has been referred as the site contains a local heritage item, being Item I245 - The Drummond Far West Home, 22 Wentworth Street, Manly.</p> <p>The site is also within the vicinity of a number of heritage items, including:</p> <p>I174 – Beach Reserve – Merret Park, North Steyne and South Steyne</p> <p>I224 – Public Shelters – South Steyne and North Steyne</p> <p>I226 – House at 15-16 South Steyne (also known as The Terraces)</p> <p>I241 – Residential flat building, 29 Victoria Parade</p> <p>I242 - Residential flat building, 31 Victoria Parade</p> <p>I243 - 1920's school building, 10 Wentworth Street</p> <p>I244 – Former School of Arts, 12 Wentworth Street</p> <p>I246 – Street Trees – Wentworth Street</p> <p>The site is also within the vicinity of C2 - Town Centre Conservation Area</p>
	Details of heritage items affected
	<p>Item I245 - The Drummond Far West Home</p> <p><u>Statement of Significance</u></p> <p>This building is a good example of Inter-War Classical style in a building with state historical significance for its role as a charitable institution.</p> <p><u>Physical Description</u></p> <p>Three storey Inter-War Classical style building. Cream brick institutional building with tile roof. Wide colonnade ground floor. Paired Doric columns to first and second floor balconies.</p>

Internal Referral Body	Comments		
	Contrasting brickwork used as highlight to arches on ground floor and in horizontal bands. The Drummond Far West Home is a three-storey brick and concrete building located on the south side of the street. The building is symmetrical about the main entry. The ends of the front façade are terminated with projecting rooms on the First and Second Floors containing large sliding timber framed windows that provided sheltered sunrooms and the Ground Floor arcade projects to support the sunrooms.		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	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	No	
	Consideration of Application		
	The proposal seeks consent for modifications to application DA2022/1000. Proposed changes include modifications to the basement carparking, dewatering, retention of a fire stair in the CCK building, internal layout changes and minor adjustments to external appearances of some elements. No changes are proposed to the retained component of Drummond House, or heritage conditions, and most notably the proposal includes a reduction in basement excavation to the east of this component. Heritage considers that the proposed changes can be supported as they will not change the impact upon Drummond House or the adjoining heritage items.		
	Therefore Heritage raises no objections to the proposal and requires no additional conditions.		
	Consider against the provisions of CL5.10 of MLEP.		
Is a Conservation Management Plan (CMP) Required? Yes - as part of the original proposal			
Has a CMP been provided? Yes - as part of the original proposal			
Is a Heritage Impact Statement required? Was included in the original proposal			
Has a Heritage Impact Statement been provided? Was included in the original proposal			

Internal Referral Body	Comments
Traffic Engineer	<p><u>Proposal description:</u> Modification of Development Consent DA2022/1000 granted for Demolition works, alterations and additions to existing buildings and construction of new mixed-use buildings including 2 levels of basement and stratum subdivision.</p> <p>The proposal is for alterations and additions to the Centre for Country Kids (CCK) building, as well as partial demolition, alterations, and additions to the Drummond House, and construction of mixed-use buildings that will incorporate residential apartments, retail/ commercial uses, hospital/ medical uses, and associated guest accommodation with basement parking and landscaping.</p> <p>The traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> • Traffic Impact Assessment (TIA), Project Number 300305176, prepared by Stantec dated 13 December 2023, • The Statement of Environmental Effects prepared by Boston Blyth Fleming Pty Ltd, dated 21 December 2023, • Plans (Master Set) – Issue A, Job Number 5899, designed by Murcutt Candalepas, dated 11/12/2023, and • TfNSW referral letters (ref: SYD24/00148 dated 09 February 2024. <p>Traffic team notes:</p> <ul style="list-style-type: none"> • The modification development comprises of 58 residential apartments, the existing CCK Building and Drummond House (6,048m² GFA), 2,691m² GFA of commercial/ retail space and two basement levels of car parking with 213 spaces. • The main change in the layout of the building from a transport perspective is the modification made to the basement which has pulled back part of the northern and southern basement walls from the property boundaries, resulting in a reduction in the size of both basement levels. Additionally, the total area of commercial/retail floor space has been reduced to 2,691m² GFA from the originally DA approved 2,706m² GFA. • The modification plans propose a total of 213 car parking spaces, which is a reduction of four (4) parking spaces compared to the approved DA plans. The total parking provision, however, continues to comply with the Concept Approval requirement of a minimum of 184 spaces. The modified plans and proposed amendments meet or exceed the DCP parking requirements for all

Internal Referral Body	Comments
	<p>development uses. The modified layout resulted in a provision of 89 residential parking spaces, inclusive of 5 visitor parking spaces. Therefore, the DCP requirement of 86 residential spaces is exceeded. A total of 50 parking spaces have been provisioned for CCK and Drummond House to meet the previously approved provision. A total of 69 spaces have been provided for use by the commercial and retail spaces. This decrease in commercial and retail parking supply (by 1 space in comparison to the approved DA) meets/exceeds the DCP parking requirement of 68 spaces.</p> <ul style="list-style-type: none"> • Five (5) visitor parking spaces have been proposed which is under DCP requirements by 5 spaces. The visitor parking shortfall of 5 spaces can be addressed by reallocating some of the excess resident parking on site. This will be conditioned. • The modified basement plans provide an increase in tandem parking spaces from the approved DA. Previously, the approved DA plans had eight (8) tandem spaces allocated to commercial tenancies, but this modification resulted in a total of 17 tandem spaces. As per the Traffic report, the commercial tenancies will manage and allocate these spaces. This parking arrangement is deemed acceptable, provided that the rear tandem parking spaces are assigned for retail staff, and the front tandem parking spaces are reserved for retail customers. This will be conditioned. • The modified plans include the provision of four (4) commercial accessible parking spaces (including two existing accessible spaces in the CCK basement which will be retained). The commercial accessible parking requirement is exceeded. The modified plans continue to propose 15 adaptable units, the modified plans include a total of 15 residential accessible parking spaces. The residential accessible parking requirement continue to be met. • The modified parking layout shows a provision of 120 bicycle parking spaces which exceeds the minimum requirement of DCP bicycle parking spaces and caters for alternate travel mode options. • As per the Pre-Lodgement comments (PLM2021/0262) dated 11 November 2021 and Traffic Referral Responses dated 08/09/2022, the carparking levels will be conditioned to incorporate directional and turning pavement arrows to assist drivers in negotiating their way into and out of and through the carpark. • A detailed CTMP along with TCPs are also conditioned to be submitted to Council. <p>Conclusion</p>

Internal Referral Body	Comments
	The modification application can be supported on traffic grounds. Apart from the conditions outlined above, no new conditions are proposed with all previously imposed conditions in DA2022/1000 to remain in place.

External Referral Body	Comments
Roads and Maritime Service - SEPP (Transport and Infrastructure) 2021, s2.122 - Traffic generating development	<p>Supported - No new conditions</p> <p>Reference is made to Council's referral regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Clause 2.122 of the State Environment Planning Policy (Transport and Infrastructure) 2021.</p> <p>TfNSW has reviewed the submitted information and raises no objection as the proposed modifications are not expected to have a significant impact on the classified road network.</p>
Nominated Integrated Development - DCCEEW - Water - Water Management Act 2000, s90(2) - Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location	<p>Supported - No new conditions</p> <p>WaterNSW has reviewed the proposed amendments and the accompanied addendum Geotechnical Desktop Assessment prepared by Douglas Partners. The information provided indicates that the modification to the design of the two (2) basement levels remain as a tanked basement design which will require dewatering during construction, therefore the development will require a water supply work approval from WaterNSW to take groundwater.</p> <p>The General Terms of Approval (IDAS1145460) issued on 5 October 2022 are still current and remain relevant to this modification. WaterNSW has no objection to the proposed amendments.</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 (Sustainable Buildings) 2022

A BASIX certificate was submitted with the original application and is referenced within the consent.

The minor modifications do not change the description of the development as detailed on the original BASIX Certificate and therefore an updated BASIX is not required.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections.

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 1 Coastal Wetlands and littoral rainforest area

2.7 Development on certain land within coastal wetlands and littoral rainforests area

- 1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:
 - a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
 - b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
 - c) the carrying out of any of the following:
 - i) earthworks (including the depositing of material on land),
 - ii) constructing a levee,
 - iii) draining the land,
 - iv) environmental protection works,
 - d) any other development

Comment: The site is not located within land containing coastal wetlands or littoral rainforest.

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment: The site is not located within land in proximity to coastal wetlands or littoral rainforest.

Division 2 Coastal Vulnerability Area

2.9 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- b) the proposed development:
 - i) is not likely to alter coastal processes to the detriment of the natural environment or
 - ii) other land, and
 - iii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment: Not identified as being within the coastal vulnerability area.

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 development is setback from Manly beach as such that it will not have any direct impacts on the coastal environment, with the dewatering of the basement level subject to the General Terms of Approval from NSW Water. The development will not impede upon public foreshore access as the site is located fully within private land on the western side of South Steyne. The development will not result in direct impacts to native vegetation that forms part of the coastal environment. The site has been subject to an aboriginal due diligence assessment and the proposal has been found to not have an impact on any relics located within the site, with conditions recommended to ensure appropriate steps are taken if there are unexpected finds during construction.

The development will not impede the use of the surf zone and consideration has been had to the overshadowing impacts of Manly Beach under consideration of the maximum building height approved under the concept approval which the proposal is consistent with.

- 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:

Council is satisfied the development has been sited to avoid impacts upon the matters detailed in subsection (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 platform for members of the public, including persons with a disability,
 - ii) overshadowing, wind funnelling and the loss of views from public places to
 - iii) foreshores,
 - iv) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - v) 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
 - ii) adverse 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 development will not impede safe foreshore access to the beach being setback on the western side of South Steyne. Overshadowing of Manly Beach has been considered under the concept approval with a maximum RL of each building established that considers overshadowing of Manly Beach. It is noted that the shadow diagrams show that overshadowing of Manly Beach does not occur prior to 6pm on the summer solstice (21 December). Council is satisfied that the plant equipment and lift overruns that is permitted above the maximum RL's for Building C and D do not cause detrimental overshadowing of Manly Beach and therefore meet the concept approval conditions. The application is accompanied by an report titled 'Environmental Wind Assessment' and the report concludes that "It is considered that all locations in and around the proposed development would meet the pedestrian safety criterion". In this regard, given that pedestrian comfort levels are met in and around the development, the wind effect on the foreshore area fronting the beach and the beach itself will also achieve comfortable levels for pedestrians. The development is considered to demonstrate design excellence and is compatible with the height and scale of the surrounding building facing Manly Beach at South Steyne.

The application is accompanied by an Aboriginal Due Diligence assessment which concludes there are no known items that be impacted as a result of the development. The development considers the cultural heritage of the area by integrating the heritage item Drummond House into the development and reflecting the character of the beachside suburb of Manly through a compatible building height and scale and builds upon the publicly accessible areas within manly through the provision of a public forecourt within the site.

Council is satisfied the development has been designed to avoid and minimise impacts upon the items i)-v).

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: The proposed development is not considered to result in increased to coastal hazards. The application is accompanied by a Coastal Risk Assessment report prepared by Royal Haskoning DHV dated 10 June 2022 and finds the proposal acceptable with regards to coastal risks having regard to the site location.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment: There is no coastal management program that applies to the subject site.

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.

In response to the above requirements of Chapter 4, the applicant has submitted a Preliminary Environmental Site Investigation (Report 72252.09.R.001.Rev0) dated February 2022 and prepared by Douglas Partners. In its conclusion, the investigation states:

Potential sources of contamination for the site were identified to comprise fill of unknown origin, former diesel storage and use (including inground underground storage tanks, UST), former workshop(s), hazardous building materials (from former and current buildings), electrical transformer, grease trap, and off-site groundwater. Based on the site information and the details of the proposed development, it was considered that the site can be rendered suitable for the proposed development subject to remediation of the UST and contaminants which are potentially present at the site.

Therefore, as the Investigation indicates that there is a potential for contaminants to exist on the site, sub-section 4.6 (1)(b) and 7(1)(c) of this chapter must be considered.

Sub-section 4.6(1)(b) stipulates that *"if the land is contaminated, it [Council] is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out"*.

Given the claimed potential of contamination on the site as noted in the Phase 1 Investigation, a Phase 2 Environmental Site Assessment has been provided to confirm whether contamination is actually present, at what levels and at what locations. A Phase 2 Environmental Site Assessment has been provided (prepared by Douglas Partners, Ref 72252.09 Rev 1 dated 10 June 2022) which confirms the location and type of contaminants on the site. Subsequent to this, a Remediation Action Plan has been provided making recommendations for the remediation of the site to enable the development to be safely carried out (Remediation Action Plan Project 72252.09 dated June 2022). In this regard, Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation and remediation action plan are included as conditions in the Recommendation of this report.

Sub-section 4.6 (1)(c) stipulates that *"if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose"*.

Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation and remediation action plan which are included as conditions in the Recommendation of this report.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	As prescribed by Concept Approval Building B Max - RL21.11 Building C Max - RL 32.25 Building D Max RL - 22.6 *Roof plant is permitted to encroach max RL subject to assessment as per Condition A5 of concept approval -	Building B - RL21.11 Building C - RL31.8 Building D - RL 22.1	Building B - RL21.11 Building C - RL31.8 Building D - RL 22.1	N/A N/A N/A	Yes - Consistent with concept
Floor Space Ratio	FSR: 3:1	FSR: 2.43:1	FSR: 2.43:1	N/A	Yes
Gross floor area in Zone B2	25% Commercial GFA, maximum 1000sqm per premises	Commercial GFA: 18.5% Max sqm per premises: 180sqm	Commercial GFA: 18.47% Max sqm per premises: 180sqm *15m² reduction	N/A	Remains Consistent with concept

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	N/A
4.4 Floor space ratio	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.2 Earthworks	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

6.13 Design excellence

Council were satisfied that design excellence has been addressed upon granting the original consent. The amended plans do not diminish outcome of the development in regard to design excellence.

Manly Development Control Plan

Built Form Controls

Built Form Controls	Requirement	Approved	Proposed	Complies
4.2.3 Setback Controls in LEP Zones B1 and B2	<p>Nil setbacks to street boundaries where not identified as different on the townscape opportunities map</p> <p>Side setbacks to consider amenity of adjoining R3 Zone</p>	<p>Wentworth Street Building C - 3.8m to 6m Building D - 4.4m to 5.1m South Steyne - Nil Building B - 2m to south Building C - 4.6m to west Building C 3.5m to south</p>	Unchanged	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3 Landscaping	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.2 Energy Sources and Systems	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
3.5.5 Landscaping	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
4.1.1.1 Residential Density and Dwelling Size	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
4.2.5.4 Car Parking and Access	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes
Schedule 2 - Townscape Principles	Yes	Yes

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

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

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

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

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

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. Mod2023/0720 for Modification of Development Consent DA2022/1000 granted for Demolition works, alterations and additions to existing buildings and construction of new mixed use buildings including 2 levels of basement and stratum subdivision on land at Lot 101 DP 1247422, 22 Wentworth Street, MANLY, Lot 100 DP 1276056, 19 - 21 South Steyne, MANLY, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
MOD2023/0720 #PAN-402035	The date of this notice of determination	<p>Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, as follows:</p> <ul style="list-style-type: none"> - Modification of basement level plans including adjustment of setbacks from site boundaries, internal re-planning of basement levels and coordination of structural services and lift cores. - Minor modification to accommodate the retention of an existing fire egress stair within C.C.K building. - Modifications to the upper level plans to coordinate with re-planning of basement egress stairs, lifts cores and car parking exhaust riser locations. - A 15m² reduction in commercial/retail floor space. - The revised basement design proposes a total supply of 213 car parking spaces, comprising of 50 CCK/ Drummond House spaces (including two van spaces), 89 residential spaces, 5 residential visitor spaces, 69 commercial spaces and no car share space. <p>Amend Condition 14 - To refer to the amended civil and stormwater plans</p> <p>Add Condition 40A Building Code of Australia Upgrade requirements and Fire Safety Upgrade</p> <p>Amend condition 52 Dewatering Management</p> <p>Amend Condition 89 Garbage and Recycling Facilities</p> <p>Add Condition 96A Certification of Civil Works and Works as Executed Data in accordance with Road Act Approval</p> <p>Add Condition 96B Fire Safety Matters</p> <p>Add condition 96C Long Term Environmental Management Plan</p> <p>Add condition 96D Positive Covenant for encapsulated contamination</p> <p>Add condition 96E Parking space management</p> <p>Add condition 96F Resident Parking Permits</p> <p>Add condition 105A Landscaping adjoining vehicular access</p> <p>Modification of the description of the approved development to include the wording 'including 2 levels of basement and stratum subdivision.</p> <p>Update Site address</p>

Modified conditions

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting

documentation, to read as follows:

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
S4.55-100	A	Cover Sheet	Murcutt Candalepas	11/12/2023
S4.55-101	A	Site Analysis	Murcutt Candalepas	11/12/2023
S4.55-102	A	Site Plan	Murcutt Candalepas	11/12/2023
S4.55-103	A	Demolition Plan - Level Ground	Murcutt Candalepas	11/12/2023
S4.55-104	A	Demolition Plan - Level 1	Murcutt Candalepas	11/12/2023
S4.55-105	A	Demolition Plan - Level 2	Murcutt Candalepas	11/12/2023
S4.55-106	A	Demolition Plan - Level 3	Murcutt Candalepas	11/12/2023
S4.55-110	A	Basement 2 Floor Plan	Murcutt Candalepas	11/12/2023
S4.55-111	A	Basement 1 Floor Plan	Murcutt Candalepas	11/12/2023
S4.55-112	A	Ground Floor Plan	Murcutt Candalepas	11/12/2023
S4.55-113	A	Level 1 Floor Plan	Murcutt Candalepas	11/12/2023
S4.55-114	A	Level 2 Floor Plan	Murcutt Candalepas	11/12/2023
S4.55-115	A	Level 3 Floor Plan	Murcutt Candalepas	11/12/2023
S4.55-116	A	Level 4 Floor Plan	Murcutt Candalepas	11/12/2023
S4.55-117	A	Level 5 Floor Plan	Murcutt Candalepas	11/12/2023
S4.55-118	A	Level 6 Floor Plan	Murcutt Candalepas	11/12/2023
S4.55-119	A	Level 7 Floor Plan	Murcutt Candalepas	11/12/2023
S4.55-120	A	Level 8 Floor Plan (Roof Terrace)	Murcutt Candalepas	11/12/2023
S4.55-125	A	Section A	Murcutt Candalepas	11/12/2023

S4.55-126	A	Section B	Murcutt Candalepas	11/12/2023
S4.55-127	A	Section C	Murcutt Candalepas	11/12/2023
S4.55-128	A	Section D	Murcutt Candalepas	11/12/2023
S4.55-135	A	North Elevation	Murcutt Candalepas	11/12/2023
S4.55-136	A	East Elevation	Murcutt Candalepas	11/12/2023
S4.55-137	A	South Elevation	Murcutt Candalepas	11/12/2023
CV-8000	2	COVER SHEET, DRAWING SCHEDULE AND LOCALITY PLAN	Northrop	18/12/2023
CV-8001	2	SPECIFICATION NOTES	Northrop	18/12/2023
CV-8050	2	SEDIMENT AND SOIL EROSION CONTROL PLAN	Northrop	18/12/2023
CV-8051	2	DETAILS - SEDIMENT AND SOIL EROSION CONTROL	Northrop	18/12/2023
CV-8110	2	BULK EARTHWORKS PLAN	Northrop	18/12/2023
CV-8210	2	STORMWATER MANAGEMENT PLAN	Northrop	18/12/2023
CV-8220	2	DETAILS - ROAD CROSSING SECTION	Northrop	18/12/2023
CV-8230	2	DETAILS	Northrop	18/12/2023
CV-8250	2	WSUD CATCHMENT PLAN	Northrop	18/12/2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Geotechnical Desktop Assessment 72252.12	0	Douglas Partners	14/12/2023
Waste Management Plan WM-RPT-0001	04	LID Consulting	13/12/2023
BCA Compliance Capability Assessment Report Number: 210376	02	City Plan	14/12/2023

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B. Modify Condition 14 Detailed Design of Stormwater Treatment Measures to read as follows:

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with NORTHROP CIVIL AND STORMWATER PLANS **rev 02 18/12/2023** and Council's Water Management for Development Policy shall be submitted to the Certifying Authority prior to the release of the relevant Construction Certificate.

Reason: Protection of the receiving environment.

C. Add Condition 40A Building Code of Australia Upgrade requirements and Fire Safety Upgrade to read as follows:

The BCA Compliance Capability Assessment Report prepared by City Plan Services P/L, dated 14/12/2023, Report Ref No. 210376 Rev 2 is to be considered as part of the assessment of the relevant Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the relevant Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

D. Amend condition 52 Dewatering Management to read as follows:

A permit from Council is required for any dewatering of groundwater.

The groundwater/tailwater to be discharged must be compliant with the WaterNSW General Terms of Approval (IDAS1145460) issued on 5 October 2022/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

E. Modify Condition 89 Garbage and Recycling Facilities to read as follows:

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

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

Reason: To prevent pollution of the environment and to protect the amenity of the area.

F. Add Condition 96A Certification of Civil Works and Works as Executed Data in accordance

with Road Act Approval to read as follows:

The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 Roads Act Application. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to Council for acceptance and Council's acceptance submitted to the Principal Certifier prior to the issue of the relevant Occupation Certificate.

Reason: To ensure compliance of works with Council's specification for engineering works.

G. Add Condition 96B Fire Safety Matters to read as follows:

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

H. Add condition 96C Long Term Environmental Management Plan to read as follows:

If some amount of capping of contaminated materials is deemed necessary, by the Environmental Consultant, in any part of the site and / or long-term management of residual contamination is required (such as residual groundwater contamination) then a long-term Environmental Management Plan may be required. If required, the EMP must include:

- a) Details the extent of contaminated soils that remain present at the site;
- b) A description of the expected conditions at the site;
- c) Details the remediation works completed at the site;
- d) The management and maintenance protocols for the capping system or other management system;
- e) The protocols for future works at the site within contaminated areas;
- f) The hazards associated with the contaminated materials at the site and the corresponding management controls; and
- g) The responsibilities of the appropriate parties to the EMP.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the relevant Occupation Certificate.

Reason: Protection of the environment

I. Add condition 96D Positive Covenant for encapsulated contamination to read as follows:

If required based on the completion of the Remediation Action Plan and in consultation with the

Environmental Consultant, a covenant is to be registered on the title of the land, giving notice of the former use, level of site contamination and its former location on the land.

If required, the covenant must be registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated materials, including the discharge or prevention of discharge there from of any contaminants or for any works required by Northern Beaches Council or any State or Federal Department/Authority.

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

Reason: Environmental Protection.

J. Add condition 96E Parking Space Management to read as follows:

The parking spaces within the development to be managed as follows:

- a) The Building Management Committee shall ensure that five (5) commercial parking spaces in close proximity to the residential secure line, being spaces numbered 37 to 41 on the approved basement plan, are signposted and made available for residential visitor use outside of business hours (weekdays from 5pm to 9am) and on weekends. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Occupation Certificate.
- b) The modification application includes 17 retail/commercial tandem spaces. The rear tandem parking spaces are to be assigned for retail staff, and the front tandem parking spaces are reserved for retail customers.

Reason: To ensure parking availability for residents, visitors, retail staff and retail customers in accordance with Council's Development Control Plan.

K. Add condition 96F Resident Parking Permits to read as follows:

Any residents and/or tenants of the subject site are not eligible for resident parking permits even if they reside in a Permit Parking Scheme area. This condition is to be provided on the property Title, prior to the issue of the relevant occupation certificate.

Reason: To encourage sustainable transport alternatives and ensure that residents/tenants are aware that they are not entitled to a permit.

L. Add condition 105A Landscaping adjoining vehicular access to read as follows:

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

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

Signed



Jordan Davies, Principal Planner

The application is determined on 10/04/2024, under the delegated authority of:



Rodney Piggott, Manager Development Assessments