

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/0021
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<b>Responsible Officer:</b>	Jordan Howard
<b>Land to be developed (Address):</b>	Lot 2 SP 67886, 29 Belgrave Street MANLY NSW 2095 Lot 1 SP 67886, 29 Belgrave Street MANLY NSW 2095
<b>Proposed Development:</b>	Alterations and additions to an existing building and use of premises as a business premises (sports therapy and recovery services) including internal fit-out and signage
<b>Zoning:</b>	Manly LEP2013 - Land zoned B2 Local Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Andrew Paleol
<b>Applicant:</b>	Planik Pty Ltd

<b>Application Lodged:</b>	27/01/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	03/02/2023 to 17/02/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 500,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of alterations and additions to an existing building and use of premises as a business premises (sports therapy and recovery services) including internal fit-out and signage.

The development also includes an IV Therapy Area. This will be operated by outside contractors. The use of this area is considered an ancillary use to that of the dominate use of the premises as a business premises.

Proposed works include:

- Demolition of walls, existing facilities / fit-out and shopfront elements.
- Internal fit-out for new use.
- Shopfront and signage alterations, including replacement of existing signage and installation of new signage to existing awning and under awning sign.

The premises will be used for sports therapy and recovery services under the name 'Recoverie'. The facility will have 2-3 staff members at any time, with maximum 30 clients on site.

The proposed hours of operation are:

- 6am - 10pm: Monday to Saturday
- 6am - 7pm: Sunday

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 5.21 Flood planning  
 Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils  
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area  
 Manly Development Control Plan - 3.9 Mechanical Plant Equipment  
 Manly Development Control Plan - 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor  
 Manly Development Control Plan - 4.2.5.4 Car Parking and Access  
 Manly Development Control Plan - 4.4.3 Signage

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 SP 67886 , 29 Belgrave Street MANLY NSW 2095 Lot 1 SP 67886 , 29 Belgrave Street MANLY NSW 2095
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### Detailed Site Description:

The subject site is located on the eastern side of Belgrave Street.

The site is regular in shape with a frontage of 7.426m along Belgrave Street and a depth of 16.480m. The site has an approximate area of 131m<sup>2</sup>.

The site is located within the B2 Local Centre zone and currently is vacant, having previously accommodated a takeaway food and drink premises.

The site subject site is relatively flat, contains no vegetation and there is no details of any threatened species.

### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by commercial properties to north, east and south, and by recreational areas to the west across Belgrave Street (a classified road).

Map:



### SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for commercial purposes for an extended period of time.

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	<p>See discussion on “Environmental Planning Instruments” in this report.</p> <p>The NSW employment zones reforms have been made and will come into force on 26 April 2023. These reforms will result in this property changing from a B2 Local Centre zone to a E1 Local Centre zone. The proposed use will remain permissible in the new zone.</p>
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental	<p>(i) <b>Environmental Impact</b></p> <p>The environmental impacts of the proposed development</p>

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

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 03/02/2023 to 17/02/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as</i></p>

Internal Referral Body	Comments
	<i>this however may be determined at Construction Certificate Stage.</i>
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>Environmental Health has reviewed the development application which proposes a commercial premises for sports therapy and recovery services and associated internal fit-out.</p> <p>The future noise implications from the development will need to be assessed. Air conditioning and ventilation motors, pool pump equipment and the like will need to be addressed taking into consideration acoustic requirements.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p><b>General Comments</b></p> <p>Environmental Health has reviewed the development application which proposes a commercial premises for sports therapy and recovery services and associated internal fit-out</p> <p>It is noted that the IV Therapy Area is listed as Skin Penetration in the plans, Council is of the opinion that this would be an area regulated by the Therapeutic Goods Administration (TGA) and The Australian Health Practitioner Regulatory Agency (Ahpra).</p> <p>The plans appear to show two public pools as defined in the Public Health Act 2022.</p> <p>Environmental Health recommend conditions be applied for certification of the pool design and registration prior to OC.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The development proposes a change of use from existing takeaway shop to commercial premises with associated re-configuration of the internal layout.</p> <p>Subject to conditions the development is compliant with Council's flood related development controls.</p>
Strategic and Place Planning (Heritage Officer)	<b>HERITAGE COMMENTS</b>
	Discussion of reason for referral
	<p>The proposal has been referred to Heritage as it is within the vicinity of a heritage item and two conservation areas:</p> <p><b>Item I- 162 - Ivanhoe Park</b> - Ivanhoe Park (bounded by Sydney Road, Belgrave Street and Raglan Street)</p>



Internal Referral Body	Comments		
	<b>C1 - Pittwater Road Conservation Area</b>		
	<b>C2 - Town Centre Conservation Area</b>		
	Details of heritage items affected		
	Details of the heritage item and the conservation areas, as outlined in the Manly Heritage Inventory, are:		
	<b>Item I- 161 - Ivanhoe Park</b>		
	<u>Statement of significance</u>		
	Ivanhoe Park (including Manly Oval) cultural landscape, is important in the course of New South Wales cultural history combining a 'pleasure garden' park, a traditional 'village green' community and sporting venue, and a passive recreational garden, demonstrating the principal characteristics of a Victorian-era park adapted to the Australian setting. This landscape is unique within New South Wales as a place with a combined history of Aboriginal heritage and 150 years of recreation, sport and community use.		
	<u>Physical description</u>		
	The 4.58ha Ivanhoe Park (including Manly Oval) cultural landscape consists of two distinct areas; the passive recreation area of Ivanhoe Park Botanic Gardens, and the active sport and recreation facilities of Manly Oval (the "Village Green"), tennis courts and lawn bowling greens. Along the western and northern edge of the park is a former tramway corridor.		
	<b>C2 - Town Centre Conservation Area</b>		
<u>Statement of significance</u>			
The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.			
Other relevant heritage listings			
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		
Australian Heritage Register	No		
NSW State Heritage	No		

Internal Referral Body	Comments		
	Register		
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	<p>The proposal seeks consent for a change of use and associated alterations and internal fit out to an existing takeaway premises to convert it into a commercial premises for sports therapy and recovery services. The proposed works include replacing the existing glazed shopfront with a new shopfront and the existing signage with a new identification signage.</p> <p>Given the separation between the proposed works and the heritage item and conservation areas the impact of the proposal upon the significance of the heritage item and the context is considered negligible.</p> <p>Therefore, no objections are raised on heritage grounds, subject to one condition.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>		
	Further Comments		
Traffic Engineer	<p><b>Proposal description:</b> Alterations and additions to an existing takeaway building and use of premises as a business premises (sports therapy and recovery services) including internal fit-out and signage.</p> <p>The traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"><li>Plans (Master Set) – Issue 1, designed by NORTH NORTH Pty Ltd, dated 10/01/2023,</li><li>Statement of Environmental Effects for Development Application, Revision 2, prepared by Planik dated January 2023, and</li><li>Waste Management Plan, prepared by NorthandNorth.</li></ul>		



Internal Referral Body	Comments
	<p>It is noted that:</p> <ul style="list-style-type: none"> <li>the proposed alterations and additions will not result in any significant changes to the existing external built form on the site.</li> <li>the previous use for takeaway food store operated with no carparking allocated. The application does not also seek any additional car spaces on the site, given that there is no ability to retrofit car parking for this centre as it supports CBD pedestrian dominant environments.</li> <li>the central location of the site within close proximity to bus and ferry services supports attendance by pedestrians or bike riders to maximise public transport patronage and encourage walking and cycling.</li> <li>the proposed operating hours of the development is from 6am to 10pm, Monday – Saturday and from 6am to 7pm, Sunday, and the estimated number of staff is no more than 2-3 staff on-site and the anticipated number of clients is no more than 30 (average 15) at any one time.</li> <li>as noted in the SEE, the proposed use of the site will generate less parking demand as there will be less patrons on-site with sessions generally taking approximately 30 minutes each and trips will be spread over the entire day and not at peak mealtimes.</li> </ul> <p><b><u>Parking rates/requirements:</u></b></p> <ul style="list-style-type: none"> <li>The land is zoned B2 Local Centre under Manly Local Environmental Plan 2013 (LEP). One of the objectives of the zone is to maximise public transport patronage and encourage walking and cycling.</li> <li>The proposal does not contain any car spaces, discouraging private car use and encouraging active and public transport.</li> <li>The site has excellent access to public transport. Bus stops and the ferry wharf are located within close walking distance (450m – 5minute walk). Therefore, Council considers exceptions to the parking rate/requirements required in the DCP for the proposal, allowing future customers of the proposed business premises to visit without the need for car parking.</li> <li>Loading bays must be provided in sufficient numbers to meet anticipated demand. This demand is related to the total amount of floor space, the intensity of use and the nature of the activity. The proposed business premises in comparison to the existing take away store is not expected to require deliveries in large quantities,</li> </ul>

Internal Referral Body	Comments
	<p>rendering a loading bay unnecessary.</p> <ul style="list-style-type: none"> <li>A Waste Management Plan is submitted with the development application addressing the Northern Beaches Waste Management Guidelines. As noted in the plan, majority of the waste generated by the tenancy are recyclables such as paper and cardboard as well as beverage containers. There is little to no food waste at all within the premises. Tenancy staff will be responsible for taking out waste and recycle bins to the kerb for council pickup along Belgrave Street and returning the bins to their designated area.</li> </ul> <p><b><u>Traffic and pedestrian impacts:</u></b></p> <ul style="list-style-type: none"> <li>The installation of the proposed signage is required to comply with the 2.5m clearance from the ground and needs to be outside the clear zone to any road users/infrastructure. No safety concern is to be expected to be imposed by the proposed signage.</li> <li>During the installation of the proposed signage, there would be some impacts on pedestrian activity in the vicinity of the proposal. This needs to be detailed in the Construction Traffic Management Plan (CTMP).</li> </ul> <p><b><u>Conclusion</u></b></p> <p>The traffic team has no objection to the proposal in principle, and it can be supported subject to conditions regarding the preparation and implementation of a Construction Traffic Management Plan.</p> <p>The proposal is therefore supported.</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)	The proposal was referred to Transport for NSW who provided a response stating that TfNSW raises no objection as the proposed development is not expected to have a significant impact on the

External Referral Body	Comments
	classified road network.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### SEPP (Transport and Infrastructure) 2021

#### Ausgrid

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

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

#### Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

### Roads and Maritime Service (RMS)

Section 2.118 - 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 development has a frontage to Belgrave Street, a classified road. The application was referred to Transport for NSW who did not raise any objection to the proposal. The development is not considered to have a negative impact on the above.

Section 2.119 - Impact of road noise or vibration on non-road development states:

- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.
- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—
- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Comment:

The development has a frontage to Belgrave Street, a classified road. The development is not for the purpose of residential accommodation.

Section 2.121 and Schedule 3 of this Policy requires that the following development(s) are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Commercial premises	10,000m <sup>2</sup> in area	2,500m <sup>2</sup> in area

**Note:** Under Section 2.121(2) of Chapter 2, 'relevant size of capacity' is defined as meaning:

- “(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or
- (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.”

Comment:

The business premises (a type of commercial premises) does not meet the above size or capacity

requirements. Nonetheless, the application was referred to Transport for NSW who did not raise any objection to the proposal.

## 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:

Matters for Consideration	Comment	Complies
<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?		YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?		YES
<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?		NO
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?		NO
Does the proposal dominate the skyline and reduce the quality of vistas?		NO
Does the proposal respect 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?		YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?		YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?		YES
Does the proposal screen unsightliness?		NO
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?		NO
<b>5. Site and building</b>		YES

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?		
Does the proposal respect important features of the site or building, or both?		YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?		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?		YES
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?		NO
Can the intensity of the illumination be adjusted, if necessary?		YES
Is the illumination subject to a curfew?		YES
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?		NO
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?		NO

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 4 – Remediation of Land

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

## Manly Local Environmental Plan 2013

Is the development permissible?	Yes
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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:	15m	No change	N/A	N/A
Floor Space Ratio	FSR: 3:1	No change	N/A	N/A

#### Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes

#### Detailed Assessment

##### 5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) is compatible with the flood function and behaviour on the land, and
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

#### Comment:

The proposal has been referred to Council's Stormwater and Floodplain Engineers, who have

supported the proposed development, subject to conditions. In this regard, Council can be satisfied the above has been taken into account.

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment:

The proposal has been referred to Council's Stormwater and Floodplain Engineers, who have supported the proposed development, subject to conditions. In this regard, Council can be satisfied the above has been taken into account.

## **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 does not propose any excavation, with works consisting of the fit-out of an existing premises. As such, no further consideration of acid sulfate soils is required.

## **6.9 Foreshore scenic protection area**

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) measures to protect and improve scenic qualities of the coastline,*
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Comment:

The proposed development is for fit-out and a change of use, with only alteration and replacement of the shopfront and signage proposed externally. The development is considered acceptable in regard to

the above matters.

## Manly Development Control Plan

### Built Form Controls

There are no built form controls under Manly DCP to consider as part of this assessment.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.4 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
3.6 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 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	No	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.2.5.3 Security Shutters	Yes	Yes
4.2.5.4 Car Parking and Access	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.3 Signage	No	Yes
4.4.4 Awnings	Yes	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	Yes	Yes
4.4.4.2 Awning supported from the ground	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

#### Detailed Assessment

### **3.9 Mechanical Plant Equipment**

Council's Environmental Health Officers have included conditions regarding the amenity impact of the premises and its plant equipment (pool pumps, air conditioning, etc.). Subject to conditions, the development is considered acceptable in this regard.

### **4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor**

Refer to the assessment of MDCP Section 4.2.5.4 for a planning assessment on the proposed car parking variation.

#### **4.2.5.4 Car Parking and Access**

#### **Description of non-compliance**

Schedule 3 Parking and Access of the Manly DCP requires Commercial Premises (including business, offices and retail premises) to provide 1 parking space for every 40sqm of gross floor area. As such, the premises is required to provide 4 parking spaces.

The proposal does not provide any car parking spaces, and it is noted that no parking spaces are allocated to this tenancy. The previous takeaway food and drink premises operated with no allocated parking.

#### **Merit consideration**

As outlined under Clause 4.2.5.4 of Manly Development Control Plan 2013, exceptions to parking rates / requirements in Manly Town Centre include:

- Dimensions of the site prevent the provision of parking.
- Access issues prevent the provision of parking or conflict with other provisions of the DCP.
- Undesirable townscape outcomes result from parking provisions.
- Movement of vehicles to and from the site will result in unacceptable conflict with pedestrian movements.

All of these factors are considered to apply to the subject site and variation of the control is considered appropriate.

When considering the proposal on merit, it is important to note that the provision of additional off-street parking in this case is unfeasible due to the need to significantly alter the existing building to facilitate a compliant amount of parking. Overall, the proposed change of use is not considered to result in any significant traffic or parking generation. The site, being located in the Manly Town Centre, is well serviced by public parking facilities and public transport services. In this regard, Council can be satisfied that the proposal will not result in adverse traffic generation or parking demand.

Also important to note is that the site is zoned B2 Local Centre under Manly Local Environmental Plan 2013. One of the objectives of the zone is "to maximise public transport patronage and encourage walking and cycling." By not containing parking the proposal discourages private car use and encourages active and public transport.

Council's Traffic Engineer has provided a referral response which raises no issue with the nil provision of parking. The Engineer supports the proposal, subject to conditions. Therefore, the provision of no car parking spaces is considered supportable in this circumstance.

#### 4.4.3 Signage

##### **Description of non-compliance**

The proposed development includes the installation of three (3) signs along the front (western) façade of the building (being one awning fascia sign, one under-awning sign and one top hamper sign). The maximum outlined by this control is two (2) signs. This presents a variation of 50%. The proposed under awning sign is 2.3m above ground, where the requirement is a minimum of 2.6m. This presents a variation of 11.5%.

##### **Merit consideration**

With regard to the consideration of a variation, the proposed development is considered against the underlying objectives of the control as follows:

*Objective 1) To ensure that advertising does not detract from the scenic beauty and amenity of the Municipality; harmonises with its surroundings and the buildings to which they are attached.*

##### Comment:

The nature of the signage is consistent with the established business identification signage within the Manly Town Centre.

*Objective 2) To minimise the visual impact by encouraging fewer more effective signs that may otherwise degrade the existing and likely future quality of residential environments or result in excessive, unnecessary signage, visual clutter and confusion caused by a proliferation of signs in local and neighbourhood centres.*

##### Comment:

The signage is scaled appropriately, is in proportion to the existing awning of the building and will not result in visual clutter. The signage is considered to be of a high quality design. Overall, the proposed development meets this objective.

*Objective 3) To permit building and business identification signs which communicate the facilities (including tourist facilities), amenities, goods and services in local and neighbourhood centres which do not interfere with the streetscape or amenity of residents.*

##### Comment:

The proposed signage does not unreasonably interfere with the streetscape or amenity of residents. The proposed signage clearly identifies premises. The proposed development meets this objective.

*Objective 4) Signs should enhance the distinctive urban character and scenic amenity of the Municipality and contribute to the atmosphere of the streets in local and neighbourhood centres and should be designed in sympathy with both the building to which it is attached and any adjoining*

buildings, taking into account the architectural styles and finishes of buildings in local and neighbourhood centres.

Comment:

The proposed signage has been designed in such a way that positively contributes to the urban character and scenic amenity of the Manly Town Centre.

Objective 5) To prevent signage from impacting on the presentation of the heritage item or area to the general public on heritage items and conservation areas.

Comment:

Council's Heritage Officer has reviewed the proposed development and raises no objections, subject to conditions.

Objective 6) To ensure all signage is of high standards of graphic and textural content.

Comment:

The proposed signage is of a high quality design, is clear, and assists in identifying the use of the site.

Objective 7) To encourage co-ordinated advertising in the Industrial Zone by the use of appropriately sized street numbers and complex names, and the use of directory boards to identify multiple unit complexes, so as to reduce adverse impact on the streetscape and confusion to traffic.

Comment:

Not applicable. The subject site is zoned B2 Local Centre.

Notwithstanding the exceedance of the maximum allowable number of signs to a premises and height non-compliance, the proposed development meets the relevant underlying objectives, as detailed in the above merit assessment. Furthermore, an assessment against State Environmental Planning Policy (Industry and Employment) 2021 in regards to signage, as outlined in the relevant section of this report, has concluded that the proposed signage aligns with the requirements of the SEPP. In this instance, the proposed signage can be supported on its merits.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

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

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

A monetary contribution of \$5,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$500,000.

## **CONCLUSION**



The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2023/0021 for Alterations and additions to an existing building and use of premises as a business premises (sports therapy and recovery services) including internal fit-out and signage on land at Lot 2 SP 67886, 29 Belgrave Street, MANLY, Lot 1 SP 67886, 29 Belgrave Street, MANLY, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. **Approved Plans and Supporting Documentation**

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

##### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01, Location Plan	10 January 2023	North and North
DA02, Demolition Plan	10 January 2023	North and North

DA03, GA Plan	10 January 2023	North and North
DA04, Setout Plan	10 January 2023	North and North
DA05, Shopfront Elevation	10 January 2023	North and North
DA06, Internal Sections	10 January 2023	North and North

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

c) The development is to be undertaken generally in accordance with the following:

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
NBC Waste Management Plan	22 September 2022	Nicole Lennon
Waste Management Plan (Operational)	-	Recoverie

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

## 2. **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>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	13/02/2023

(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 Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$5,000.00 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 \$500,000.00.

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.

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

## **7. Flooding**

In order to protect property and occupants from flood risk the following is required:

### Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 6.35m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

## **8. National Construction Code (BCA) 2019**



A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Registered Certifier\* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) where appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

*\*To be regarded as an "appropriately qualified registered certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.*

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

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

9. **External colours, materials and finishes**

Full details of external colours, materials and finishes are to be provided to Council's Heritage officer for approval, prior to the issue of a Construction Certificate.

Reason: To ensure the colours and finishes are appropriate within the context.

10. **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.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **11. Work Zones and Permits**

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

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

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

### **12. Skin penetration fit out certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a suitably qualified professional that the design, construction and fit out of the skin penetration and beauty salon premises is compliant with the relevant and current guidelines including:-

- Public Health Act 2010
- Public Health Regulation 2022
- Local Government (General) Regulations 2021
- Australian Standard: AS/NZS 4815:2006 Office-based health care facilities— Reprocessing of reusable medical and surgical instruments and equipment, and maintenance of the associated environment.

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

### **13. Noise Controls**

A suitably qualified acoustic consultant must be engaged to assess mechanical plant noise levels on nearby sensitive receivers once a preliminary design for the mechanical plant specifications of the development are available.

The suitably qualified person must prepare a thorough and detailed report must also include reduction and attenuation measures for potential noise emanating from amplified music, public address system, air conditioning, plant equipment and pool pumps installed on the premises.

Reason: To reduce the noise nuisance to residents, and to assist in compliance with the Protection of the Environment Operations Act 1997 and Regulations.

### **14. Construction Traffic Management Plan**

a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencement of works. The CTMP to detail how the fitout and signage works will be undertaken and how pedestrian safety and amenity will be managed during the managed. CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: <to ensure vehicular access and pedestrian safety are appropriately managed>  
(DACTRDP1)

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **15. Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

### **16. Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

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

### **17. Registration with regulatory authority**

The business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Skin Penetration businesses are required to be registered with the Appropriate Regulatory Authority.

### **18. Public Pool registration**

The public pool must be registered with the Appropriate Regulatory Authority prior to an Occupation Certificate being issued.

Reason: Public Pools are required to be registered with the Appropriate Regulatory Authority.

### **19. Public pool design certification**

The design of the public pool aquatic facility including the pool deck, filtration and dosing systems must be compliant with Chapter 7 of the NSW Health Public pool and Spa advisory guidelines. A report detailing compliance must be demonstrating compliance must be completed by a suitably qualified person and details provided to the certifier prior to the release of the occupation certificate.

Reason: To maintain public health

### **20. Noise certification**

A report and certification prepared by an appropriately qualified or accredited person shall be

submitted, assessing mechanical plant noise levels, PA systems, acoustic sound equipment, pool pumps, air conditioners and plant and equipment on nearby sensitive receivers. the report shall be provided to the Council / Accredited Certifier demonstrating compliance with all acoustic reports, requirements and the EPA Noise Policy for Industry prior to the occupation of the completed works.

Reason: To ensure that noise generated from the development does not result in offensive noise to any other party.

## 21. **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 the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade 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 of the Environmental Planning and Assessment Regulation 2021.

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

## 22. **Ongoing operation of skin penetration premises**

The ongoing operation of the skin penetration and beauty salon premises including all associated equipment must be maintained in accordance with the relevant and current guidelines including:-

- Public Health Act 2010
- Public Health Regulation 2022
- Local Government (General) Regulations 2021
- Australian Standard: AS/NZS 4815:2006 Office-based health care facilities— Reprocessing of reusable medical and surgical instruments and equipment, and maintenance of the associated environment.

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

## 23. **Sharps waste management**

All commercial premises that require the use of sharps must provide adequate sharps waste disposal facilities. Such premises must be provided with sharps waste disposal containers on site that adequately contain all sharps waste produced and is compliant with AS 4031 – 1992 - Non-reusable containers for the collection of sharp medical items used in health care areas.

Reason: To ensure adequate provisions are made for the safe disposal, collection and transport of used sharp objects and to minimise to risk of infectious waste to public health.

## 24. **Clinical Waste Contractor**

All clinical waste produced by the premises is to be transported to and disposed of within an

appropriately licenced waste facility through a contract with a suitably qualified waste contractor.

Reason: Responsible disposal management of clinical waste.

25. **Amenity**

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

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

26. **Noise Impact On Surrounding Area**

The use of the premises shall not cause a sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries when measured in accordance with the Environment Protection Authority's Noise Policy for Industry.

Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines.

27. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Saturday: 6am - 10pm
- Sunday and Public Holidays: 6am - 7pm

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

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

28. **Hours of Illumination**

Illumination of signage at the subject premises shall cease between the hours of 12.00 midnight and 6.00 am daily.

Signs must not flash, move or be constructed of neon materials.

Reason: To ensure residential premises are not affected by inappropriate or excessive illumination.

29. **Illumination Intensity and design**

The level of illumination and/or lighting intensity used to illuminate the signage is to be minimised and the design is to be such to ensure that excessive light spill or nuisance is not caused to any nearby premises.

Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties.

30. **No Illumination**

No consent is given or implied for any form of illumination or floodlighting to any sign or building

or other external areas other than that approved.

Reason: To ensure appropriate forms of illumination that are consistent with Council's controls, and do not interfere with amenity of nearby properties.

31. **Commercial Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.

32. **Deliveries**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties.

33. **External Shared Courtyard not to be used for operational purposes**

The rear External Shared Courtyard is not to be used for operational purposes (i.e. the provision of business services).

Reason: To ensure operational activities are not undertaken in shared external courtyard.

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

**Signed**



**Jordan Howard, Planner**

The application is determined on 15/03/2023, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**