

## REVIEW OF DETERMINATION ASSESSMENT REPORT

<b>Application Number:</b>	REV2024/0012
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<b>Responsible Officer:</b>	Jordan Davies
<b>Land to be developed (Address):</b>	Lot 1 DP 829523, 207 - 217 Pittwater Road MANLY NSW 2095
<b>Proposed Development:</b>	Review of Determination of Application DA2023/0386 for Alterations and additions to the service station including an automatic car wash facility, extension of the sales area, a laundromat and signage
<b>Zoning:</b>	Manly LEP2013 - Land zoned E1 Local Centre Manly LEP2013 - Land zoned R1 General Residential
<b>Development Permissible:</b>	Yes - Zone R1 General Residential Yes - Zone E1 Local Centre
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	D & H Kane Investments Pty Ltd
<b>Applicant:</b>	The Trustee For Ultra Petroleum Trust

<b>Application Lodged:</b>	07/05/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	15/05/2024 to 29/05/2024
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 427,216.00
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### EXECUTIVE SUMMARY

This application is a Review of Determination under Division 8.2 of the Environmental Planning and Assessment Act 1979. The application being review is DA2023/0386 which sought consent for "Alterations and additions to the service station including an automatic car wash facility, extension of the sales area, a laundromat and signage". The development application was refused by the Northern Beaches Local Planning Panel (NBLPP) on 21 February 2024.

The review application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the original development application was determined by the NBLPP.

Amended plans have been submitted with this review of determination which deletes the automatic car wash from the proposal which was proposed to be located in the south-western corner of the site adjoining the R1 Zoned land. As a result of the deletion of the automatic car wash the reasons for refusal of the development application in relation to overshadowing and visual impact upon the adjoining residential properties have been addressed to the satisfaction of Council. The remaining alterations to the service station, including removal of the existing mechanics workshop and extension of the sales area for the service station will not give rise to unreasonable amenity impacts on the surrounding properties. The pre-fabricated laundromat facility is ancillary to the service station and will not give rise to unreasonable impacts due to the location on the site.

One submission was received during the notification period which raised issue with proposed car wash and impacts upon traffic safety and noise. However, as stated above the proposed automatic car wash has been deleted from the proposal.

Critical assessment issues include a review of the original reasons for refusal which are discussed later in this report. The reasons for refusal are addressed by the amended plans submitted with this review application.

This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to conditions.

## **PROPOSED DEVELOPMENT IN DETAIL**

The original development application consisted of 'Alterations and additions to the service station including an automatic car wash facility, extension of the sales area, a laundromat and signage'.

As part of this review of determination, the application has been amended in the following way:

- Removal of proposed automatic car wash operation and associated plant and equipment enclosures.
- Removal of boundary acoustic walls and retention of all existing boundary fencing.
- Removal of acoustic roof structure between acoustic walls and existing building structure.
- Extension of Sales Area into existing workshop bay in place of automatic car wash
- Provision of shipping container storage at rear of building.

Therefore, the amended proposal consists of:

- Removal of the existing mechanic workshop and replace with an extended sales area for the service station;
- Demolition and removal of the existing storage area to the west of the service station. Replacement with a new storage area consisting of a shipping container with internal connection to the sales area
- New disabled bathroom.
- New and replacement signage, including window signs
- Pre-fabricated self service laundromat facility.

Should consent be granted, the development description on the notice of determination should be updated to delete reference to the 'automatic car wash facility'.

### Site Operation

#### Trading Hours

The site currently operates in accordance with the trading hours approved by NSW Land and Environment Court Proceedings No. 11218 of 2005, in respect of Manly Council DA No. 433-2004, as follows:

#### Service Station

The approved service station operating hours are :

- 06.00 to 23.00 Monday to Friday.
- 07.00 to 23.00 Saturday, Sunday and public holidays.

#### Car Wash (the existing self service carwash)

- 07.00 to 20.00 Monday to Friday.
- 08.00 to 20.00 Saturday.
- 08.30 to 20.00 Sunday and public holidays."

There is no change to the above hours. The laundromat facility to to operate in accordance with the above hours.

## **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**

Environmental Planning and Assessment Act 1979 - Section 8.3 - Environmental Planning and Assessment Act 1979 - Section 8.3  
Manly Local Environmental Plan 2013 - Zone R1 General Residential

Manly Local Environmental Plan 2013 - Zone E1 Local Centre  
 Manly Local Environmental Plan 2013 - 5.10 Heritage conservation  
 Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils  
 Manly Local Environmental Plan 2013 - 6.2 Earthworks  
 Manly Local Environmental Plan 2013 - 6.4 Stormwater management  
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing  
 Manly Development Control Plan - 4.2.3 Setbacks Controls in LEP Zones B1 and B2  
 Manly Development Control Plan - 4.2.8.2 Setbacks  
 Manly Development Control Plan - 4.2.8.6 Hours of Operation  
 Manly Development Control Plan - 4.4.3 Signage

**SITE DESCRIPTION**

<b>Property Description:</b>	Lot 1 DP 829523 , 207 - 217 Pittwater Road MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern side of Pittwater Road.</p> <p>The site is irregular in shape with a frontage of 61.89m along Pittwater Road and a depth of 35.9 metres. The site has a surveyed area of 1012m<sup>2</sup>.</p> <p>The site is located within the E1 Local Centre and R1 General Residential zone accommodates a service station with a covered fuel dispensing area, small sales area, two (2) bay mechanical workshop and a car washing facility.</p> <p>The site has a slight slope running from the rear to the front of the site. There is no vegetation currently on the site and there are no details of any threatened species.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by residential flat buildings, dwelling houses, semi-detached dwellings, and commercial premises. The subject site is located in Pittwater Road Conservation Area.</p>

Map:



## SITE HISTORY

**DA433/2004** - Existing Service Station and Store Open 24 hours/7 days and Self Serve Carwash was Refused on 18 October 2004 for the following reasons:-

1. The proposal is not considered to satisfy the relevant objectives of the Residential Zone under the Manly LEP 1988, particularly with respect to the objective of maintaining neighbours amenity.
2. Pursuant to Section 79C(b) of the Environmental Planning and Assessment Act the proposal, which is an intensification of an existing use is considered to result in unreasonable building to the amenity of neighbouring dwellings in terms of noise levels and duration of operating hours and light spread.
3. Pursuant to Section 79C(d) of the Environmental Planning and Assessment Act the proposal is not considered to satisfactorily address issues raised in neighbours submissions.
4. Pursuant to Section 79C(e) of the Environmental Planning and Assessment Act the proposal is considered unacceptable in context of the Public Interest.

### **Land and Environment Court for DA No. 433/2004**

NSW Land and Environment Court Proceedings No. 11218 of 2005, in respect of Manly Council DA No. 433-2004, was approved on 12 April 2005.

The site currently operates in accordance with the trading hours approved by NSW Land and Environment Court Proceedings No. 11218 of 2005, in respect of Manly Council DA No. 433-2004 and this was approved on 12 April 2005 as follows :

Service Station

The approved service station operating hours are :

- 06.00 to 23.00 Monday to Friday.
- 07.00 to 23.00 Saturday, Sunday and public holidays.

Car Wash

- 07.00 to 20.00 Monday to Friday.
- 08.00 to 20.00 Saturday.
- 08.30 to 20.00 Sunday and public holidays.

**DA403/2008** - Demolition of existing fuel canopy, carwash shade structures and construction of new fuel dispensing canopy, new underground storage tank and dispensing pumps was approved on 15 June 2009. It is noted that the approved hours of operations were not altered by this application and hours of operations remain as approved via DA433/04.

**DA2023/0386** - "Alterations and additions to the service station including an automatic car wash facility, a laundromat and signage" was refused by the Northern Beaches Local Planning Panel (NBLPP) on 21 February 2024. The proposal was refused due to the impacts of the proposed automatic carwash in relation to solar access due to the insufficient building separation of the carwash to the adjoining residential boundaries.

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

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

In accordance with Section 8.3 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on 21 February 2023 and the notice of determination was issued on 21 February 2024. The review was lodged on 7 May 2024 and is to be considered by the Northern Beaches Local Planning Panel on 16 June 2024, which is within 6 months of the date of determination.

Section 8.3 (3) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act.

### **Assessment of Reasons for Refusal**

The review application has been amended to respond to the reasons for refusal of the original

application. A comment is made against each of the reasons for refusal below:

**1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.4.1 Sunlight Access and Overshadowing of the Manly Development Control Plan.**

**Particulars:**

***The proposal fails to provide sufficient solar access to penetrate private open space on No. 4 Golf Parade. This loss of solar access is attributed to the deficient side setback on the southern side of the development site and has an unacceptable loss of amenity for the residents of 4 Golf Parade.***

Comment: The proposal has been amended to delete the automatic carwash that was located in the south-western corner of the site which necessitated nil setback walls which contributed to overshadowing of the adjoining southern and western property. A small storage area (shipping container) has been provided in the south-western corner of the site however this structure has compliant setbacks and is of a size that does not result in unreasonable overshadowing impacts to the surrounding properties. The proposal involves the removal of the current roofed storage area and this is a positive outcome in terms of overshadowing for the adjoining sites.

**2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.2.8.2 Setbacks of the Manly Development Control Plan.**

**Particulars:**

- i) The proposal has a non-compliant southern side setback, which is particularly evident along the southern and western sides adjacent to the carwash building. Compliant setbacks are vital for allowing for the integration of substantial landscaping, a key component in softening the overall appearance of the structure and transition of the landuse to the residential zone. Furthermore, non-compliance with solar access standards for No. 4 Golf Parade, as identified is attributed to the inadequate side setbacks.**
- ii) The current design, falls short in providing sufficient visual relief to the adjoining residential properties. Consequently, there is a clear imperative for further design consideration to rectify these concerns and ensure a more harmonious integration with the surrounding residential environment.**

Comment: The proposal deletes the nil setback car wash and provides a more modest storage container in its place, with setbacks of 1.6m to the southern boundary and 4.1m to the western boundary. The deletion of the carwash will result in a development that does not result in a visual impact to the surrounding sites.

**3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.2.8.3 Landscaping of the Manly Development Control Plan.**

**Particulars:**

***The proposal fails to provide adequate side setbacks, particularly along the southern and western sides adjacent to the carwash building. These setbacks are crucial for accommodating substantial landscaping, which plays a key role in softening the building's appearance and mitigating its visual dominance. Additionally, the proposal lacks sufficient measures to provide visual relief to neighboring residential properties, indicating a need for further consideration in the design to address these concerns.***

Comment: The deletion of the carwash and replacement with a storage area with separation to the common boundary addresses the issue with regards to visual impacts. The existing boundary fencing remains in place and is not changed via this application. The amended proposal is not considered to result in visual impacts for the surrounding sites given the compliant setbacks now proposed to the storage area.

**4. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.**

**Particulars:**

***The development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community.***

Comment: The proposal has addressed the primary reasons for refusal being the design of the car wash. The proposal now complies with the relevant numerical controls and does not cause any unreasonable amenity impacts on surrounding lands.

**Concluding Comment**

The amended application addresses the reasons for refusal of the original application. As such, the four (4) reasons for refusal should not be upheld. The application is recommended for approval, subject to conditions of consent.

**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 15/05/2024 to 29/05/2024 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 process council is in receipt of 1 submission/s from:

<b>Name:</b>	<b>Address:</b>
Mr John Mesite Ms Michelle Robinson	234 Pittwater Road MANLY NSW 2095

The following issues were raised in the submissions:

- Traffic Safety
- Noise pollution

The above issues are addressed as follows:



- **Traffic Safety**

*The submissions raised concerns that the position of the petrol station makes it impossible to cope with extra traffic which an automatic car wash and laundromat would generate, resulting in further traffic hazards and an increase in accidents.*

*Entering and exiting the petrol station is awkward because of being on a bend, in particular on exiting the petrol station due to poor vision.*

Comment: The review application deletes the automatic car wash from the proposal. Council's traffic team are satisfied with the proposed development with regards to traffic safety. The alterations to the sales area do not change the existing access arrangements for the site or cause additional traffic safety issues. The vehicular access arrangement of the site are unchanged via the amended proposal.

- **Noise Pollution**

*The submissions raised concerns that the surrounding residents already endure excessive noise from the petrol station.*

*During the day from the existing car wash and vacuum facilities and at night from petrol tanker deliveries between 2:00am and 4:00am and from the garbage truck dumpster pick up between similar hours.*

Comment: As stated above, the access and servicing arrangements are unchanged from the site. The existing mechanics workshop is removed from the site and replaced with additional sales area for the service station. As such, this will result in less noise generation from the development. The small self service laundromat service is located away from the residential properties and is not considered to result in excessive noise generation. Council's EHO has reviewed the proposal in relation to noise and is satisfied no unreasonable impacts will arise.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><b>Supported subject to conditions</b></p> <p>The application has been investigated with respects to aspects relevant to the Building Safety Department. There are no objections to approval of the development subje attached conditions of approval and consideration of the notes below.</p>

Internal Referral Body	Comments
	<p><i>Note: The proposed development may not comply with some requirements of the B Standards. Issues such as this however may be determined at Construction Certificate</i></p>
<p>Environmental Health (Contaminated Lands)</p>	<p><b>Supported subject to conditions</b></p> <p>This application is seeking consent to expand the very small sales area into the two wc southern side of the existing sales area. A small self-contained laundromat unit is to be installed on the south-eastern corner of additional service for local customers.</p> <p>There is no change of use to the site but an expansion of the existing sales area into th area</p> <p>No underground petroleum storage tanks are to be removed. A groundwater monitoring Aurora dated November 2023 states:</p> <p><i>The testing found groundwater samples in all wells at the site to be clear, with no visua of petroleum hydrocarbons.</i></p> <p>Further information from R.J Sinclair Pty Ltd Building Design has clarified thefollowing:</p> <p><i>Excavations will be limited to the area of the new Accessible WC which is located on th of the existing sales building.</i> <i>Excavation will be required for the raft slab for the new WC building area and the excava anticipated to be approx. 450mm deep.</i> <i>Additionally, there will be excavation to connect new waste drainage from the new WC waste connections and these are anticipated to be approx. 600mm deep, with a maxim</i></p> <p><i>Workshop slabs</i> <i>The existing workshop slabs will not be removed, however, recognising these slabs are the existing sales will be brought to level with the existing sales area floor by the provis toppings to achieve consistency of floor levels between the varying floor levels.</i> <i>This proposal is shown on Sections 1, 3 + 4 on Drawing No. A - 12.</i></p> <p>Environmental Health recommends approval subject to conditions.</p>
<p>Environmental Health (Industrial)</p>	<p><b>Supported subject to conditions</b></p> <p><b>General Comments</b></p> <p>This application is seeking consent to expand the very small sales area into the two wc southern side of the existing sales area. A small self-contained laundromat unit is to be installed on the south-eastern corner of additional service for local customers. The is a proposed laundromat to be located onsite. The Statement of Environmental Ef</p> <p><i>A new fully self contained laundromat facility will be incorporated into the service statio south-eastern corner of the site adjacent the existing ice freezer.</i></p> <p>Further information from R.J Sinclair Pty Ltd Building Design has stated the following:</p>

Internal Referral Body	Comments
	<p><i>The laundromat is a fully self contained unit, similar to a vending machine, and does not require additional security screens or fencing.</i></p> <p><i>The laundromat facility will only be available for use during the normal operating hours which are 06.00 to 23.00 Monday to Friday and 07.00 to 23.00 Saturday, Sunday and public holidays. Control of the operational hours will be effected by the site console operator who is responsible for the operations to the public at the specified closing time.</i></p> <p>Environmental Health are of the opinion that the extension of the sales area and removal workshop will not create a noise nuisance once operational. Environmental Health recommend the following conditions:</p>
NECC (Development Engineering)	<p><b>Supported subject to conditions</b></p> <p>The proposed development is in Zone 1 of Region 3. On-site detention is required. Vehicular access for construction is not proposed. Development engineering raises no objections to the proposal subject to conditions.</p>
Strategic and Place Planning (Heritage Officer)	<p><b>Supported subject to conditions</b></p> <p><b>HERITAGE COMMENTS</b></p> <p>Discussion of reason for referral</p> <p>The proposal has been referred to Heritage as the subject property is located in <b>Pittwater Conservation Area</b> and within the vicinity of two heritage items, listed in Schedule 5 of the Environmental Plan 2013:</p> <p><b>Item I 212 - House</b> - 226 Pittwater Road, Manly</p> <p><b>Item I211 - Group of commercial buildings</b> - 216–218 Pittwater Road</p> <p>Details of heritage items affected</p> <p>Details of the heritage items and the conservation area, as contained within the Manly Environmental Plan 2013 are:</p> <p><b>C1 - Pittwater Road Conservation Area</b></p> <p><u>Statement of Significance</u></p> <p>This street pattern is distinctive and underpins the urban character of the area. The streets are unaltered in their alignment, although the names of Malvern, Pine and North Steyne are what were Whistler, Middle Harbour and East Steyne respectively.</p> <p><u>Physical Description</u></p> <p>The streetscape of Pittwater Road is a winding vista of late 19th and early 20th century residential architecture of generally one or two floors - although there are exceptions such as the three storey private hotel. The streetscape provides a 19th century atmosphere due to its small number of extant Victorian structures. Within the streetscape there are a number of individual buildings which are listed separately. Adjacent streets generally comprise a consistent two story residential cottages, with the occasional terrace. Some streets have intermittent and remnant stone kerbs. The flat topography is accentuated by the escarpment to the north which provides an important visual, vertical and vegetated backdrop.</p> <p><b>Item I212 -House</b></p> <p><u>Statement of Significance</u></p> <p>A rare example of Victorian Rustic Gothic style villa.</p>

Internal Referral Body	Comments																						
	<p><u>Physical Description</u> 2-storey Victorian Rustic Gothic style painted brick house with gabled corrugated iron elements include: pointed 'gothic' windows to first floor and ground floor window beneath pointed brickwork; front door, fanlight and sidelights (original); decorative plaster hood over multi-pane coloured glass to top of main window ground floor; late Victorian Chimney to ground floor verandah.</p> <p><b>Item I211 - Group of commercial buildings - 216–218 Pittwater Road</b></p> <p><u>Statement of Significance</u> An intact example of late 19th century retail architecture which is unusual within local Pittwater Rd</p> <p><u>Physical Description</u> Two storey brick building(s) with retail outlets at ground floor level. Southern shop front Southern section: significant elements include dormer windows, gabled iron roof, shop front section: original doorway with 3 course header arch over and 2 course arch over first floor. There is evidence of original tuck pointing to both buildings. The awning is not original</p> <table border="1" data-bbox="336 987 1465 1458"> <thead> <tr> <th colspan="3" data-bbox="336 987 1465 1032">Other relevant heritage listings</th> </tr> </thead> <tbody> <tr> <td data-bbox="336 1032 770 1111">SEPP (Biodiversity and Conservation) 2021</td> <td data-bbox="770 1032 879 1111">No</td> <td data-bbox="879 1032 1465 1111"></td> </tr> <tr> <td data-bbox="336 1111 770 1149">Australian Heritage Register</td> <td data-bbox="770 1111 879 1149">No</td> <td data-bbox="879 1111 1465 1149"></td> </tr> <tr> <td data-bbox="336 1149 770 1227">NSW State Heritage Register</td> <td data-bbox="770 1149 879 1227">No</td> <td data-bbox="879 1149 1465 1227"></td> </tr> <tr> <td data-bbox="336 1227 770 1305">National Trust of Aust (NSW) Register</td> <td data-bbox="770 1227 879 1305">No</td> <td data-bbox="879 1227 1465 1305"></td> </tr> <tr> <td data-bbox="336 1305 770 1384">RAIA Register of 20th Century Buildings of Significance</td> <td data-bbox="770 1305 879 1384">No</td> <td data-bbox="879 1305 1465 1384"></td> </tr> <tr> <td data-bbox="336 1384 770 1458">Other</td> <td data-bbox="770 1384 879 1458">No</td> <td data-bbox="879 1384 1465 1458"></td> </tr> </tbody> </table> <p><u>Consideration of Application</u></p> <p>The proposal seeks consent for alterations and additions to an existing service station reconfigurations, enlarging the sales area, addition of an accessible toilet and upgrading some additional peripheral promotional images. The upgrading of the retail services and changes to the building's street presentation by replacing the existing roller doors with facade, changing the external materials and signage, but mainly remains within the existing footprint, therefore the proposed changes are considered to not have any additional significance to the significance of the conservation area or nearby heritage items. However, size of the graphics on the glazed shopfront should be reduced to be maximum 25% of the glazed area as per the controls of Manly DCP 2013:</p> <p><i>4.4.3.2 Signage on Heritage listed items and in Conservation Areas</i></p> <p><i>i) Signs on shop windows should not exceed 25 percent of the window area;</i></p> <p>Furthermore, details of the proposed external colour scheme are to be submitted for a separate application.</p> <p>Therefore no objections are raised on heritage grounds, subject to two conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u></p>		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	
Other relevant heritage listings																							
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RAIA Register of 20th Century Buildings of Significance	No																						
Other	No																						

Internal Referral Body	Comments
	<p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided  Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been</p>
Traffic Engineer	<p><b>Supported subject to conditions</b></p> <p><b>Proposal description:</b> Review of Determination of Application DA2023/0386 for Altera the service station including an automatic car wash facility, extension of the sales area, signage</p> <p>The proposal is to remove the previously proposed automatic car wash facility from the 207-217 Pittwater Road, Manly, to accompany the section 8.3 Review of Determination DA2023/0386.</p> <p>The Traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> <li>• Traffic Impact Assessment report prepared by The Transport Planning Part 29 April 2024,</li> <li>• The Statement of Environment Effects prepared by R.J. SINCLAIR Pty Ltd dated 25 March 2024,</li> <li>• Waste Management Plan, prepared by R.J. SINCLAIR Pty Ltd Building De: 2024, and</li> <li>• Master Set, Plans, Project No. 08-045-22, designed by R.J. SINCLAIR Pty dated 30 March 2023.</li> </ul> <p>The proposed development under this Review of Determination comprises the following:</p> <ul style="list-style-type: none"> <li>• removal of the automatic carwash facility and replaced with retail sales are</li> <li>• expansion of the existing convenience store sales floor area from 32m2 to</li> <li>• modification of the at-grade parking facilities and retention of nine (9) car p</li> </ul> <p><b>Parking requirement and design:</b></p> <ul style="list-style-type: none"> <li>• Application of the TfNSW Guide car parking rates (5 spaces per 100m2 GF store, 6 spaces per work bay and the greater of 15 spaces per 100m2 GFA space per 3 seats) to the proposed development (95m2 GFA convenience no restaurant and a small-size laundromat service) would result in a parking (5) parking spaces. Parking in excess of TfNSW requirement is proposed ( additional four (4) car parking spaces would be used to accommodate park the laundromat and the car wash facility. This is considered acceptable. It i laundromat service is considered an ancillary component to the site given i it would attract only local residents within walking distance.</li> <li>• One (1) loading bay is proposed at the frontage of the convenience store to service vehicles up to a size of a 6.4m Small Rigid Vehicle (SRV). It is repc that servicing and deliveries would generally be undertaken outside of the 1 hours (early morning or late evening), which would result in minimal impac roads and the service station operation.</li> <li>• No plots for access to and from the loading bay have been provided. It is c path plots be included to the Traffic report to demonstrate that access to th</li> </ul>

Internal Referral Body	Comments
	<p>6.4m SRV is possible as required by AS2890.2.</p> <ul style="list-style-type: none"> <li>The DCP requires bicycle parking at a rate of 1 space for every three (3) car spaces required. It is reported in the TIA that a bicycle parking area will be located at the entrance to the convenience store, which is sufficient to accommodate up to 10 bicycle parking spaces. Bicycle parking spaces are not presented in the architectural plans. This will be addressed in the final plans.</li> <li>Dimensioned plans have been submitted and confirm that parking bays are appropriately sized.</li> </ul> <p><b>Traffic impact</b></p> <ul style="list-style-type: none"> <li>The traffic generation of the proposed redevelopment has been determined through an analysis of survey sites that include a service station and a convenience store. The proposal has also considered the analysis of survey data of several car wash facilities. The proposal is therefore expected to generate similar levels of traffic during the peak period compared to the existing operation. Therefore, it will not result in any adverse impacts on the surrounding road network.</li> </ul> <p><b>Conclusion</b></p> <p>The Traffic report and plans can be supported on traffic grounds. Apart from the conditions proposed, new conditions are proposed with all previously imposed conditions in DA2023/0386 to</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Roads and Maritime Service - Roads Act 1993, s138 (Non-integrated)	<p>The application was referred to Transport for NSW given the location on a classified road (Pittwater Road). TfNSW provided a response, raising no concerns with the proposal, subject to two conditions requiring all building works to be within the property and a road occupancy license if any works are proposed that may impact traffic flow on Pittwater Road.</p> <p>The conditions will be included in any consent issued.</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**

#### **3.1 Application of Chapter**

- (1) This Chapter applies to development, other than development for the purposes of residential accommodation, that involves—
- (a) *the erection of a new building \$5 million, or*
  - (b) *alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.*

#### Comment:

The chapter is not applicable as it does not involve the erection of a new building of more than \$5 Million or alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.

### **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 5.0 metres of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30 metres 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, subject to recommended conditions, should the development be recommended for approval.

#### Transport for NSW (TfNSW)

Section 2.119 - Development with frontage to classified road states:

*The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

The application was referred to Transport for NSW who did not raise any objection to the proposal subject to recommended conditions.

### SEPP (Industry and Employment) 2021

Section 3.6 and 3.11 of Chapter 3 require Council to determine consistency with the objectives stipulated under Subsection 3.1 (1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 5.

The objectives of this chapter aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 5 of Chapter 3, the following assessment is provided:

<b>Matters for Consideration</b>	<b>Comment</b>	<b>Complies</b>
<b>1. Character of the area</b> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposal is compatible with the existing and future character of the area.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There is no particular theme for outdoor advertising in this locality, as such this provision is not applicable.	N/A
<b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal does not unduly detract from the amenity or visual quality of the Pittwater Road Conservation Area. Council's Heritage Team have recommended conditions for final colours to be approved by the heritage team, prior to CC.	YES
<b>3. Views and vistas</b> Does the proposal obscure or compromise	The proposed signage will not obscure or compromise any important views.	YES



important views?		
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage will not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	As the proposed signage is affixed to subject site, the signage will not impact upon the viewing rights of other advertisers.	YES
<b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is appropriate for the streetscape and setting.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will positively contribute to the visual impact of the streetscape.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage will not result in any significant visual clutter. The proposal includes the reinstatement of existing signage, and new signage that is considered to be simple and visually appropriate.	YES
Does the proposal screen unsightliness?	The proposal is not considered to be unsightly, as such the proposal does not screen any unsightliness.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage is affixed to the existing development, and as such will not protrude above buildings, structures, or tree canopies.	YES
<b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is compatible with the scale and proportion of the building facades to which the proposed signage is to be affixed.	YES
Does the proposal respect important features of the site or building, or both?	The proposed signage respects the features of the site and building. The reinstatement of the existing building identification signage respects the historical features of the site.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is appropriate to the site and building.	YES
<b>6. Associated devices and logos with advertisements and advertising structures</b> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	There are no safety devices, platforms, lighting devices or logos proposed. Therefore, this provision is not applicable.	N/A
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft,	The proposed signage is not illuminated. As such a suitable condition could be included if the	N/A

detract from the amenity of any residence or other form of accommodation?	proposed development were to be approved.	
Can the intensity of the illumination be adjusted, if necessary?	The proposed signage is not illuminated.	N/A
Is the illumination subject to a curfew?	The proposed signage is not illuminated.	N/A
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage will not result in reduced safety for public roads, pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage will not reduce the safety for pedestrians or obscure sightlines from public areas.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of this chapter and its underlying objectives.

## **SEPP (Resilience and Hazards) 2021**

### **Chapter 2 – Coastal Management**

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

#### **Division 3 Coastal environment area**

##### **2.10 Development on land within the coastal environment area**

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
  - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
  - b) coastal environmental values and natural coastal processes,
  - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
  - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
  - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - f) Aboriginal cultural heritage, practices and places,
  - g) the use of the surf zone.

#### **Comment:**

The proposed development is not considered likely to cause an adverse impact on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,

coastal environmental values and natural coastal processes, the water quality of the marine estate, native vegetation and fauna and their habitats, public open space or aboriginal cultural heritage.

- 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:

The development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1).

**Division 4 Coastal use area**

**2.11 Development on land within the coastal use area**

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

**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 likely to cause increased risk of coastal hazards on that land or other land.

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

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated, and if it is contaminated is satisfied that the contamination can be remediated for the land use and/or development proposed.

In response to the above requirements of Chapter 4, the applicant has submitted a 6 Monthly Groundwater Testing Results dated November 2023 and prepared by Aurora Environmental Consulting. In its conclusion, the investigation states:

*"The testing found groundwater samples in all wells at the site to be clear, with no visual or olfactory evidence of petroleum hydrocarbons."*

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for a service station for an extended period of time with no prior land uses.

Having regard to the ground water sampling and monitoring information submitted for the site as well as the continued use of the site for the purposes of a service station, it is considered that the extent of works are such that the likelihood of contamination is low and with regard to the extent of works and the continued primary land use no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the continued service station land use. The application has been referred to Council's Environmental Health Officer who has reviewed the information submitted with the application and is satisfied the site is suitable for the proposed alterations and additions and continued use as a service station.

**Manly Local Environmental Plan 2013**

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	4.9m	-	Yes
Floor Space Ratio	FSR: 1:1 (1012m <sup>2</sup> )	FSR: 0.15:1 (155.8m <sup>2</sup> )	-	Yes

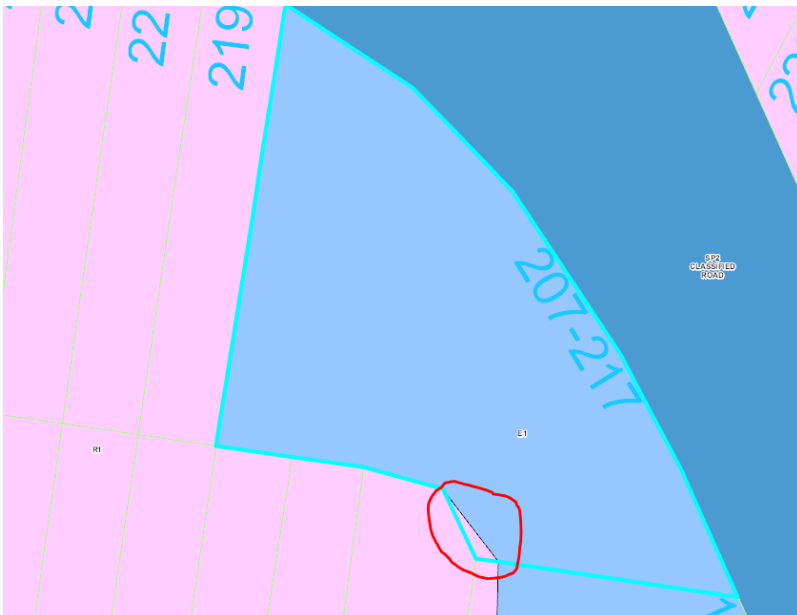
### Compliance Assessment

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
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

### Detailed Assessment

#### **Zone R1 General Residential**

There is a very minor portion of the site that is zoned R1 General Residential located at the southern boundary, extract of LEP mapping shown below:

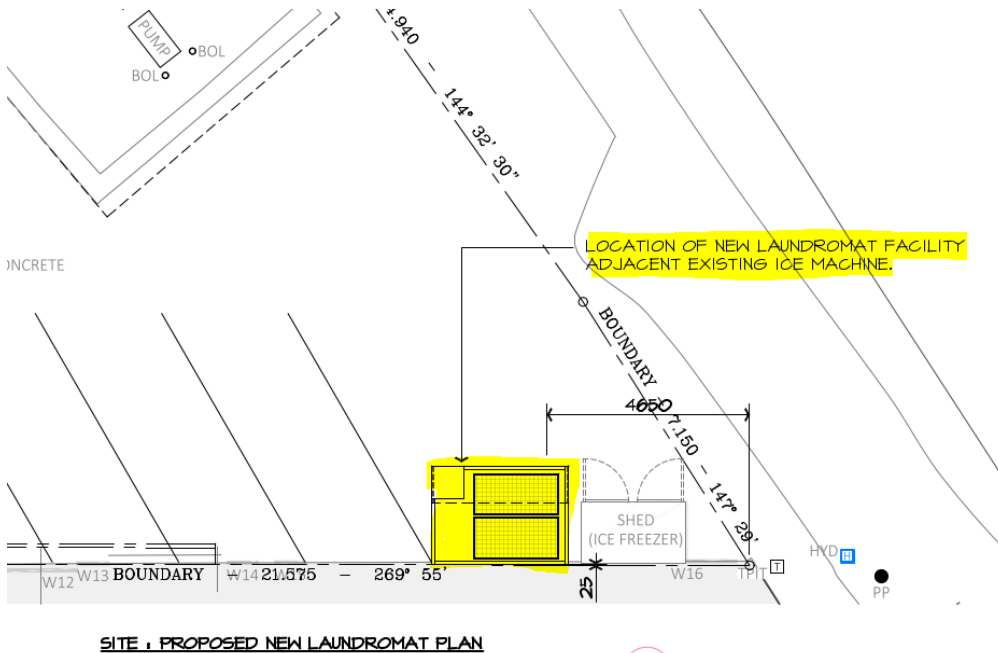


There are no new works proposed within the R1 portion of the site and all new works are contained within the E1 Zoned portion of the land.

#### **Zone E1 Local Centre**

The site has consent to operate as a 'Service Station' and the land use is permissible within the E1 Local Centre Zone under the MLEP 2013. The proposal seeks alterations and additions to a service station and remains permitted with consent.

The original development description under DA2023/0386 described the proposal to include a 'a laundromat'. The review proposal retains the a small self service laundromat in the south-eastern corner of the site. This small self service facility is considered to be ancillary to the predominant land use of a service station and and is not its own separate land use.



## 5.10 Heritage conservation

The application has been referred to Council's Heritage Advisor who has considered the proposal in light of the sites position within a Heritage Conservation Area. Council's Heritage advisor supports the proposal, subject to a condition requiring details of the final colours of the signage to be provided for their approval, prior to the issue of a Construction Certificate.

Council is satisfied the proposal is consistent with the heritage controls contained within Clause 5.10 given the minor nature of the changes to the existing service station. See heritage referral for details.

## 6.1 Acid sulfate soils

Clause 6.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 4, as indicated on Council's Acid Sulfate Soils Planning Map.

Works at depths beyond 2.0m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 2.0 metre below the natural ground surface within a Class 4 acid sulfate soil area are required to be assessed to determine if any impact will occur.

The development proposes to excavate the site to approximately 750mm below the natural ground level to provide new plumbing work for the bathroom. As such, no Preliminary Acid Sulfate Soil

Assessment is required to be provided with the application.

## 6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

*(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*

*(b) to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

*(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

*(b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

*(c) the quality of the fill or the soil to be excavated, or both*

Comment: The excavated material will be processed according to the Waste Management Plan for the development.

*(d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties.

*(e) the source of any fill material and the destination of any excavated material*

Comment: The excavated material will be processed according to the Waste Management Plan for the development.

*(f) the likelihood of disturbing relics*

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

*(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area*

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment: Conditions are included in the recommendation of this report that will minimise the impacts

of the development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

#### 6.4 Stormwater management

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

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

Comment: The development will provide a suitable amount of permeable surfaces given the zoning of the land and the proposed use. In this regard, Council is satisfied that the design will maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water.

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

Comment: It is not practicable to incorporate on-site stormwater retention into the development.

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

Comment: The proposal has been assessed by Council's Development Engineers who have raised no objections to approval, subject to conditions. In this regard, Council is satisfied that the development will minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

#### Manly Development Control Plan

##### Built Form Controls

Built Form Controls - Site Area: 1012m <sup>2</sup>	Requirement	Proposed	% Variation*	Complies
4.2.8.1 Height	8.5m	4.9m Max	-	Yes
4.2.8.2 Setbacks	Primary Frontage (North & East): Established Building Line New structure - Shipping container (Storage) Side Setback (South): 1/3 wall height - 0.9m Side Setback (West): 1/3 wall height - 0.9m	Primary Frontage: 8.5m Side Setback (South): 1.6m Side Setback (West): 4.1m	- - -	Yes Yes 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
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5.1 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
3.6 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
4.2.3 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
4.2.8 Neighbourhood Centres (LEP Zone B1)	Yes	Yes
4.2.8.2 Setbacks	No	Yes
4.2.8.5 Carparking, Vehicular Access and Loading Controls	Yes	Yes
4.2.8.6 Hours of Operation	Yes	Yes
4.2.8.10 Local Character provisions	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.3 Signage	No	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes
Schedule 2 - Townscape Principles	Yes	Yes

#### Detailed Assessment

#### **3.4.1 Sunlight Access and Overshadowing**

Shadow diagrams have been provided with the application which demonstrate the adjoining properties private open space will maintain solar access and in some cases, solar access is improved due to the removal of the existing roofed storage area which will be replaced by a new storage area that has an increased setback to both the western and southern boundary.

The concerns with the previous development application in relation to solar access to the adjoining properties has been resolved by the deletion of the automatic carwash in the south-western corner of the site which had nil setbacks to the boundaries adjoining the R1 Zone.

#### **4.2.3 Setbacks Controls in LEP Zones B1 and B2**

As the subject site is located within a Neighbourhood Centre, the specified setback provisions are detailed under Clause 4.2.8.2 of Manly Development Control Plan 2013 within this report.

#### **4.2.8.2 Setbacks**

##### **Clause 4.2.8.2 Setbacks**

a) *"The setback from the front boundary must conform to the predominantly established building alignments in the Centre (LEP Zone B1). Buildings will be constructed with a nil setback to the side boundary except where:*

*(i) it adjoins land zoned residential in the LEP (including E3 & E4), in which case consideration must be given to residential setback controls at paragraph 4.1.4 of this plan; or where*

*(ii) a nil setback would be undesirable in terms of the amenity of any residential uses existing on adjoining land or proposed for inclusion in the development in which case consideration must be given to provisions of this plan in relation to amenity at paragraph 3.4 Amenity of this plan."*

As the south and western side boundaries adjoin a residential zone, the following setback is applicable to the new structure. In this case, the storage area is subject to a setback 1/3 of the wall height.

##### **Clause 4.1.4.2 Side setbacks and secondary street frontages**

*a) Setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.*

Comment: The storage area (shipping container) has a height of 2.7m and requires a 0.9m setback. The structure is setback 1.6m from the southern boundary and 4.1m from the western boundary, compliant with the control. This will result in the maintenance of amenity for the adjoining R1 land zone.

#### **4.2.8.6 Hours of Operation**

There is no change to the approved operating hours which were established under a previous approval (NSW Land and Environment Court Proceedings No. 11218 of 2005, DA 0433/2004).

#### **4.4.3 Signage**

The proposal seeks to remove one sign (for the previous workshop), replacement of existing signage on the façade and install new window signage.

Council's Heritage Officer has undertaken an assessment of the signage and requires final colours to

be approved by Council's Heritage Advisor, prior to the issue of any Construction Certificate.

Furthermore, the size of the window signage is to be reduced to a maximum 25% of the window service in accordance with control 4.4.3.2 (c)(i). Council's Heritage Officer has dealt with this via a recommended condition of consent.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$4,272 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$427,216.

## **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

## **PLANNING CONCLUSION**

This application is a Review of Determination under Division 8.2 of the Environmental Planning and Assessment Act 1979. The application being review is DA2023/0386 which sought consent for "Alterations and additions to the service station including an automatic car wash facility, extension of the sales area, a laundromat and signage". The development application was refused by the Northern Beaches Local Planning Panel (NBLPP) on 21 February 2024.

The review application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the original development application was determined by the NBLPP.

Amended plans have been submitted with this review of determination which deletes the automatic car wash from the proposal which was proposed to be located in the south-western corner of the site adjoining the R1 Zoned land. As a result of the deletion of the automatic car wash the reasons for refusal of the development application in relation to overshadowing and visual impact upon the adjoining residential properties have been addressed to the satisfaction of Council. The remaining alterations to the service station, including removal of the existing mechanics workshop and extension of the sales area for the service station will not give rise to unreasonable amenity impacts on the surrounding properties.

One submission was received during the notification period which raised issue with proposed car wash and impacts upon traffic safety and noise. However, as stated above the proposed automatic car wash has been deleted from the proposal.

Critical assessment issues include review of the original reasons for refusal which are discussed later in this report. The reasons for refusal are addressed by the amended plans submitted with this review application.

Overall, the development is a reasonable design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval.

## **REASON FOR DETERMINATION**

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

## RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to REV2024/0012 for Review of Determination of Application DA2023/0386 for Alterations and additions to the service station including an extension of the sales area, a laundromat and signage on land at Lot 1 DP 829523, 207 -217 Pittwater Road, MANLY, subject to the conditions printed below:

### Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

## GENERAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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
A-00	-	Cover Sheet	R.J Sinclair Building Design	17/04/2024
A-01	DA-2	Site Analysis	R.J Sinclair Building Design	17/04/2024
A-03	DA-3	Site Demolition Plan	R.J Sinclair Building Design	25/03/2024
A-04	DA-4	Site Proposed New Works Plan	R.J Sinclair Building Design	25/03/2024
A-05	DA-3	Proposed new works setout plan	R.J Sinclair Building Design	25/03/2024
A-06	DA-5	Roof Plan	R.J Sinclair Building Design	25/03/2024
A-10	DA-3	Eastern Elevation	R.J Sinclair Building Design	25/03/2024
A-11	DA-4	Northern Elevation	R.J Sinclair Building Design	25/03/2024
A-12	DA-4	Sections	R.J Sinclair Building Design	25/03/2024
A-13	DA-2	Sections 2	R.J Sinclair Building Design	25/03/2024
A-15	DA-3	Laundromat Plan	R.J Sinclair Building Design	25/03/2024

PS-01	DA-2	Parking Management Plan	R.J Sinclair Building Design	17/04/2024
CM-01	DA-1	Construction Management Plan	R.J Sinclair Building Design	18/01/2023
CMP-02	DA-1	Safety and Site Management Plan	R.J Sinclair Building Design	18/01/2023

<b>Approved Reports and Documentation</b>			
<b>Document Title</b>	<b>Version Number</b>	<b>Prepared By</b>	<b>Date of Document</b>
Waste Management Plan	iii	R.J Sinclair	22/04/2024

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

In the event of any inconsistency between 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.

## 2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>
Ausgrid	Ausgrid Referral Response
TfNSW	TfNSW Referral Response

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

## 3. **Prescribed Conditions**

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

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

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

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

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

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

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

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

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

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

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

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

Reason: Legislative requirement.

#### 4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically



approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

## **FEES / CHARGES / CONTRIBUTIONS**

### **5. Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$4,272.16 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$427,216.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

### **6. Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

Reason: To ensure adequate protection of Council's infrastructure.

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

**7. National Construction Code (BCA) Access**

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the NCC 2022 - Volume One Building Code of Australia and AS 1428.1.

Details are to be provided to the Certifier prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

**8. On-Site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Diversi Consulting, project number 23073, dated 13.11.2023. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

**9. Vehicular Swept Paths**

Vehicular manoeuvring swept path plots should be provided for review by Council's traffic engineer. The plots to be prepared using traffic engineering software such as Autotrack/Autoturn, for:

- a 6.4m Small Rigid Vehicle (SRV) ingressing and egressing the loading area in compliance with AS/NZS 2890.2.

Details demonstrating compliance with this condition must be submitted to the Principal Certifier prior to the issue of the construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

**10. Vehicle Access & Parking**

All internal driveways, vehicle turning areas, and vehicle parking spaces including the loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken:

- A minimum of two(2) bicycle parking spaces should be provided and shown on the Architectural Plans.

These amendment(s) must be clearly marked on the plans submitted to the Principal Certifier prior to the issue of a Construction Certificate.

Reason: To ensure compliance with Council's DCP and Australian Standards relating to manoeuvring, access and parking of vehicles.

11. **External colour scheme**

Details of the exterior colour scheme for the proposed works are to be submitted to Council's Heritage Advisor for approval, prior to the issue of a Construction Certificate.

Reason: To ensure the external colour scheme is appropriate for the heritage conservation area.

12. **Amendment to Signage Plan**

Details (size, colours) of the proposed signage including the vinyl window graphics are to comply with Manly DCP 2013 - 4.4.3.2 Signage on Heritage listed items and in Conservation Areas including signs on shop windows should not exceed 25 percent of the window area. Details demonstrating compliance with this condition are to be submitted to Council's Heritage Advisor for approval, prior to the issue of a Construction Certificate.

Reason: To ensure the proposed signage is appropriate for the heritage conservation area.

13. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

## DURING BUILDING WORK

14. **Road Reserve**

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

Reason: Public safety.

15. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

16. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

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

## BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

### 17. Fire Safety Matters

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.

### 18. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil Engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

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

### 19. Hours of Operation

The hours of operation for the service station and laundromat are to be restricted to:

- Monday to Friday – 6am to 11pm
- Saturday, Sunday and Public Holidays – 7am to 11pm

Upon expiration of the permitted hours, all service shall immediately cease, no customers shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

The hours of operation for the existing carwash are to be in accordance with development consent DA433-2004.

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