

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1393
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Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot B DP 321706, 70 The Corso MANLY NSW 2095
Proposed Development:	Use of Premises as a pilates studio (recreational facility - indoor)
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Nasus Investments Pty Ltd
Applicant:	Professional Planning Group Pty Ltd

Application Lodged:	01/09/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	12/09/2022 to 26/09/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 81,660.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the change of use from an office premises to an indoor recreational facility to permit the use of a pilates studio.

The internal fitout has already been undertaken and includes a reception area and pilates studio with thirteen pilates reformers. The fitout works are unauthorised and the use of the space is subject to the issue of a Building Information Certificate. No alterations are proposed to the external elevations of the existing building.

The pilates studio will operate between the hours of 6am to 7pm Monday to Friday and 7am to 12pm Saturday and Sunday with a maximum of two employees on site and fifteen clients.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 4.2.5.4 Car Parking and Access

SITE DESCRIPTION

Property Description:	Lot B DP 321706 , 70 The Corso MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of The Corso and the northern side of Rialto Lane. The lot is regular in shape and has an area of 224m².</p> <p>The site is generally flat and contains no existing vegetation or landscaped area.</p> <p>The site is located within the B2 Local Centre Zone as per the MLEP 2013. The site currently accommodates a two storey commercial premises with a retail premises and a health and wellness facility recently approved at the ground floor.</p> <p>The surrounding development consists of commercial and mixed use developments in the Manly Town Centre.</p>

Map:



SITE HISTORY

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

- **DA0355/1994** and **BA0375/1994** - Development Application and Building Application for Shop Fitout for Gift Shop. Approve 9 September 1994.
- **DA0359/95** - Development Application for Advertising Sign. Refused 27 February 1996.
- **DA0245/2001** - Development Application for Restaurant and Take Away Food Premises. Approved 3 July 2001.
- **PLM2018/0254** - Pre-Lodgement Meeting for Alterations and Additions to the existing building. Meeting held 6 November 2018.
- **DA2019/0351** - Development Application for Alterations and additions to retail and office premises. Refused 2 October 2019.
- **REV2019/0075** - Review of Determination of Application DA2019/0351 for Alterations and additions to retail and office premises. Approved 2 April 2020.
- **DA2022/0640** - Development Application for Change of Use to a health and wellness facility, associated fit out and alterations and additions. Approved 11 July 2022.

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	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any	There are no current draft environmental planning

Section 4.15 Matters for Consideration	Comments
draft environmental planning instrument	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)(iia) – 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&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>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the unauthorised fitout works, building assessment and heritage.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental</p>

Section 4.15 Matters for Consideration	Comments
	economic impact on the locality considering the nature of the existing and proposed land use.
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 12/09/2022 to 26/09/2022 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><i>An amended Consistency Letter from Fire Modelling Computing dated 24/11/2022 has been submitted to Council which now satisfies the issues raised in my previous DA referral comments.</i></p> <p><i>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval.</i></p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department and having regard to Sections 62 and 64 of the Environmental Planning and Assessment Regulation.</p> <p>In this regard determination of the Development Application is to be deferred pending the following being submitted for Council's consideration as detailed in the <i>BCA Assessment Report prepared by BCA Logic dated 19/7/2022</i> :</p>

Internal Referral Body	Comments
	<p><i>The submission of a Consistency letter from the author of the Base Building Fire Engineering Report to confirm that the proposed Class 9b use on the first floor will not impact the existing fire engineering strategy for the building. Where conflicts arise, then suitable recommendations shall be provided for Council's consideration at DA stage.</i></p>
Environmental Health (Industrial)	<p>General Comments</p> <p>The application proposes the change of use from Office Premises to a Pilates Studio, which is categorised under the Manly Local Environmental Plan 2013 as a 'Recreation Facility (Indoor)'.</p> <p>The Pilates Studio will operate anywhere between the hours of 6am to 7pm Monday to Friday and 7am to 12pm Saturday and Sunday, with a maximum of two (2) employees on site at any given time and fifteen (15) clients.</p> <p>Fitness studios are the source of numerous complaints to Council for noise to neighboring occupancies due to impact noise and music. This can be resolved with conditions of approval, management and often acoustic treatments.</p> <p>In this case the main source of noise is likely to be through the windows, most likely to Rialto lane where sound will resonate and not to a ground floor commercial occupier below.</p> <p>An acoustic assessment is likely to be expensive so reasonable conditions can be placed on the approval to achieve a similar outcome without delay.</p> <p>Environmental Health supports the proposal subject to conditions</p>
Parks, reserves, beaches, foreshore	No objections are raised.
Strategic and Place Planning (Heritage Officer)	<p>HERITAGE COMMENTS</p>
	<p>Discussion of reason for referral</p>
	<p>The proposal has been referred to Heritage as the subject site is part of a heritage item - I106 - Group of commercial buildings - All numbers, The Corso; located within the Manly Town Centre Conservation Area and in the vicinity of a number of heritage items:</p> <p>Item I108 - Group of commercial buildings - 41-45 The Corso</p> <p>Item I109 - Group of commercial buildings - 46-64 The Corso</p> <p>Item I104 - Street Trees - The Corso (from Whistler Street to Sydney Road)</p>
	<p>Details of heritage items affected</p>
	<p>Details of these heritage items, as contained within the Manly Heritage Inventory, are:</p>

Internal Referral Body	Comments
	<p>Item C2 - Town Centre Heritage Conservation Area <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 builelements such as hotels, and remaining original commercial and small scale residential buildings.</p> <p>Item I106 - Group of commercial buildings <u>Statement of significance:</u> The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort. <u>Physical description:</u> The Corso acts as a low scale horizontal corridor which steps down from the harbour to the ocean. The atmosphere of The Corso is of a 19th century place. Its special qualities include the contrasts of horizontal (low scale architecture) and vertical (planting) dimensions, and urban and natural elements.</p> <p>Item I108 - Group of commercial buildings <u>Statement of Significance:</u> The group is of major significance for its contribution to the streetscape of The Corso and as extant 19th century commercial architecture. <u>Physical Description:</u> Group of (originally) five two storey brick buildings with painted stone face and mixture of slate, iron and tiled roofs. The buildings were originally constructed as a symmetrical group: the two end buildings bearing paired gabled ends over first floor with mock Tudor design in timber and render on the western end and intaglio design on the eastern. The buildings either side of the centre had triangular pediments above first floor windows and the central building has a segmental pediment of the same width containing tow semi-circular windows with multi-paned glazing. The central building also has heavily ornamented pilasters at first floor level.</p> <p>Item I109 - Group of commercial buildings <u>Statement of Significance:</u></p>

Internal Referral Body	Comments																							
	<p>Two, two-storey terrace commercial buildings. Modern architectural significance in scale and style; major significance in contribution of additional horizontal emphasis to streetscape of The Corso.</p> <p><u>Physical Description:</u> Group of two two-storey terraced buildings with retail outlets at ground floor. No's. 46-58 The Corso: 1928 texture brick complex of six terraced shops with tiled roof. Significant elements include terracotta horizontal band at cornice level, fine margin glazing bars to first floor windows, decorative metal wall fixing plates (for suspended awning) and rainwater heads with date of construction. No's 60-64 The Corso: c.1890 simple rendered brick two storey terrace of three shops with rectangular rendered ornament to parapet. The group provides a strong horizontal emphasis to the streetscape.</p> <p>Item 1104 - Street Trees <u>Statement of significance:</u> Part of earliest planting on The Corso c.1850's by H.G. Smith. Historic and aesthetic importance to the streetscape. <u>Physical description:</u> Centre planting of Ficus Macrophylla (Moreton Bay Fig) Remnant Palm planting (Phoenix Canariensis) of 1928.</p> <table><tr><th colspan="3">Other relevant heritage listings</th></tr><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr><tr><td>Other</td><td>No</td><td></td></tr></table> <p>Consideration of Application The proposal seeks consent for the change of use, from an office to a pilates studio, including internal fitout to the first floor tenancy facing The Corso and a non-illuminated signage facing Rialto Lane. The proposed internal fitout involves internal cladding to the existing walls including the exposed brick wall to the balcony and the nibs from the balcony wall that was removed with the consent REV2019/0075. Heritage conservation requires the internal original fabric to be retained where possible, to preserve the heritage significance of the place and the property. It is noted that the proposed floor plan does not show the nib of walls that was part of the approval (preferably 300mm minimum). It is also noted that the</p>			Other relevant heritage listings			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	No	
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Internal Referral Body	Comments
	<p>Heritage Impact Statement submitted with this application is same as the report submitted for the previous application, which has not been updated and does not reflect the proposed changes.</p> <p>Amended documents</p> <p>The applicant has been amended the application to seek consent for the change of use only and the proposed works including changes to the existing building and the proposed signage are to be subject to a Building Information Certificate. The Heritage Impact Statement, by Northpoint Heritage, has not been amended to assess the latest application and the impact of the proposal upon the significance of the heritage item, heritage items in the vicinity and the conservation area.</p> <p>Revised Comments - 06 February 2023</p> <p>The applicant provided an updated Statement of Heritage Impact, on 02 February 2023, prepared by GBA Heritage, containing the following statements for the proposed works:</p> <p><i>"The proposal comprises a change of use to the first floor level of building at 70 The Corso, from an office space to a Pilates Studio including internal fitout to the first floor level, alteration of an external window on The Corso facade and installation of window signage facing Rialto Lane.</i></p> <p><i>.... Given the building has undergone extensive alterations over time, including the infill of the original balcony with an arched window, the demolition of the balcony wall nibs and the replacement of the arched window have had a minimal heritage impact on the building.</i></p> <p><i>.....The new window is consistent with the window proportion of other two Federation style terraces, respecting and retaining the strong streetscape presentation of the building and its contribution as part of a group of three Federation terraces along The Corso."</i></p> <p>The above statements in relation to "the removal of the nib walls is acceptable from a heritage point of view and the replacement of the arched window have had a minimal heritage impact on the building" are not agreed with. It is considered, that the removal of the nib walls and replacing the approved multi-paned window with a new simple window will impact the heritage significance of the building, and the significance of the Town Centre Conservation Area. The proposed signage facing Rialto Lane, has been identified as a window signage in the Statement of Heritage Impact, however the architectural drawings are showing a sign that is fixed on the wall and it is not clear whether it is illuminated.</p> <p>Therefore, Heritage require the following amendments to the proposal:</p> <ul style="list-style-type: none"> • Reinstatement of the nib walls that had been approved in

Internal Referral Body	Comments
	<p>the approved application - REV2019/0075</p> <ul style="list-style-type: none"> • The arched window facing The Corso must be replaced with a multi-paned window matching 66 The Corso, as it was presented in the approved application - REV2019/0075. • The proposed signage details - location and illumination - must be clarified. <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? Yes Has a Heritage Impact Statement been provided? Yes, but not updated for the current proposal.</p> <p>Further Comments</p> <p>Planner comment: The works including the nib wall and the arched window which have been completed not in accordance with the approval for REV2019/0075 have been reported to Council's Compliance Team under BLD2023/00235. The signage has already been erected and is to be assessed under BC2022/0254. This development application is restricted to assessing the change of use and the unauthorised works are to be dealt with outside of this application.</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 (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 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 adverse
 - ii) 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 proposal is for the change of use and does not involve any physical works. Given the location and nature of the proposal, the development is not likely to cause adverse impacts on 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.

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

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

Comment:

There are no certified coastal management programs that apply to the site.

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

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. 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
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:	10m	Unaltered	N/A	No Change
Floor Space Ratio	FSR: 2.5:1	FSR: 0.49:1 (109m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.16 Gross floor area in Zone B2	Yes
Schedule 5 Environmental heritage	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 224m ²	Requirement	Proposed	% Variation*	Complies
4.2.3 Setback Controls in LEP Zones B1 and B2	All buildings must be constructed to the public road and side boundaries of the allotment	Unaltered	N/A	Yes

Schedule 3 Parking and Access	3 Spaces	0 spaces	100%	No
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Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	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
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.4 Car Parking and Access	No	Yes
5 Special Character Areas and Sites	Yes	Yes
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

4.2.5.4 Car Parking and Access

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 3 parking spaces.

As outlined under Clause 4.2.5.4 of Manly Development Control Plan 2013, exceptions to parking rates / requirements in Manly Town Centre is permitted when the dimensions of the site prevent the provision of parking, access issues, and movement of vehicles to and from the site will result in unacceptable conflict with pedestrian movements.

Whilst the proposal does not provide any car parking spaces, the location of the site in Manly Corso and Rialto Lane means it is largely accessed by pedestrians. Vehicles entering and exiting the site

could create potential safety issues and limit pedestrian access. Therefore, the provision of no car parking spaces is considered supportable in this circumstance.

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

S7.12 levies are not applicable to this application as they were subject to the original development application relating to the whole site.

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 DA2022/1393 for Use of

Premises as a pilates studio (recreational facility - indoor) on land at Lot B DP 321706, 70 The Corso, MANLY, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. **Deferred Commencement - Building Information Certificate for Unauthorised Works**

An application for a Building Information Certificate is to be lodged and approved for all unauthorised works onsite.

In this regard the applicant is to implement all fire safety and BCA measures and recommendations as detailed in the BCA Assessment Report prepared by BCA Logic, Ref 116417-BCA-r1 dated 19/7/2022 and any additional measures required by Council.

Reason: To regularise unauthorised development.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. **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
00C Rev B - Location Plan	4 February 2022	Studio Pilates International

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Statement of Heritage Impact	February 2023	GBA Heritage
Proposed Essential Fire Safety Measures	15 April 2021	Abate Fire Protection Services
Fire Engineering Report	March 2019	Fire Modelling and Computing
BCA Assessment Report	19 July 2022	BCA Logic

Letter of Assessment	24 November 2022	Fire Modelling and Computing
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b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	22 December 2021	Urbaine Architecture

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.

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a recreation facility (indoor), in accordance with the Dictionary of the Manly Local Environmental Plan 2013, as follows:

"recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club."

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. **No Approval for Internal Fitout or Signage**

No approval is granted under this Development Consent for the internal fitout or signage.

Reason: To ensure compliance with the relevant Local Environmental Plan.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO COMPLETION

5. **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.

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

6. Noise Management

- a. Windows and doors shall, if necessary to prevent a noise nuisance, be kept closed to prevent music and verbal instructions being audible in any neighbouring residential premises at any time.
- b. Speakers shall be directed away from windows and doors to minimise noise transference outside the premises.
- c. Bass sound on amplified equipment is to be minimised at all times.
- d. Should Council receive complaints, an acoustic assessment is to be undertaken and any recommendations are to be implemented in an agreed timeframe Council and the operator.

Reason: To prevent a noise nuisance to residential receiver

7. Hours of Operation

The hours of operation are to be restricted to:

- Monday to Friday – 6am to 7pm
- Saturday, Sunday and Public Holidays – 7am to 12pm

Upon expiration of the permitted hours, all service (and entertainment) 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.

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

Signed



Olivia Ramage, Planner

The application is determined on 13/02/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments