

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2020/0225 |
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| Responsible Officer: | Kye Miles |
| Land to be developed (Address): | Lot 1 DP 1164502, 210 - 212 Pittwater Road MANLY NSW 2095 |
| Proposed Development: | Commercial fitout |
| Zoning: | Manly LEP2013 - Land zoned B1 Neighbourhood Centre |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Miehs Nominees Pty Ltd |
| Applicant: | Alphaplus Architecture |

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| Application Lodged: | 09/03/2020 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Commercial/Retail/Office |
| Notified: | Not Notified |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 35,000.00 |
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the changing use of the existing Bike Shop at 212 Pittwater Road. The proposed facility will contain an Infrared Sauna Studio, which is considered to be a form of alternative therapy. In particular the application includes:

- Use of the premises for an Infrared Sauna Studio (medical centre),
- The proposed hours of operation are: 6:00am – 9:00pm Daily,
- The facility will have 1-2 staff during the hours of operation and will hold 5 customers at any one given time,
- Internal fit-out works involve the construction of stud walls to create five cubicles, each containing one infrared sauna unit and one shower enclosure,
- External changes include replacing existing awning sign with new logo and minor cosmetic refurbishments to the front facade.

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 - 5.10 Heritage conservation
 Manly Development Control Plan - 3.2 Heritage Considerations
 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 - 4.2.8.6 Hours of Operation

SITE DESCRIPTION

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|-----------------------------------|--|
| Property Description: | Lot 1 DP 1164502 , 210 - 212 Pittwater Road MANLY NSW 2095 |
| Detailed Site Description: | <p>The subject property is commonly known as 210-212 Pittwater Road and legally known as Lot 1 DP 1164502. The site is located on the eastern side of Pittwater Road. The property is shaped irregularly with a primary frontage of 12.87m along Pittwater Road and a secondary frontage of approximately 18.31m along Ruby Lane. The site has a depth of 37.78m and an overall site area of 415.9m². The property currently contains a two-storey heritage listed building, which is used for residential and commercial purposes. Vehicular access is obtained via an existing driveway from Ruby Lane. The property is generally level.</p> <p>The surrounding area includes the Pittwater Road Heritage Conservation Area and items of Environmental Heritage. The property is adjacent to commercial businesses and has residential properties across Ruby Lane to the rear.</p> |

Map:



SITE HISTORY

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

DA563/06

Application for alterations and additions to existing mixed commercial/residential development, including the provision of a new awning/balcony above the footpath and the creation of two (2) shops and four (4) units with associated car-parking. Approval was granted on 27 November 2007.

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 draft environmental planning instrument | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for mixed purposes for an extended period of time. The proposed development retains the mixed use of the site, and is not considered a contamination risk. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Manly Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement | None applicable. |

| Section 4.15 Matters for Consideration' | Comments |
|--|--|
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&A Regulation 2000 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 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on "Notification & Submissions Received" in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

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 was not notified.

REFERRALS

| Internal Referral Body | Comments |
|--|--|
| Building Assessment - Fire and Disability upgrades | 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. |

| Internal Referral Body | Comments | | | | | |
|--|--|-------------------|-----------------------------------|---|------------------------------------|--|
| | <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p> | | | | | |
| <p>Environmental Health (Industrial)</p> | <p>General Comments An Infrared Sauna Studio -5 cubicles proposed. The proposed works involves the construction of stud walls within the vacant area to create five cubicles, each containing one infrared sauna unit and one shower enclosure , Curtains will provide privacy, and exhaust ventilation is proposed to be treatment rooms. Noise to occupiers located above in not considered an issue with a closure timing of 9pm. Recommendation APPROVAL - subject to conditions</p> | | | | | |
| <p>Strategic and Place Planning (Heritage Officer)</p> | <table border="1"> <thead> <tr> <th data-bbox="518 1037 1439 1077">HERITAGE COMMENTS</th> </tr> <tr> <th data-bbox="518 1077 1439 1117">Discussion of reason for referral</th> </tr> </thead> <tbody> <tr> <td data-bbox="518 1117 1439 1503"> <p>The application has been referred to Heritage as the subject property is a heritage item, being Item I210 - Commercial building. It also adjoins a heritage item and within a conservation area:</p> <p>Item I211 - Group of commercial buildings - 216–218 Pittwater Road</p> <p>C1 - Pittwater Road Conservation Area</p> </td> </tr> <tr> <th data-bbox="518 1503 1439 1543">Details of heritage items affected</th> </tr> <tr> <td data-bbox="518 1543 1439 2136"> <p>Details of the heritage items and the conservation area as contained within the Manly Heritage Inventory are:</p> <p>Item I210 - Commercial building <u>Statement of significance:</u> A group of shops with upper floor residential apartments constructed as one building. Constructed in a Late Victorian style. Major significance as a unique example of style of architecture with commercial function at this date within Municipality. <u>Physical description:</u> c.1890 two storey commercial building of brick with iron roof. Originally two shops with dwelling above - shopfronts intact. Additional two storey brick building to north also has original shopfront. The addition has been constructed to match the original building at 1st floor level. First floor French doors now open onto awning. Evidence of original balcony extant. Possible original hip</p> </td> </tr> </tbody> </table> | HERITAGE COMMENTS | Discussion of reason for referral | <p>The application has been referred to Heritage as the subject property is a heritage item, being Item I210 - Commercial building. It also adjoins a heritage item and within a conservation area:</p> <p>Item I211 - Group of commercial buildings - 216–218 Pittwater Road</p> <p>C1 - Pittwater Road Conservation Area</p> | Details of heritage items affected | <p>Details of the heritage items and the conservation area as contained within the Manly Heritage Inventory are:</p> <p>Item I210 - Commercial building <u>Statement of significance:</u> A group of shops with upper floor residential apartments constructed as one building. Constructed in a Late Victorian style. Major significance as a unique example of style of architecture with commercial function at this date within Municipality. <u>Physical description:</u> c.1890 two storey commercial building of brick with iron roof. Originally two shops with dwelling above - shopfronts intact. Additional two storey brick building to north also has original shopfront. The addition has been constructed to match the original building at 1st floor level. First floor French doors now open onto awning. Evidence of original balcony extant. Possible original hip</p> |
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| Internal Referral Body | Comments | | | | | | | | | | | | | | | |
|--|--|----------------------------------|--|--|--|----|--|------------------------------|----|--|-----------------------------|----|--|---------------------------------------|----|--|
| | <p>roof now only extant at southern end. Southern section has central chimney.</p> <p>Item I211 - Group of commercial buildings <u>Statement of significance:</u> An intact example of late 19th century retail architecture which is unusual within local area. 216,218,218A Pittwater Rd</p> <p><u>Physical description:</u> Two storey brick building(s) with retail outlets at ground floor level. Southern shop front generally intact. Southern section: significant elements include dormer windows, gabled iron roof, shop fronts. Northern section: original doorway with 3 course header arch over and 2 course arch over first floor window above. There is evidence of original tuck pointing to both buildings. The awning is not original.</p> <p>C1 - Pittwater Road Conservation Area <u>Statement of significance:</u> This street pattern is distinctive and underpins the urban character of the area. The streets remain unaltered in their alignment, although the names of Malvern, Pine and North Steyne are now names for what were Whistler, Middle Harbour and East Steyne respectively.</p> <p><u>Physical description:</u> The streetscape of Pittwater Road is a winding vista of late 19th and early 20th century commercial and residential architecture of generally one or two floors - although there are exceptions such as the four storey private hotel. The streetscape provides a 19th century atmosphere due to it's scale, width and the number of extant Victorian structures. Within the streetscape there are a number of individually significant buildings which are listed separately. Adjacent streets generally comprise a consistent pattern of one and two story residential cottages, with the occasional terrace. Some streets have intermittent street plantings and remnant stone kerbs. The flat topography is accentuated by the escarpment to the west which provides an important visual, vertical and vegetated backdrop.</p> <table border="1" data-bbox="518 1720 1433 2136"> <thead> <tr> <th colspan="3" data-bbox="518 1720 1433 1758">Other relevant heritage listings</th> </tr> </thead> <tbody> <tr> <td data-bbox="518 1758 853 1899">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td data-bbox="853 1758 944 1899">No</td> <td data-bbox="944 1758 1433 1899"></td> </tr> <tr> <td data-bbox="518 1899 853 1973">Australian Heritage Register</td> <td data-bbox="853 1899 944 1973">No</td> <td data-bbox="944 1899 1433 1973"></td> </tr> <tr> <td data-bbox="518 1973 853 2047">NSW State Heritage Register</td> <td data-bbox="853 1973 944 2047">No</td> <td data-bbox="944 1973 1433 2047"></td> </tr> <tr> <td data-bbox="518 2047 853 2136">National Trust of Aust (NSW) Register</td> <td data-bbox="853 2047 944 2136">No</td> <td data-bbox="944 2047 1433 2136"></td> </tr> </tbody> </table> | 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 | |
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| 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 | | | | | | | | | | | | | | | |

| Internal Referral Body | Comments | | |
|------------------------|--|----|--|
| | RAIA Register of 20th Century Buildings of Significance | No | |
| | Other | No | |
| | Consideration of Application | | |
| | <p>The application is for a change of use of the existing Bike Shop at 212 Pittwater Road, to an infrared Sauna Studio. The proposed changes are internal and at ground floor level only, including the construction of stud walls to create 5 cubicles for infrared sauna units and shower enclosures. Raised floor is also proposed at this section of the building for drainage purposes. The walls do not extend to the ceiling, therefore the existing ceiling and the floor will be retained. There is no external changes are proposed apart from the repainting the exterior and the new graphic to the existing awning signage. The proposed colours are considered sympathetic to the original building fabric and the appearance of the heritage item.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions are required.</p> <p>Consider against the provisions of CL5.10 of MLEP.</p> <p>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? SEE contains a Statement of Heritage Impact section.</p> | | |
| | Further Comments | | |
| | <p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 09 April 2020</p> | | |

| External Referral Body | Comments | | |
|--|--|--|--|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. | | |
| NSW Roads and Maritime Services (Traffic Generating Development) | The proposal was referred to TfNSW as the development adjoins a classified road (Pittwater Road). TfNSW provided a response on 03 April 2020, which has formed part of this consent. | | |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential and 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential and commercial land use.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy 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 1 of SEPP 64, the following assessment is provided:

| Matters for Consideration | Comment | Complies |
|--|--|----------|
| 1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? | The proposed signage is generally consistent with the existing signage on the site and will not unreasonably impact the future character of the locality. | YES |
| Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? | The proposed signage is consistent with the existing advertising theme. | YES |
| 2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other | The proposal will not unreasonably detract from the amenity or visual quality of the heritage listed building and broader conservation area. Council's Heritage Officer had no objections to the proposed signage. | YES |

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| conservation areas, open space areas, waterways, rural landscapes or residential areas? | | |
| 3. Views and vistas Does the proposal obscure or compromise important views? | The proposed signage is to be attached to the existing awning sign, the graphic panel will be replaced to identify the new business. Therefore, will not obscure or compromise any important views. | YES |
| Does the proposal dominate the skyline and reduce the quality of vistas? | The proposal will not dominate the skyline or reduce the quality of vistas. | YES |
| Does the proposal respect the viewing rights of other advertisers? | The proposal will not obscure any surrounding advertising. | YES |
| 4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? | The proposed signage is consistent in scale, proportion and form with the existing signage on the site. | YES |
| Does the proposal contribute to the visual interest of the streetscape, setting or landscape? | The proposal will contribute to the visual interest of the streetscape. | YES |
| Does the proposal reduce clutter by rationalising and simplifying existing advertising? | The proposal will not result in any visual clutter. | YES |
| Does the proposal screen unsightliness? | No screening of unsightliness is considered necessary. | YES |
| Does the proposal protrude above buildings, structures or tree canopies in the area or locality? | The proposed signage does not protrude above the height of the existing building or signage panels. | YES |
| 5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? | The proposal is consistent with the characteristics of the building and site. | YES |
| Does the proposal respect important features of the site or building, or both? | The proposed signage will not unreasonably impact any important features on the site. | YES |
| Does the proposal show innovation and imagination in its relationship to the site or building, or both? | The proposed signage and upgrades to the building facade will improve the appearance of the site and building. | YES |
| 6. Associated devices and logos with advertisements and advertising structures 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? | No. | YES |
| 7. Illumination Would illumination result in | The sign will not be illuminated. | YES |

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| unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation? | | |
| Can the intensity of the illumination be adjusted, if necessary? | The sign will not be illuminated. | YES |
| Is the illumination subject to a curfew? | The sign will not be illuminated. | YES |
| 8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists? | The proposed signage will not unreasonably impact road safety. | YES |
| Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? | No, the proposed signage in the vicinity of the site boundaries is attached to the existing signage panel. | YES |

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Roads and Maritime Service (RMS)

Clause 101 - 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 proposal fronts a classified road being Pittwater Road, notwithstanding, the proposed works only involve; changing the use of the premises, internal fit-out and cosmetic upgrades to the front facade. As such, Council is satisfied that the proposal is consistent with the above-mentioned clauses.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

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

Comment:

The proposal seeks consent for changing the use of the premises and an internal fit-out. It is considered that the proposal will not cause an adverse impact on the above-mentioned coastal environmental areas due to nature of the works.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact*

- referred to in subclause (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

Council is satisfied that the development has been appropriately designed and will not impact the surrounding coastal environment area.

As such, it is considered that the application does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Manly Local Environmental Plan 2013

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| 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

The proposal only seeks approval for the use of the premises, therefore, the development standards defined under Part 4 of MLEP2013 will remain unaltered.

Compliance Assessment

| Clause | Compliance with Requirements |
|---|------------------------------|
| 3.1 Exempt development | Yes |
| 4.3 Height of buildings | Yes |
| 4.4 Floor space ratio | Yes |
| 4.6 Exceptions to development standards | Yes |
| 5.10 Heritage conservation | Yes |
| 6.12 Essential services | Yes |

Detailed Assessment

5.10 Heritage conservation

The subject site contains a heritage listed building that is an intact example of late 19th century retail architecture, which is unusual within local area. In addition, the site is contained within Pittwater Road Conservation Area. The proposal's internal works include the construction of 5 stud walls and raising the floor level for drainage purposes. Furthermore, the proposal involves minor changes to the building's exterior, which includes repainting the exterior and the applying a new graphic to the existing awning signage. As such, the proposal was referred to Council's, who raised no objections to the proposed change of use and affiliated works.

Manly Development Control Plan

Built Form Controls

The proposal is only for the use of the premises, there will be no changes to the existing built form.

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 3.1.3 Townscape (Local and Neighbourhood Centres) | Yes | Yes |
| 3.2 Heritage Considerations | 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 |
| 3.5.1 Solar Access | Yes | Yes |
| 3.5.3 Ventilation | Yes | Yes |
| 3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings) | Yes | Yes |
| 3.5.5 Landscaping | Yes | Yes |
| 3.5.6 Energy efficiency/conservation requirements for non-residential developments | Yes | Yes |
| 3.5.7 Building Construction and Design | Yes | Yes |
| 3.5.8 Water Sensitive Urban Design | Yes | Yes |
| 3.6 Accessibility | 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 |
| 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor | Yes | Yes |
| 4.2.8 Neighbourhood Centres (LEP Zone B1) | Yes | Yes |
| 4.2.8.5 Carparking, Vehicular Access and Loading Controls | Yes | Yes |
| 4.2.8.6 Hours of Operation | Yes | Yes |
| 4.2.8.7 Packaged Premises/ Outlets | Yes | Yes |
| 4.2.8.8 Waste Management | Yes | Yes |
| 4.2.8.9 Signage | Yes | Yes |
| 4.2.8.10 Local Character provisions | Yes | Yes |
| 4.4.4.1 Awnings in LEP B1 and B2 Business Zones | Yes | Yes |

Detailed Assessment

3.2 Heritage Considerations

The proposal was referred to Council's Heritage Adviser, who provided no objections towards the

proposed change of use and affiliated works.

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

The subject site contains three (3) off-street parking spaces that are accessed from Ruby Lane. On-street parking along Pittwater Road will continue to provide vehicular access to the site's commercial premises. Furthermore, as the proposal does not comprise of any alterations outside of the building footprint, it is considered reasonable to apply the existing parking variation approved under DA563/06.

4.2.8.6 Hours of Operation

The proposed hours of operation will remain consistent throughout the week, which are 6.00am - 9.00pm. It is considered that the noise generation from the proposed Infrared Sauna Studio will be reasonable, as the units will be electrically powered. Furthermore, imposed conditions will ensure that the proposed mechanical ventilation system complies with relevant Australian standards and any noise generated from the system shall not interfere with the adjoining tenancies. Overall, the proposal will maintain reasonable acoustical privacy and amenity of the adjoining residential units and commercial premises.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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 DA2020/0225 for Commercial fitout on land at Lot 1 DP 1164502, 210 - 212 Pittwater Road, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approval as an Infrared Sauna Studio**

Use of premises being limited to Infrared Sauna Studio and no Beauty salon work or other use permitted with appropriate approval.

Reason: To ensure that Beauty Salon/Skin Penetration and the like is not carried out with out approval by Council.

2. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|------------------|--------------------|
| Drawing No. | Dated | Prepared By |
| DA02 - RevA: Floor plan | 13 February 2020 | Alpha Plus |
| DA03 - RevA: Section A-A | 13 February 2020 | Alpha Plus |
| DA04 - RevA: Colour Schedule | 13 February 2020 | Alpha Plus |

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

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. 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:

| Other Department, Authority or Service | EDMS Reference | Dated |
|--|----------------|--------------|
| TfNSW | Response TfNSW | 3 April 2020 |

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website 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.

4. 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 Certifying Authority 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 Certifying Authority 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 Certifying Authority 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.

5. **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 a final 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) 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 2008
- (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

6. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, details demonstrating payment are to be submitted to the Certifying Authority 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).

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

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

7. 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 Certifying Authority prior to the issue of the Construction Certificate.

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

8. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

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

9. **Mechanical Ventilation certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

Additionally noise for the exhaust system shall not interfere with the use of any adjoining occupier at any time.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the mechanical ventilation system complies with the design requirements. (DACHPFPOC4)

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

10. **Customer treatment contact surfaces**

All surfaces the customer may come into contact with being capable of easy and effective cleaning, disinfection or disposal.

Reason: To eliminate customer contact to potentially unclean surfaces that may transmit pathogens between customers and or staff.

11. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Sunday: 6:00am – 9:00pm.

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



Kye Miles, Planner

The application is determined on 22/04/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments