

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0193
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Responsible Officer:	Stephanie Gelder
Land to be developed (Address):	Lot B DP 382992, 199 - 205 Pittwater Road MANLY NSW 2095
Proposed Development:	Alterations and additions to shop top housing
Zoning:	Manly LEP2013 - Land zoned R1 General Residential Manly LEP2013 - Land zoned B1 Neighbourhood Centre
Development Permissible:	Yes - Zone R1 General Residential Yes - Zone B1 Neighbourhood Centre
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Manly Central Pty Ltd
Applicant:	Marina Goncalves

Application Lodged:	17/03/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	30/03/2022 to 13/04/2022
Advertised:	30/03/2022
Submissions Received:	11
Clause 4.6 Variation:	4.4 Floor space ratio: 1.69%
Recommendation:	Approval

Estimated Cost of Works:	\$ 935,000.00
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EXECUTIVE SUMMARY

This development application seeks consent for Alterations and additions to shop top housing.

The site is split by 2 zones, the majority of the site being B1 Neighbourhood Centre zone, with the remaining portion in R1 General Residential.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to eleven (11) unique submissions received by way of objection.

Concerns raised in the objections predominantly relate to parking, footpath pavings, which have been

addressed through conditions or are deemed to be satisfactory. The remaining issues relating to the pedestrian crossing, the upgrading of stormwater pits and an existing billboard located on the northern elevation are not relevant to the proposed changes contained within this application.

The proposal seeks a departure from a development standard of Floor Space Ratio seeking a variation of 1.69% (11.59m²). The 4.6 request for the non-compliance with FSR standard arises from the construction of a new entry lobby and stairs.

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

PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of alterations and additions to shop top housing.

Specifically the proposed works include the following:

External

- Restoration of the original parapet;
- Reinstatement of original signage;
- Signage for six (6) retail premises;
- Alterations and additions to existing windows and door openings;
- New metal awnings;

Ground Floor

- Structural repairs and refurbishment of interior;
- Upgrade of existing Street facades fronting Golf Parade and Pittwater Road.
- Six (6) new retail shops;
- New common stair entrance and lobby to the first floor;
- Ten (10) car parking spaces;
- One (1) loading bay;
- Bicycle parking spaces;
- A central landscaped courtyard;
- Garbage storage areas for residential and for commercial premises;

First Floor.

- Existing three (3) loft apartments to remain unchanged;
- Shop top housing (four units) above retail shops stop (conversion of existing apartments) - Unit 1 - one bedroom and study apartment, Unit 2 - one bedroom apartment, Unit 3 - studio apartment, Unit 4 - one bedroom and study apartment;
- New common lobby entrance and internal stairs for new apartments;
- Refurbishment of interior;
- New outdoor communal space and clothes drying area; and
- Service/plant area.

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 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.6 Accessibility

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 - 4.2.8.3 Landscaping

Manly Development Control Plan - 4.2.8.5 Carparking, Vehicular Access and Loading Controls

Manly Development Control Plan - 4.2.8.9 Signage

Manly Development Control Plan - 4.4.3 Signage

Manly Development Control Plan - 4.4.4.1 Awnings in LEP B1 and B2 Business Zones

SITE DESCRIPTION

Property Description:	Lot B DP 382992 , 199 - 205 Pittwater Road MANLY NSW 2095
Detailed Site Description:	The subject site consists of one (1) corner allotment located on the western side of Pittwater Road and northern side of Golf Parade. The site is irregular in shape with a primary frontage of 19.98m and 8.485m along Pittwater Road and a secondary frontage of 38.175m along Golf Parade. The site has a surveyed area of 684.6m². The site is located within the B1 Neighbourhood Centre zone and R1 General Residential zone from Manly Local Environmental Plan 2013 and accommodates a two storey retail and residential building, and two storey loft apartment building currently on the site. The proposed development is located in the B1 Neighbourhood Centre zone. The site is generally flat with no significant changes in

topography. There is no vegetation currently on the site and there are no details of any threatened species.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by residential flat buildings, dwelling houses, semi-detached dwellings, and commercial premises. The subject site is located in Pittwater Road Conservation Area.

Map:



SITE HISTORY

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

DA0382/1997

Development Application for Refurbishment of Existing Commercial Premises, Reinstatement of the Former Three Dwellings Over and Conversion of the Warehouse into Three Flats.

Approved on 15 June 1999.

DA0382/1997

Section 96(1A) Application for Shops/Flats/Warehouse.

Approved on 19 August 2003.

PLM2021/0239

Pre-Lodgement Meeting - Written Advice Only for Multi Dwelling Housing and Shop Top Housing (Existing Use Rights) for 2A Golf Parade and 199-205 Pittwater Road, Manly.

Meeting notes dated 8 September 2021.

The meeting notes concluded the following: *A review of the proposed development based on the specific issues raised in the pre-lodgement application has been carried out and you are advised that, given the characterisation of multi-dwelling housing by Commissioner Brown in Mount Annan 88 Pty Ltd*

v Camden Council [2016] NSWLEC 1072, it could be considered that the existing 'flats' may be regarded as multi-dwelling housing and therefore may benefit from existing use rights on that portion of land zoned B1 Neighbourhood Centre. The construction of multi-dwelling housing on each of the lots is not objected to subject to the question of existing use rights being fully demonstrated in a development Application.

EXISTING USE RIGHTS HISTORY

The subject site is zoned mostly B1 Neighbourhood Centre under Manly Local Environmental Plan 2013 (MLEP 2013), however a portion of the subject site to the west is zoned R1 General Residential under MLEP 2013 (see Figure 1).

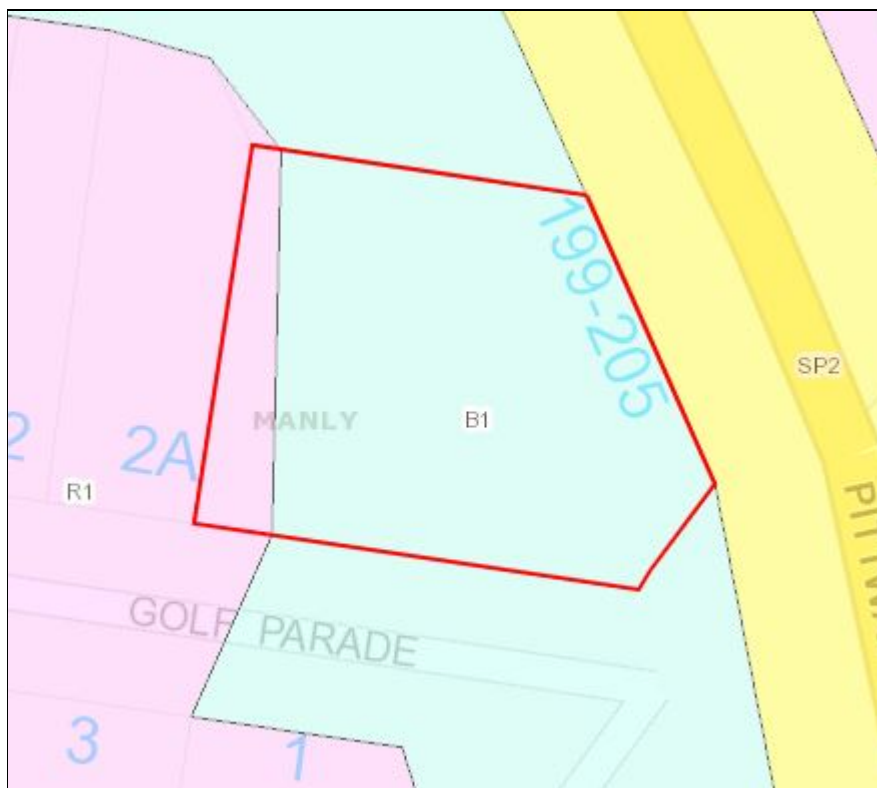


Figure 1. Land Zoning under Manly Local Environmental Plan 2013 of 199-205 Pittwater Road MANLY

The current proposal is for the alterations and additions to shop top housing that is permitted with consent under MLEP 2013 in both the B1 Neighbourhood Centre zone and R1 General Residential zone under MLEP 2013.

However, located within the R1 General Residential portion of the site is an existing building that contains three (3) loft flats. It is important to note, this proposal does not alter the western building that accommodates the existing three (3) loft flats.

A Development Application (DA382/97) was approved on 15 June 1999 for the Refurbishment Of Existing Commercial Premises, Reinstatement of the Former Three Dwellings Over and Conversion of the Warehouse into Three Flats. Therefore, the three (3) loft flats are subject to an existing approval.

Under the MLEP 2013, multi-dwelling housing is defined as three or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building. It is considered that the existing 'flats' may be regarded as multi-dwelling housing and

therefore benefit from existing use rights on that portion of land zoned B1 Neighbourhood Centre.

However, as the existing flats are unaltered under this application, no further assessment is required in this instance. However, if any future development is proposed to the existing flats, existing use rights are required to be demonstrated in a Development Application.

APPLICATION HISTORY

20 May 2022

Following the preliminary assessment of the application, Council requested that the applicant submit further information in relation to the proposed signage including the billboard in accordance with *State Environmental Planning Policy (Industry and Employment) 2021* and Clause 4.4.3 Signage of Manly Development Control Plan 2013. Further information was requested from Council's internal referral bodies including Development Engineering, Heritage, Traffic Engineering, and Urban Design. Subsequently, on 17 June 2022 the applicant provided amended Master Plans, Response to Additional Information Report, amended Heritage Report, Stormwater Report, SEPP 65 Report, and amended Traffic Report. The amended plans and documentation constituted a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP). Notwithstanding the provisions of the CPP, the objectors of the proposal were notified of the amended documentation on 21 June 2022 via written email correspondence.

1 July 2022

In response to the amended documentation provided, further information was requested from Council's internal referral bodies including Development Engineering, Traffic Engineering, and Urban Design. Furthermore, a full set of amended plans was requested as the amended plans provided did not include all plans as detailed in the original Master Set. Subsequently, on 22 July 2022 the applicant provided amended Master Plans, amended Stormwater Plans, Response to Additional Information Report, and an amended Traffic Report. The amended plans and documentation constituted a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP). Notwithstanding the provisions of the CPP, the objectors of the proposal were notified of the amended documentation on 25 July 2022 via written email correspondence.

1 August 2022

The applicant was requested to provide an updated Clause 4.6 Report, noting the proposed FSR was reduced as a result of the amended plans. The amended plans did not alter the environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP).

15 August 2022

In response to the amended documentation provided, further information was requested from Council's internal referral bodies including Urban Design, Engineering, and Heritage. Furthermore, clarification was sought in relation to the amended Master Plans to ensure the billboard notes detailed the existing billboard to be unchanged as part of this proposal. Additionally, on 16 August 2022, internal referral comments from Council's Waste Officer were provided to the applicant. Subsequently, on 29 August 2022 the applicant provided amended Master Plans, Access Report, Accessibility Report, Heritage Report, Traffic Report, and Additional Information Response Report. The amended plans and documentation constituted a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP). Notwithstanding the provisions of the CPP, the objectors of the proposal were notified of the amended documentation on 01 September 2022 via written email correspondence.

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	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)(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)	<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. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <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 Council internal referral comments, clarification regarding proposed signage, and application of various SEPPs. Subsequently, the applicant provided amended documentation to satisfy Council's internal referral bodies. <u>Clause 61</u> of the EP&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. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent

Section 4.15 Matters for Consideration	Comments
	authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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 30/03/2022 to 13/04/2022 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 process council is in receipt of 11 submission/s from:

Name:	Address:
Ms Michelle Ann Egan	8 Golf Parade MANLY NSW 2095
Mr Geoffrey Charles Hughes	6 / 10 Golf Parade MANLY NSW 2095
Mrs Lisa Jane Buncle	226 Pittwater Road MANLY NSW 2095
Ms Sarah Louise Paine	2 Golf Parade MANLY NSW 2095
Mr Peter Clive Barr	41 Alexander Street MANLY NSW 2095
Mr Timothy John Evans	4 Golf Parade MANLY NSW 2095

Name:	Address:
Mr David Geoffrey Parfett	222 Pittwater Road MANLY NSW 2095
Mr John Thomas Hoffman	17 Golf Parade MANLY NSW 2095
Ms Priscilla Anne Longley	20 Golf Parade MANLY NSW 2095
Mrs Margaret Louise Williams	2 / 220 Pittwater Road MANLY NSW 2095
Families For Manly	Address Unknown

The following issues were raised in the submissions:

- **Footpath Pavings / Pedestrian Crossing to Pittwater Road;**
- **Stormwater Pits Upgrade;**
- **Existing Billboard / Illumination of Billboard; and**
- **Parking.**

The above issues are addressed as follows:

- **Footpath Pavings / Pedestrian Crossing to Pittwater Road**

The submissions raised concerns that the footpath pavings and pedestrian crossing to Pittwater Road should be upgraded.

Comment:

The applicant has demonstrated an upgrade to the footpath pavings located along the footpath to the east and west of the site. As discussed in the Internal Referral comments from Council's Road Reserve Officer, a separate application is required for the proposed street works on the footpath. As such, a condition has been recommended for Submission Roads Act Application for Civil Works in the Public Road for the purpose of the footpath along Pittwater Road and Golf Parade. Furthermore, the submission outlined the upgrading of the footpaths to include better street lighting and benches. The request for these items are not related to the proposed development, and as such should be raised to Council separately. Additionally, the request for an upgrade to the Pedestrian Crossing to Pittwater Road is not related to this development application, and again this request should be raised to Council separately.

- **Stormwater Pit Upgrade**

The submissions raised concerns that the adjacent stormwater pits require upgrading.

Comment:

The proposal has been reviewed by Council's Development Engineer and the referral comments have been provided under the Internal Referrals section contained within this report. The concern regarding the upgrading of the adjacent stormwater pits are not related to this development application, and any concerns should be raised to Council separately.

- **Existing Billboard / Illumination of Billboard**

The submissions raised concerns regarding the existing Billboard located along the northern facade of the development.

Comment:

The existing Billboard is not amended as part of this development application, and as such it is understood the Billboard is subject to an existing approval. Upon further investigation it is understood that previous investigation has been undertaken under the reference BLD2020/0037. As part of this investigation from Council's Building Compliance team, an existing approval for the Billboard signage is dated back to 1993. Notwithstanding, a separate Building Investigation has been lodged with Council to further investigate the existing billboard and illumination of the billboard under the reference BLD2022/0033.

- **Parking**

The submissions raised concerns surrounding adequate parking for the proposed development.

Comment:

A detailed assessment has been conducted under Clause 4.2.4 of Manly Development Control Plan 2013 and under the Traffic Engineer referral comments contained under the Internal Referral section contained within this report. In summary, the proposed development provides an improvement to the existing car parking arrangement on site, and the provision of ten (10) car parking spaces is supportable in this circumstance.

Concluding Comments

In summary, the concerns raised have been addressed and do not warrant the refusal of the proposed application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<i>Supported, subject to conditions.</i> <u>Amended Plans:</u> All previous referral conditions dated 25/3/2022 are still applicable to this Amended proposal. The application has been investigated with respects 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 and consideration of the notes below. Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.
Environmental Health (Contaminated Lands)	<i>Supported, subject to conditions.</i> General Comments Proposal includes demolition of some structures on-site, including walls, floor and court yard. Exposure of contaminants is most likely limited to existing construction materials and fill beneath courtyard slab, and is expected to be minimal in amounts, limited to asbestos fragments and minor amounts of lead paint. Thus, we suggest that it is reasonable to instate a hazardous materials survey condition on any determination document, the survey to be conducted prior to

Internal Referral Body	Comments
	construction certificate being issued.
Environmental Health (Industrial)	<i>Supported, no conditions recommended.</i> General Comments Council has reviewed the proposed alterations and additions of the development and conclude that the operations and use of the premises will be 'substantially the same'. Therefore, we have no concerns about detrimental impacts on amenity from such things as light, noise and odour created by use of retail and commercial premises below residential. No objections to the proposal.
NECC (Coast and Catchments)	<i>Supported, no conditions recommended.</i> This application was assessed in consideration of: • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Coastal Management) 2018 (clauses 13, 14 & 15); and • Relevant LEP and DCP clauses. The application meets the requirements of the relevant Environmental Planning Instruments and policies.
NECC (Development Engineering)	<i>Supported, subject to conditions.</i> <u>3rd Development Engineering Referral Response (08/09/2022)</u> The stormwater issue raised in last response has been resolved in this submission. Development Engineering has no objection to the application subject to the following conditions of consent. <u>2nd Development Engineering Referral Response (24/06/2022)</u> The applicant's consultant submitted a letter in regarding the need of the On site stormwater detention system (OSD). Development Engineering can accept this development without OSD. However, the applicant still require to provide a stormwater design plan to indicate and manage the proposed discharge to Council's kerb. Also, the maximum allowable discharge rate into the street kerb is 25l/s in all stormwater events in accordance with Council's Water Management For Development Policy. As a corner block, the subjected site can discharge into Pittwater Road and Gold Parade separately. The applicant must submit a stormwater management plan to demonstrate their stormwater design can comply with the maximum discharge rate into the street kerb. In this regard, Development Engineering cannot support the application due to clause 3.7 of Council's Manly DCP 2013. <u>Development Engineering Referral Response (4/5/2022)</u> The application proposed to modify the existing building. The impervious areas of this development is over 60% of the total site

Internal Referral Body	Comments					
	area. An on site stormwater detention system is required in accordance with Council's Water Management For Development Policy. The design requirements of the detention system can be found in the above policy. Development Engineering cannot support the application due to clause 3.7 of Council's Manly DCP 2013.					
Road Reserve	<i>Supported, no conditions recommended.</i> The proposed development has limited impact on existing road infrastructure assets. Development Engineering team to include conditions to require Civil Works Application for proposed streetscape works on the footpath.					
Strategic and Place Planning (Heritage Officer)	<i>Supported, subject to conditions.</i> <table><tr><th>HERITAGE COMMENTS</th></tr><tr><td>Discussion of reason for referral</td></tr><tr><td> The proposal has been referred to Heritage as the subject property is located in C1 - Pittwater Road Conservation Area and within the vicinity of two heritage items, listed in Schedule 5 of Manly Local Environmental Plan 2013: Item I 210 - Commercial building - 210–214 Pittwater Road Item I211 - Group of commercial buildings - 216–218 Pittwater Road </td></tr><tr><td>Details of heritage items affected</td></tr><tr><td> Details of the heritage items and the conservation area, as contained within the Manly Heritage Inventory are: 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. <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 seperately. 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, </td></tr></table>	HERITAGE COMMENTS	Discussion of reason for referral	The proposal has been referred to Heritage as the subject property is located in C1 - Pittwater Road Conservation Area and within the vicinity of two heritage items, listed in Schedule 5 of Manly Local Environmental Plan 2013: Item I 210 - Commercial building - 210–214 Pittwater Road Item I211 - Group of commercial buildings - 216–218 Pittwater Road	Details of heritage items affected	Details of the heritage items and the conservation area, as contained within the Manly Heritage Inventory are: 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. <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 seperately. 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,
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Internal Referral Body	Comments		
	vertical and vegetated backdrop.		
	Item I 210 - 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 withing 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 roof now only extant at southern end. Southern section has central chimney.		
	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		
<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.			
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	N/A		
Consideration of Application			
Original heritage comments - 13 April 2022			
The proposal seeks consent for alterations and additions to an existing two storey, corner shop top housing building, located in			

Internal Referral Body	Comments
	Pittwater Road Conservation Area. The Heritage Design Statement, submitted with this application acknowledges the heritage value of the existing building and states that " <i>The street façade has a decorative parapet and some remains of the original signage to what was known as Nixons Corner, dated 1914. The building is chamfered to the corner of Golf Parade and Pittwater Road. The original first floor openings had vertical proportions and opened to a wrap-around timber veranda that projected out to the edge of the sidewalk below</i>". It is also stated in the report, that " <i>The proposal will restore and upgrade of the external façade; refurbish the ground level retail with the provision of a new courtyard to the rear allowing for better amenity and solar access; and provide 4 small apartments to the first level</i>", including the restoration of the original parapet, reinstating the original signage, new openings with vertical proportions with juliette balconies, arched windows, new metal awnings. However, restoration is defined in the Burra Charter as " <i>returning a place to a known earlier state by removing accretions or by reassembling existing elements without the introduction of new material</i>" and the only restoration work proposed is the original parapet, as such the proposal is not considered to be restoring or reconstructing the original building. However, this would be a great opportunity to reconstruct this corner building to its original external appearance (Refer to Heritage Design Statement by CHROFI Page 2 - Image 2) by reinstating the original two storey wrap around verandah that would make the building a good focal point in the locality and within the conservation area. It is believed that this will also allow the building to be more attractive and better presented to the community and the streetscape by providing both a good heritage and commercial outcome. Although, it was built in 1914, the design of the two storey wrap around verandah is similar to the heritage listed building (c1890), across the road at 210-214 Pittwater Road, with the verandah posts on the footpath. These two buildings with similar external appearance would contribute the local character and create a small village centre, a focal point in Pittwater Road Conservation Area. Therefore, Heritage recommends to consider reinstating the original wrap around verandah. Amended Heritage Comments - 23 June 2022 Amended documents received on 21 June 2022 have been reviewed. The heritage response provided by Ruth Daniell has concluded that " <i>For the reasons set out in this submission, including the degree of previous alterations to the building, the assessed significance, its lack of contribution to the Conservation Area and the lack of solid evidence for reconstruction I support an adaptation that retains the building form, restores the parapet, that employs</i>

Internal Referral Body	Comments
	<i>good contemporary design is the preferable over a historicist conjectural reproduction of the original commercial building designed in 1914". It is agreed that there is lack of solid evidence for the reconstruction of the wrap-around verandah, however it is not agreed on the comment "its lack of contribution to the Conservation Area" and the lack of evidence on the original fenestration of the building as a careful analysis on the original external fabric would reveal the original fenestration of the first floor level. The existing building retains the original bulk and scale, including some original details in its original context, therefore it does contribute to the conservation area and this contribution could be enhanced after careful analysis of surrounding buildings that respects and supports the significance of the conservation area. The proposed individual awnings design is considered to be inconsistent with the character of the existing streetscape and the heritage conservation area. Therefore, considerations must be given to the replacement of these individual awnings with a continuous awning, to respect the character of the area and better relate to the existing heritage context and not overpower it.</i> Heritage also raised concerns about the billboard signage on the northern facade of the building. A reduction on the size of this signage has been proposed, but it is considered that removing this signage would be a better response to the conservation area or reduce the size significantly and remove the illumination as it is highly visible from Pittwater Road. Therefore, no objections are raised on heritage grounds subject to two conditions. Further Amended Heritage Comments - 1 September 2022 Revised documents were received on 30 August 2022, including a supplementary heritage report addressing heritage concerns raised by Council (by Ruth Daniell, dated 29 August 2022). This document has been reviewed, along with the amended plans. The outstanding heritage concern with this application is the design of the awnings on the facade facing Pittwater Road (cnr Golf Parade). The amended plans do not make any changes to the individual metal awnings proposed on this primary facade and the revised heritage report still supports these individual awnings on heritage grounds. This is not agreed with. As per our previous heritage comment, the proposed individual awnings design is considered to be inconsistent with the character of the existing streetscape and the Pittwater Road Heritage Conservation Area. The individual awnings approach will not contribute to the significance of the place nor improve the contribution of this building to the conservation area. Most commercial buildings along the Pittwater Road Conservation Area corridor have continuous awnings of various types, framing the lower retail level. Traditionally, a building of this type would have

Internal Referral Body	Comments
	had some form of continuous awning, and while the original wrap-around verandah is not relevant any more due to changes to the 1st floor fenestration, a continuous awning is needed to ensure that this building once again creates a positive contribution to the conservation area. Practice note - Burra Charter Article 22 requires: <i>“New work should respect the context, strength, scale and character of the original and should not overpower it. The key to success is carefully considered design that respects and supports the significance of a place. Well-designed new work can have a positive role in the interpretation of a place.”</i> It is considered that the interpretation of the original wrap-around verandah on this building, would be a continuous awning, rather than the proposed individual awnings. Therefore, a condition is proposed to require the individual awnings to be replaced with a continuous awning of a design which would be compatible with the Pittwater Road Conservation Area. The other issue of concern previously was the new, illuminated billboard sign, This component has now been removed from the DA, therefore no heritage objections are raised as long as the current billboard sign is legal and has a valid approval. In conclusion, no objections are raised on heritage grounds, subject to the imposition of a condition requiring the awning to be continuous. <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 Further Comments
Strategic and Place Planning (Urban Design)	<i>Supported, no conditions recommended.</i> <u>Further Revised Comments</u> This advice is provided as an internal referral from the Urban Design unit to the development assessment officer for consideration and coordination with the overall assessment. Urban Design raises no objection to the proposed application. <u>Revised Comments</u> This advice is provided as an internal referral from the Urban Design unit to the development assessment officer for consideration and coordination with the overall assessment. Urban Design may be able to support the modification proposal if the following issues are addressed:

Internal Referral Body	Comments
	• Additional information has now been provided to clarify the applicability of SEPP 65 and the Apartment Design Guide. The application should be assessed on this basis. • The proposal fronts Pittwater Road which appears to be classified as a 20,000 AADT+ busy road. Additional acoustic information should be provided to ensure that the requirements of SEPP Transport and Infrastructure with regard to impact of road noise on residential accommodation can be satisfied. • The proposal contains four substantially reconfigured dwellings, in addition to three existing dwellings, but does not appear to provide dwellings with access in accordance with AS4299 adaptable housing to meet the requirements of the DCP. Further design consideration should be given to the inclusion of a lift. • Further design consideration should be given to the planning and screening of the proposed outdoor clothes drying area and services plant area to ensure that it is not visible from the public domain. <u>Original Comments</u> This advice is provided as an internal referral from the Urban Design unit to the development assessment officer for consideration and coordination with the overall assessment. Urban Design cannot support the proposal because of the following issues: • The Statement of Environmental Effects (SEE) notes that the existing structures are 'part three-storey.' As the proposal also includes at least 4 or more dwellings, SEPP 65 and the Apartment Design Guide may apply. Additional information should be provided to clarify and address this applicability of SEPP 65 in the SEE. • The proposal fronts Pittwater Road which appears to be classified as a 20,000 AADT+ busy road. Additional information should be provided illustrating how the proposal has been designed in response to the context of a busy road incorporating all pertinent design guidelines. Additional information should be provided regarding to appropriate design, space-planning and other measures to ensure acoustic control levels are not exceeded and the required amenity is provided. • The proposal contains four substantially reconfigured dwellings, in addition to three existing dwellings, but does not appear to provide dwellings with access in accordance with AS4299 adaptable housing. This is not considered to provide an improved level of access for people with disabilities or promote 'ageing in place'. Consideration should be given to the inclusion of a lift. • The proposal contains four substantially reconfigured

Internal Referral Body	Comments
	dwellings, two without individual private open spaces (Unit 2 and 3) and one with a small private open space (Unit 4). This is not considered to enhance the amenity of the dwellings. • It is noted that the proposal provides a relatively small communal open space for the use of the seven dwellings at the first floor. This is not considered to enhance the amenity of the dwellings. This aspect should be referred to Council's landscape section for comment. • The proposal includes a 1-bedroom unit (Unit 2) that is less than 50m² and includes a bathroom only accessible through the bedroom. This is not considered to provide an acceptable level of internal amenity. • The proposed footpath awnings are not continuous. This is not considered to be generally consistent with the streetscape. • There is an opportunity to use the roof plane to achieve increased solar access to south-tending units. • The location of any proposed air conditioning units and outdoor clothes drying areas should be located on the plans. • The proposal includes six retail tenancies. The plans should illustrate the likely location of any associated proposed services, exhaust vents and mechanical plant and address any impacts on residential uses, neighbours and the streetscape.
Traffic Engineer	<i>Supported, subject to conditions.</i> <u>Further comments on amended plans - 01/09/2022</u> To address concerns relating to the location of the waste storage areas, the applicant has provided further amended plans for the parking area which delete the single parking space located nearest to Golf parade and relocate it into a third car stacker unit. The style of car stacker proposed allows for independent access to each stacked space pair and the change is not therefore opposed. The applicant has also provided documentation from their traffic consultant dated 29/8/2022 that confirms that there is sufficient space within the parking area to allow for vehicles to enter and exit the new stacker unit in a forwards direction. The amended plans are therefore supported on traffic grounds. <u>Revised comments on amended plans - 26/07/2022</u> The Revised plans have relocated the proposed Loading Bay back into the carpark, which will accommodate a total number of 10 spaces. The parking required under the DCP for the existing development on the site is: 7 x units @ 1.0 space per dwelling = 7 spaces 7 x 0.16 visitor spaces per dwelling = 1.12 spaces (rounded up to 2)

Internal Referral Body	Comments
	296 sqm x 1 space per 40 sqm = 7.4 spaces (rounded up to 8) Total parking required = 17 spaces It is noted that the amended plans propose 10 parking spaces to be provided in the carpark include 2 pairs of tandem spaces and 2 pairs of spaces in mechanical car stackers. Given the constrained nature of the site this is an improvement on the existing situation and, in this case acceptable. The style of car stacker that is proposed to be used allows for independent access to each space and spaces within the mechanical car stackers could therefore be allocated to different units. Tandem spaces must be allocated to the same unit households and it is therefore possible that for all seven units to be allocated offstreet parking. The remaining offstreet parking space would be allocated as a retail staff space with retail customer parking accommodated on-street within the existing 2P Parking zones on Golf Parade or in the 1/2P zones on Pittwater Road. Considering the proposed location of loading bay, which will block access to and from parking spaces it is considered inappropriate to allocate offstreet parking for high turnover customer parking. Residential spaces turnover less frequently and accordingly all but one of the offstreet parking spaces should be allocated for residential use only. This will minimise conflict between parking space turnover and trucks performing delivery duties. All customers and shop employees not allocated parking will need to use public transport or find time restricted parking . Swept path plots in the latest version of Traffic Report have been reviewed, the swept path plots demonstrate that a Medium Rigid vehicle under 8.8 metres can enter and exit the site adequately. The proposal is therefore supported. <u>Revised comments on amended plans - 24/06/2022</u> The revised plans have removed the proposed Loading Bay from inside the carpark and propose to site it on street. A revised offstreet carparking arrangement which caters for 7 offstreet parking spaces has been submitted with an additional tandem parking space. A turning bay has also been added to allow for vehicles to turn around on site and enable forwards entry and egress to/from the site. The amended plans have also slightly reduced the retail area from the original proposal down to 296m². <u>Parking</u> The above changes have not impacted the total parking requirement which remains at 17 spaces as detailed below: 7 x units at 1.0 space per dwelling = 7 spaces 7 x 0.16 visitor spaces per dwelling = 1.12 spaces (round up to 2)

Internal Referral Body	Comments
	296 sqm x retail @ 1 space per 40m² = 7.4 spaces (round up to 8) This represents a deficiency of 10 offstreet parking spaces, an improvement in the magnitude of the parking deficiency of 1 space. The amended plans have 2 pairs of tandem spaces. As there are 7 units and 6 proposed retail tenancies and as each pair of tandem spaces will need to be allocated to the same unit or retail tenancy, the offstreet parking provision will only provide access to parking for 5 of the tenancies/units i.e 8 of the units/tenancies will have no access to any offstreet parking. The carparking arrangements are still considered to be inadequate and must cater more adequately for DCP requirements Council had suggested that mechanical stackers could be considered to increase the offstreet parking supply. Pit style stackers could potentially increase the number of offstreet spaces will also allowing both spaces in the stacked pair to be accessible at all times. <u>On site manoeuvring</u> Although an on-site turning bay has been provided swept paths plots to demonstrate that it can be used effectively to turn around have not been provided. These are required to demonstrate that the B85 vehicle can enter and exit the carpark in a forward direction utilising this bay, particularly from spaces P1-P4 . <u>Loading bay</u> The offstreet loading bay in the last version of plan was removed and it has been suggested that a kerbside Loading Zone should instead be considered. This alternative is not favoured as it removes on-street parking in a location which suffers from high parking demand. The Manly DCP states in clause 4.2.4.3 d) that "Off street Loading facilities are to be provided to service the entire development in the LEP Business Zones considering the uses proposed on the site ... where the use requires regular servicing by commercial vehicles". As there are to be size retail tenancies on the site the site will require regular servicing by commercial vehicles and an offstreet loading bay should be provided. For the above reasons the proposed kerbside Loading Zone is unsupported. <u>Parking survey</u> teh on-street parking survey provided by the applicants traffic consultant is noted with the traffic consultant suggesting that the on Thursday, 16 December 2021, up to 37 (34% of total) parking spaces were available for parking. This does not equate with Council's own observations of parking demand in the vicinity of the development however the undersupply of parking to service the development will result in an increased demand for on-street parking in the surrounding

Internal Referral Body	Comments
	streets. Parking which meets DCP requirements should be provided on site. The additional material and amended plans have not addressed the traffic concerns relating to this development and the revised proposal remains unsupported. <u>Original comments - 29/03/22</u> The existing development at 199-205 Pittwater Road is within a B1 zone and incorporates 9 residential units and 299m² of retail/commercial development. The proposal is for alterations and additions to convert the existing mixed use development into 7 residential units on the first floor with 7 retail units with a total GFA of 313m² on the ground floor. It is proposed to have 6 parking spaces serving this development and a loading bay capable of accommodating a medium rigid vehicle. <u>Parking</u> The parking required under the DCP for the existing development on the site is: 9 x units @ 1.0 space per dwelling = 9 spaces 9 x 0.16 visitor spaces per dwelling = 1.44 spaces (rounded up to 2) 299 sqm x 1 space per 40 sqm = 7.45 spaces (rounded up to 8) total parking required = 19 spaces The parking required under the DCP for the proposed development are as follows: 7 X 1 bedroom units/studios @ 1.0 space per dwelling = 7 spaces 7 X 0.16 visitor space per dwelling = 1.12 spaces (rounded to 2) 313 sqm X 1 space per 40 sqm = 7.83 spaces (rounded to 8) The total number of the spaces required for the proposed development is 17. This is two less than the requirement for the existing development on site. The redeveloped site proposes to provide only 6 parking spaces. This represents a shortfall of 11 spaces The applicant's traffic consultant has justified the parking shortfall on the basis that the redeveloped site has a lower parking requirement (by two spaces) than the existing development on the site. The Traffic consultant also asserts that there is adequate spare capacity on street to accommodate the shortfall. To support the above the traffic consultant references parking surveys undertaken on a single day over a range of streets within approx. 130m of the site. The traffic consultant advises that there are some 108 parking spaces available for parking in the surveyed street sections. Council's estimate of the legal parking spaces in these street sections is only 85 available spaces. The surveys suggest that over 80 spaces were occupied in this area at most of the surveyed times suggesting little if any

Internal Referral Body	Comments
	available on-street parking. The actual raw data has not been provided to confirm the above. It is noted that two of the proposed parking spaces are in a tandem arrangement this would mean that the buried space would be inaccessible if the front space were occupied. In order to ensure that access to parking is not prevented the two spaces in the tandem arrangement would need to be allocated to the same unit or tenancy. It is considered that there is potential to provide additional parking on the site by incorporating mechanical car stackers over some of the spaces eg spaces P5 & P6. This would reduce the shortfall in parking and minimise the parking impact of the development on surrounding on-street parking. It is also noted that the parking area has not been dimensioned and swept path plots have not been provided to demonstrate that access to and from parking spaces is possible. The compliance of the proposed parking spaces was not therefore able to be checked. This material should be provided. <u>Property Access</u> Access to the property is constrained. Access can only be obtained from Golf Parade as there is a One Way traffic flow restriction on Collingwood Street. Golf Parade can only be accessed via a left turn from Balgowlah Road as there is a median on Balgowlah Road preventing right turn ingress and Golf Parade is closed at Pittwater Road. Egress from the site is only available by turning left from Golf Parade onto Balgowlah Road or by proceeding south on Collingwood Street (in alignment with the One Way traffic flow) to reach Pittwater Road via Rolfe Street. The development is not however expected to generate a significantly different volume of traffic to the existing development on the site and concerns are not raised in terms of the traffic generation from the site. <u>Loading</u> The proposed loading bay is sited where it will block access to and from all parking spaces on the site when it is in use. This is inappropriate and likely to result in conflict between residents/tenants and delivery drivers. Access from the loading bay to the retail units is also poor with access from the loading bay impeded by parked vehicles in bays P3 and P4. Deliveries are unable to be completed other than from the footpath. Given the above it is likely that deliveries will tend to be undertaken by trucks double parking on-street or across drivers neither option is acceptable. Delivery trucks will also need to egress the site via Collingwood Street and turn left into Rolfe St to reach Pittwater Road. Given the narrow

Internal Referral Body	Comments
	width of Rolfe St it is unclear if this turn can be achieved by a medium Rigid Vehicle. A swept path shall be provided to demonstrate that this turn is achievable for a MRV noting existing parking arrangements. <u>Summary</u> In summary, further information is required in order to determine if this proposal can be supported: • raw parking data to confirm adequacy of parking survey undertaken in support of the application. • All related dimensions for parking spaces and parking aisles with swept path access to and from spaces • Additional stacked parking spaces. • Additional details to address the poor siting of the loading bay and poor access from it to the retail units. • A swept path for a MRV exiting the site via Collingwood Street and performing a left turn onto Rolfe Street.
Waste Officer	<i>Supported, subject to conditions.</i> <u>Waste Services Assessment - Amended Plans (submitted 30/8/2022)</u> Recommendation - Acceptable, subject to conditions. Ray Creer Waste Services Officer <u>Waste Services Assessment - Amended Plans (submitted 25/7/2022)</u> Recommendation - Unacceptable Specifically. The residential binroom is too far from the property boundary with the street. Maximum allowable distance is 6.5 metres Access to the residential binroom is via the vehicular driveway (unacceptable) OR via a pathway that is too long and with narrow pinchpoints (unacceptable). The original plans proposed a residential binroom that was in an acceptable location. Council does not permit residential multiple occupancy developments to place bins on the kerbside awaiting collection. All bins must be serviced via a "wheel out/wheel in" service from the binroom provided by Council's waste collection staff. Ray Creer Waste Services Officer Waste Services Referral Recommendation – Approval

Internal Referral Body	Comments
	Please ensure both the Residential Waste and Commercial Waste storage rooms are graded and drained to a Sydney Water approved drainage system.

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.

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 65 - Design Quality of Residential Apartment Development

In accordance with the *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*, the application of the policy is outlined under Clause 4 Application of Policy:

- (1) *This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if—*
 - (a) *the development consists of any of the following—*
 - (i) *the erection of a new building,*
 - (ii) *the substantial redevelopment or the substantial refurbishment of an existing building,*
 - (iii) *the conversion of an existing building, and*
 - (b) *the building concerned is at least 3 or more storeys (not including levels below ground level)*
 - (c) *the building concerned contains at least 4 or more dwellings.*
- (2) *If particular development comprises development to which subclause (1) applies and other development, this Policy applies to the part of the development that is development to which subclause (1) applies and does not apply to the other part.*
- (3) *To remove doubt, this Policy does not apply to a building that is a class 1a or 1b building within the meaning of the Building Code of Australia.*
- (4) *Unless a local environmental plan states otherwise, this Policy does not apply to a boarding house, co-living housing or a serviced apartment to which that plan applies.*

Comment

The proposal relates to the alterations and additions to an existing shop top housing development that is 2 storeys. Therefore, in this instance the application of the *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* is not applicable.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1272545M dated 4 February 2022).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	45

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Transport and Infrastructure) 2021

Division 5 - Electricity transmission or distributions

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.

Division 17 - Roads and Traffic

Section 2.119 - Development with frontage to classified road states:

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

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

- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
- (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment:

The proposal retains vehicular access via Golf Parade as per the existing arrangement on site. The proposal is for the alterations and additions of shop top housing and as such the development type is unchanged.

Section 2.120 - 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 proposed development is for alterations and additions to shop top housing, and as such is a type of residential accommodation as defined under Manly Local Environmental Plan 2013. A suitable condition has been recommended for the requirement of an Acoustic Report to ensure the noise levels do not exceed 35 dB(A) in the bedrooms at any time between 10 pm and 7 am, and the noise levels do not exceed 40 dB(A) at any time in the remainder of the residential accommodation (other than a garage, kitchen, bathroom or hallway).

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
1. Character of the area Is the proposal compatible with the existing or	The proposal is compatible with the existing and future character of the	YES

desired future character of the area or locality in which it is proposed to be located?	area.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There is no particular theme for outdoor advertising in this locality, as such this provision is not applicable.	N/A
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal does not unduly detract from the amenity or visual quality of the Pittwater Road Conservation Area.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The proposed signage will not obscure or compromise any important views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage will not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	As the proposed signage is affixed to subject site, the signage will not impact upon the viewing rights of other advertisers.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is appropriate for the streetscape and setting.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will positively contribute to the visual impact of the streetscape.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage will not result in any significant visual clutter. The proposal includes the reinstatement of existing signage, and new signage that is considered to be simple and visually appropriate.	YES
Does the proposal screen unsightliness?	The proposal is not considered to be unsightly, as such the proposal does not screen any unsightliness.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage is affixed to the existing development, and as such will not protrude above buildings, structures, or tree canopies.	YES
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 proposed signage is compatible with the scale and proportion of the building facades to which the proposed signage is to be affixed.	YES
Does the proposal respect important features of the site or building, or both?	The proposed signage respects the features of the site and building. The reinstatement of the existing building identification signage respects the	YES

	historical features of the site.	
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is appropriate to the site and building.	YES
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?	There are no safety devices, platforms, lighting devices or logos proposed. Therefore, this provision is not applicable.	N/A
7. Illumination 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?	The proposed signage is not illuminated. As such a suitable condition is recommend to ensure no signage is illuminated.	N/A
Can the intensity of the illumination be adjusted, if necessary?	The proposed signage is not illuminated.	N/A
Is the illumination subject to a curfew?	The proposed signage is not illuminated.	N/A
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage will not result in reduced safety for public roads, pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage will not reduce the safety for pedestrians or obscure sightlines from public areas.	YES

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,

- d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

The it is located within land identified as "Coastal Environment Area". As such, the proposal is not likely to cause an adverse impact on items listed under Clause 2.10(1)(a-g) inclusive.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposal has been designed, sited, and managed to avoid an adverse impact to Clause 2.10(1)(a-g) inclusive.

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 proposal is not likely to cause increased risk of coastal hazards on the land or other land due to the significant set back from the coastal zone.

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 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential and commercial land use.

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Unaltered	-	N/A
Floor Space Ratio	FSR: 1:1 (684.6m ²)	FSR: 1.02:1 (696.19m ²)	1.69% (11.59m ²)	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	N/A
4.4 Floor space ratio	No
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	1:1 (684.6m ²)
Proposed:	1.02:1 (696.19m ²)
Percentage variation to requirement:	1.69%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.4 - Floor space ratio development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

"1. The proposal appropriately addresses and achieves the LEP Objectives for FSR in relation to the site and the locality in rationalising existing floor areas, stairs, retail/commercial uses, and upgrade of residential shop top apartments; and especially addresses the visual appearance in the public domain. The proposal achieves the objectives of the Pittwater Road Conservation Area.

2. We support the architect's comments in their Heritage Design Statement and also the assessment and conclusion stated in Heritage consultant Ruth Daniel later report submitted to Council. The proposed works for 199-205 Pittwater Road will have a positive contribution to the streetscape of Pittwater Road.

3. The very small breach of the MLEP FSR is reasonable, appropriate, and justified in achieving the planning objectives. Strict compliance is unnecessary in the circumstances of the case as:

- *The proposal is consistent with the objectives of the Floor Space Ratio standard and the zoning of the land when assessed against each individually, and as a whole.*
- *The proposal is in the public interest for the reason that it achieves the relevant planning objectives, proposes a reuse of existing internal space, and has no negative environmental impacts.*
- *The clause 4.6 application adequately address cl. 4.6(3) and the consent authority should be satisfied that the matters have in fact been demonstrated.*

4. The consent authority should have no difficulty in being satisfied that this Clause 4.6 application demonstrates compliance with the MLEP Floor Space Ratio development standard is unreasonable and unnecessary in this circumstance, that the relevant planning objectives have been addressed and outcomes achieved, that there are sufficient environmental planning grounds to justify contravening the standard, and that the development is in the public interest."

It is agreed that the proposed variation to Clause 4.4 Floor space ratio of Manly Local Environmental Plan 2013 is a minor breach. The Clause 4.6 written request has addressed the zone objectives and objectives of the development standard. It is agreed that compliance with Clause 4.4 Floor Space Ratio of Manly Local Environmental Plan 2013 is unreasonable and unnecessary in this circumstance and the applicant has demonstrated sufficient environmental planning grounds to justify the contravention of the standard.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Floor Space Ratio development standard and the objectives of the B1 Neighbourhood Centre. An assessment against these objectives is provided below.

Objectives of development standard

Zone objectives

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The additional gross floor area is located internally on the ground floor and as such, is not visible from the existing streetscape.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

The proposal does not alter the existing maximum height of building and as a result the proposal will not obscure any important landscape and/or townscape features.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The proposal will enhance the existing character of the area, and provide an appropriate visual relationship between the new development and the existing character and landscape of the area.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

The proposal will not result in unreasonable environmental impacts to the use or enjoyment of adjoining land the public domain.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

The proposal includes six (6) retail premises to provide for the development, expansion, and diversity of business activities within the Manly locality.

Zone objectives

The underlying objectives of the B1 Neighbourhood Centre zone:

- ***To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.***

Comment:

The proposal provides six (6) retail premises to serve the needs of the community, and four (4) residential units to accommodate local residents.

- ***To ensure that neighbourhood centres provide a village-like atmosphere and safety and comfort for pedestrians.***

Comment:

The proposal will ensure the Manly Neighbourhood Centre retains a village-like atmosphere that promotes safety and comfort for pedestrians.

- ***To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.***

Comment:

The land uses are retained as a result of the proposal, and as such the amenity of nearby residential land uses will be maintained.

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the B1 Neighbourhood Centre zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Floor space ratio Development Standard is assumed by the Local Planning Panel.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 684.6m²	Requirement	Proposed	% Variation*	Complies
4.2.8.1 Height	8.5m	unaltered	-	N/A
4.2.8.2 Setbacks	Primary Frontage (East): Established Building Line Secondary Frontage (South): Established Building Line Side Setback (North): Nil Side Setback (West): 1/3 wall height	Primary Frontage: Nil Secondary Frontage: Nil Side Setback (North): unaltered Side Setback (West): unaltered	- - - -	N/A Yes N/A N/A
4.2.8.3 Landscaping	Private Open Space: 20m ² per dwelling (80m ²)	Communal Private Open Space: 14.11m ² Unit 1: 7.21m ² Unit 4: 14.26m ² Total: 35.58m ²	55.53% (44.42m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
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Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 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
3.5 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
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	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
4.2.8 Neighbourhood Centres (LEP Zone B1)	Yes	Yes
4.2.8.1 Height	Yes	Yes
4.2.8.2 Setbacks	Yes	Yes
4.2.8.3 Landscaping	No	Yes
4.2.8.5 Carparking, Vehicular Access and Loading Controls	Yes	Yes
4.2.8.6 Hours of Operation	Yes	Yes
4.2.8.8 Waste Management	Yes	Yes
4.2.8.9 Signage	Yes	Yes
4.2.8.10 Local Character provisions	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.3 Signage	Yes	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	No	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes

Detailed Assessment

3.6 Accessibility

Under Clause 3.6 of Manly Development Control Plan 2013 (MDCP 2013), these clauses aim to provide equitable, dignified and non-discriminatory access for all people who use the Manly community, regardless of abilities. Manly Council believe that all members of our community have a right to full access and participation in all aspects of community life.

Under Clause 3.6.1, all DAs are to have regard to state and federal accessibility requirements, particularly residential development with more than 4 dwellings and non- residential development.

The proposal includes the reconfiguration of the first floor to include 4 residential units.

The proposal is accompanied by an Access Report prepared by Credwell Consulting dated 24 August 2022. As detailed in the report the Access Consultant has outlined the following:

In summary, the Premises Standards are applicable to a new building, a new part of a building, and an affected part of a building, (as is the case in this instances) and the construction standards applicable are contained within "Schedule 1 Access Code for Buildings".

It is noted the proposed works within Units 1, 2, 3, and 4 are not currently considered to trigger the "affected part" provisions of Premises Standard, being internal works only to an SOU [Sole-occupancy unit] within an existing Class 2.

As such the proposed works within Level 1 of the building, being the residential level is not considered to trigger the requirement to provide any upgrade to the Class 2 part with regard to the Premises Standards.

Therefore, in this instance the proposal has been assessed against Clause 3.6.1.1 of MDCP 2013 and as such demonstrates appropriate application of the Premises Standards. Council's Building Assessment Officer has provided referral comments under Internal Referrals within this report and imposed suitable conditions to ensure compliance with Clause 3.6.1.2 The Building Code of Australia and Australian Standards.

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

Description of non-compliance

The proposal provides 10 parking spaces that including 2 tandem spaces, and 3 parking stackers. The proposal provides a loading bay within the parking area.

Under Schedule 3 of Manly Development Control Plan 2013, the requirements for Shop Top Housing and Retail Premises are as follows:

Shop Top Housing

In other LEP Business Zoned land (i.e. other than Manly Town Centre)

- *1 resident parking space for each dwelling (irrespective of number of bedrooms),*
- *0.16 visitor parking space for each dwelling.*

Retail Premises

- *1 parking space for every 40sqm of gross floor area*

The proposal includes 4 residential units in the Shop Top Housing Development, and 3 existing Loft Apartments in the rear building. The retail premises amount to a total gross floor area of 296sqm. Therefore the requirements for car parking are as follows:

- 7 resident parking spaces, and
- $7 \times 0.16 = 1.12$ (rounded to 2) visitor parking spaces
- $296 \text{sqm} / 40 \text{sqm} = 7.4$ (rounded to 8) retail parking spaces

Therefore a total of 17 parking spaces are required. The proposal therefore presents a shortfall of 7 parking spaces.

A detailed assessment has been undertaken by Council's Traffic Engineer under Internal Referrals contained within this report. In summary, the variation to the car parking is supportable by Council's Traffic Engineer subject to recommended conditions.

Notwithstanding, an assessment against the objectives of the control has been undertaken, and it is considered the proposal meets the objectives in this regard.

Merit consideration

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

Objective 1) To ensure there is adequate provisions for car parking access and loading in future development and redevelopment in all business zones.

Comment

Despite the numerical shortfall of parking, it is considered the proposal provides an improvement to 10 parking spaces from the existing car parking arrangement on site that provides 6 parking spaces. Furthermore, the proposal reduces the number of residential units in the shop top housing from 6 units to 4 units. Therefore, the improvement in car parking spaces is considered acceptable, as parking spaces are provided for each residential unit, with one parking space provided for the retail premises. It is important to note, during the assessment period, the applicant has increased the proposed car parking from 6 parking spaces to 10 parking spaces through the use of mechanical parking sackers to generate 4 additional parking spaces. Therefore, it is considered that adequate provisions have been provided for car parking and loading. Furthermore, the subject site is located on Pittwater Road that is in proximity to public transport services.

Objective 2) To minimise conflicts between pedestrian and vehicular movement systems within the business areas.

Comment

The existing vehicular access to the subject site is retained from Golf Parade, and as such conflict between pedestrian and vehicular movement systems is unlikely to be altered as a result of the proposal. Notwithstanding, Traffic Engineer have recommended suitable conditions including Fencing Height / Vegetation conditions to ensure pedestrian and/or driver visibility is not impeded.

Conclusion

Based on the above assessment, and the assessment undertaken by Council's Traffic Engineer it is considered that the proposal satisfies the applicable objectives of this control and the car parking and loading bay provisions are supportable.

4.2.8.3 Landscaping

Description of non-compliance

The Manly DCP 2013 requires, a minimum area of Private Open Space is 20m² for each dwelling within a shop top housing development with a minimum dimension of 3m and designed to receive a minimum of 3 hours direct sunlight between 9am and 3pm in midwinter.

The proposal includes a communal Private Open Space area of 14.11m², and Unit 1 proposes a Terrace with an area of 14.26m², and Unit 4 proposes a Balcony with an area of 7.21m².

Therefore, in this instance a variation to the requirements is proposed. The proposal has been assessed against the objectives of the parent Clause 4.2.8, and as such is supportable in this specific circumstance.

Merit consideration

The Manly DCP 2013 does not include objectives for this clause. As such an assessment of the objectives of the parent clause 4.2.8 Neighbourhood Centres has been undertaken out below:

Objective 1) To accommodate a range of small scale development permitted by the LEP within established residential neighbourhoods where such development is compatible with the amenity of the surrounding area.

Comment:

The proposal is the alterations and additions of a shop top housing development, and as such is considered to be compatible with the amenity of the surrounding area. The proposal includes a communal private open space that was not providing in the existing shop top housing development, and as such provides an improvement to the amenity for future residents. It is considered the private open space is of an adequate size and dimension to service the proposed units.

Objective 2) To provide side and rear setbacks which ensure the building height and distance of the building from its boundaries at various storeys, maintain the amenity of neighbouring residential sites and contributes to the amenity of the building and surrounds through landscape design.

Comment:

The proposal does not alter the existing side setbacks, and as the site is a corner allotment there is no rear setback in this specific site. Notwithstanding, the portion of the site that adjoins the neighbouring residential site (to the west) retains the existing wall along the western side boundary, and as such the amenity to the site to the west is considered to be unaltered. Therefore, there is no capacity for landscaping along the side setbacks due to the retention of the existing walls along the northern and western side boundaries.

4.2.8.5 Carparking, Vehicular Access and Loading Controls

Refer to Clause 4.2.4 Carparking, Vehicular Access and Loading Controls of Manly Development Control Plan 2013 contained within this report for a detailed assessment.

4.2.8.9 Signage

A detailed assessment of the proposed signage has been conducted under Clause 4.4.3 Signage of Manly Development Control Plan 2013 contained within this report.

4.4.3 Signage

Description of non-compliance

Under Clause 4.4.3.1 of Manly Development Control Plan 2013, the following requirements apply:

Maximum number of Signs

a) In relation to shopfronts, a maximum of 2 identification signs will be permitted per frontage (for example 1 fascia and 1 hamper sign), in any 2 of the following preferred locations:

- *Under awning;*
- *Awning fascia;*
- *A transom sign above the door or shopfront (top hamper);*
- *Inside the display window;*
- *Below the window sill; and*
- *Flush wall signs.*

As detailed on Signage (A-DA-205), typical signage design intent is detailed for top hamper signage and projecting wall signs. As detailed on the plans, there are placeholders for the proposed signage top hamper signage that includes thirteen (13) top hamper signs, and four (4) projecting wall signs. It is noted, that the signs include text only, however the specific wording is not detailed as the retail tenancies may have not been leased at this stage. To ensure the signage is consistent with that detailed on the plans a suitable condition has been recommended to ensure the signage is in accordance with the size, style, and details as depicted on A-DA-205.

Under Clause 4.4.3.3 of Manly Development Control Plan 2013, specific requirements apply for top hamper signage, projecting wall signs, and flush wall signs. The proposed signage is generally in accordance with these requirements, however to ensure the projecting wall signs are at least 2.6m above the ground, a suitable condition has been recommended.

The proposal includes the re-reinstatement of flush wall signs "Nixon's Building" and the two (2) "1914" signage as detailed on East Elevation (A-DA-201) and Elevations - Sheet 2 (A-DA-202). Additionally, as detailed on Elevations - Sheet 2 (A-DA-202) and Elevations - Sheet 4 (A-DA-204), a projecting wall sign is proposed for "Nixon Apartment".

Merit consideration

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 proposal will ensure the signage does not detract from the scenic beauty and amenity of the Manly locality. The signage is appropriate with its surroundings and the building as developed.

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

Notwithstanding, the numerical non-compliance with the maximum number of signs for shopfronts, the proposal will ensure appropriate visual impact that is suitable to the design. The proposal will result in acceptable and effective signage in the local and neighbourhood centre.

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 will effectively communicate the proposed retail premises and provide clear building identification that will not interfere with the streetscape.

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 is considered to be designed with appropriate finishes and styles that has been designed in a way to reinstate the original signage and mirror the signage style for the proposed retail tenancies.

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

The proposed signage is considered appropriate for the heritage conservation area, and is consistent with the existing signage to be reinstated.

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

Comment

The signage as detailed on A-DA-205 will be of high standards of graphic and textural content that includes metal finishes.

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

The subject site is not located in an Industrial Zone and therefore this objective is not relevant.

4.4.4.1 Awnings in LEP B1 and B2 Business Zones

Description of non-compliance

The proposed development proposes separated awnings along Pittwater Road and Golf Parade.

The control states that continuous footpath awnings must be provided on all street frontages, generally consistent with the streetscape.

The control outlines the requirements for the awnings, to be a minimum height of 3.5m and a width of 0.6m from the kerb. The proposed awnings are 3.5m from the ground level and as such demonstrate compliance with this height requirement. However, the width from the kerb is greater than 0.6m along Pittwater Road.

Merit Consideration:

The proposed awnings have been discussed in detail by Council's Heritage Advisor as outlined under Internal Referrals within this report. As such, Council's Heritage Advisor has recommended a condition for a continuous awning. In summary, the proposed condition will ensure compliance with Clause 4.4.4.1 of Manly Development Control Plan 2013, that outlines continuous footpath awnings are to be provided on all street frontages to ensure consistency with the existing streetscape.

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 \$9,350 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$935,000.

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

PLANNING CONCLUSION

This proposal, for Alterations and additions to shop top housing has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to eleven (11) unique submissions received by way of objection.

The concerns raised in the objections have been addressed and resolved by justification in regards to compliance with the objectives of the control, and recommendation of appropriate conditions satisfying requirements of the controls.

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.3 Floor Space Ratio has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Furthermore, issues include Car Parking (Clause 4.2.4 and Clause 4.2.8.5 of Manly Development Control Plan 2013), Landscaping (Clause 4.2.8.3 of MDCP 2013), Signage (Clause 4.2.8.9 and Clause 4.4.3 of MDCP 2013), and Awnings in LEP B1 zone (Clause 4.4.4.1 of MDCP 2013).

Overall, the development is a high quality design that performs well against the relevant controls and

will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.4 Floor Space Ratio development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2022/0193 for Alterations and additions to shop top housing on land at Lot B DP 382992, 199 - 205 Pittwater Road, 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 (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
Site Plan - A-DA-003, Rev 03	29 August 2022	Chrofi Architects
Demolition Plan - Ground Floor - A-DA-004, Rev 01	03 February 2022	Chrofi Architects
Demolition Plan - Level 1 - A-DA-005, Rev 01	03 February 2022	Chrofi Architects
Ground Floor Plan - A-DA-101, Rev 04	29 August 2022	Chrofi Architects
First Floor Plan - A-DA-102, Rev 03	22 July 2022	Chrofi Architects
Roof Plan - A-DA-103, Rev 02	16 June 2022	Chrofi Architects
Elevations - Sheet 1 (East Elevation) - A-DA-201, Rev 04	29 August 2022	Chrofi Architects
Elevations - Sheet 2 (South Elevation) - A-DA-202, Rev 03	29 August 2022	Chrofi Architects
Elevations - Sheet 3 (North Elevation) - A-DA-203, Rev 03	22 July 2022	Chrofi Architects
Elevations - Sheet 4 (West Elevation) - A-DA-204, Rev 03	22 July 2022	Chrofi Architects
Signage - A-DA-205, Rev 01	16 June 2022	Chrofi Architects
Sections - Sheet 1 - A-DA-301, Rev 01	3 February 2022	Chrofi Architects
Sections - Sheet 2 - A-DA-302, Rev 01	3 February 2022	Chrofi Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
Ground Floor Concept Stormwater	20 July 2022	Michael Frost &

Drainage - SW01, Rev P1		Associates
First Floor Concept Stormwater Drainage - SW02, Rev P1	20 July 2022	Michael Frost & Associates
Roof Concept Stormwater Drainage - SW03, Rev P1	20 July 2022	Michael Frost & Associates

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Access Report (Ref.C21716-Letter-r1)	24 August 2022	Credwell Consulting
Accessibility Report	25 August 2022	Colco Consulting
BASIX Certificate (No.1272545M)	04 February 2022	Gradwell Consulting
BCA Assessment Report (Ref.C21726-NCC-r2)	17 January 2022	Credwell Consulting
Engineering Report	19 January 2022	Waddington Consulting
Heritage Report	n.d.	Chrofi Architects
Heritage Report	n.d.	Ruth Daniell
Heritage Report - Addendum	29 August 2022	Ruth Daniell
Materials & Finishes - A-DA-904, Rev 01	3 February 2022	Chrofi Architects
Traffic Report (Ref.21455)	4 February 2022	The Transport Planning Partnership
Traffic Report (Ref.21455) - Addendum	17 June 2022	The Transport Planning Partnership
Traffic Report (Ref.21455) - Addendum	22 July 2022	The Transport Planning Partnership
Traffic - Reponse Memo	29 August 2022	The Transport Planning Partnership
SEPP 65 Report	16 June 2022	Colco Consulting
Stormwater Report (Ref.22059 LO1)	n.d.	Michael Frost & Associates

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan - A-DA-104, Rev 02	16 June 2022	Chrofi Architects

Waste Management Plan		

Drawing No/Title.	Dated	Prepared By
Waste Management Report	14 January 2022	MRA Consulting Group (MRA)

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:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	29 April 2022

(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.

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 **shop top housing**.

Shop top housing is defined as:

"means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities".

(development is defined by the Manly Local Environment Plan 2013 (as amended) Dictionary)

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. **Retail Tenancy Signage**

The signage for the retail tenancies are to be in accordance with the size, style, and details as depicted in the Signage (A-DA-205) of the Plans - Master Set dated 22 July 2022 by Chrofi Architects as detailed in Condition 1.

Reason: Control of signage.

5. **Billboard Signage**

No approval is granted under this Development Consent for the existing Billboard Signage.

Reason: The existing billboard does not form part of this consent.

6. 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.

7. **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) 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

8. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$9,350.00 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 \$935,000.00.

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.

9. **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).

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

10. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**

The applicant is to lodge a Bond of \$20,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

11. Car Parking Standards

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Details demonstrating compliance with this condition are to be submitted to the Certifying Authority prior to the issue of a construction certificate.

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

12. Car Parking Finishes

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

13. Construction Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, 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 issue of any Construction Certificate.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site

- Make provision for parking onsite. All Staff and Contractors are to use the on-site off-street parking
- Temporary truck standing/queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on-site crane

The 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 public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

14. **Waste and Service Vehicle Access**

Access to the on-site loading bay area including ramp grades, transitions and height clearance shall be designed for safe forward in and forward out access of a 8.8m MRV removalist truck, as a minimum requirement. The height clearance required is 4.5m, measured from the floor level to any overhead structures.

Plans showing the ramp grades, transitions and height clearance and swept path diagrams of 8.8m removalist vehicle shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate. Swept path diagrams must include details of the road

including, kerb line, line marking, signs, traffic devices, power poles, other structures and neighbouring driveways.

Trucks are not to egress the site to the west (towards Balgowlah Road). Trucks must reverse into the site and exit in a forwards direction to Pittwater Road

Reason: To ensure adequate service vehicle access.

15. **Removal of Redundant Driveways**

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

16. **Pedestrian sight distance at property boundary**

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

17. **Building Code of Australia Fire Safety Requirements**

The Building Code of Australia fire safety measures for the building as detailed and recommended in the BCA Assessment Report prepared by the Credwell, dated 17/1/2022, Report Ref No. C21726-NCC-r1 and including any proposed Performance Solutions are to be considered as part of the assessment of the Construction Certificate.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

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

18. **Building Code of Australia Access**

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

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

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

19. **On-site Stormwater Disposal Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site

stormwater disposal in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY PL850, and generally in accordance with the concept drainage plans prepared by Michael Frost & Associates Pty Ltd, Project No 22059, dated 20/07/2022.

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

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

20. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of paved footpath and driveway crossing which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

- 1) a full width paved footpath along the property frontages on both Pittwater Road and Golf Parade. The materials of the paved footpath must be designed in accordance with Council's Public Space Vision & Design Guideline.
- 2) a 5 m wide concrete driveway crossing on Golf Parade.
- 3) all utilities service must be plotted on the site plan.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

21. **Continuous Awning**

The proposed individual awnings are to be replaced by a continuous awning design which respects the character of the area and better relates to the existing heritage context. Details are to be submitted to Council's Heritage Officer for approval, prior to the issue of a Construction Certificate.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To respect the context and preserve the heritage significance of the Pittwater Road Conservation Area.

22. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

23. **Hazardous Building Materials Survey**

A hazardous building materials survey is to be conducted by a suitably qualified and experienced person. The survey is to include a survey of hazardous building materials including but not limited to asbestos, lead, SMF and PCBs. Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reason: To protect human health.

24. **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.

25. **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.

26. **Acoustic Report**

An Acoustic Report prepared by a suitably qualified consultant to ensure the noise levels do not exceed 35 dB(A) in the bedrooms at any time between 10 pm and 7 am, and the noise levels do not exceed 40 dB(A) at any time in the remainder of the residential accommodation (other than a garage, kitchen, bathroom or hallway).

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure compliance with Clause 2.120 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

27. **Projecting Wall Signs**

The projecting wall signs must be at least 2.6m above the ground.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure suitable height of signage.

28. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

29. **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.

30. **Road Occupancy Licence**

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows.

Reason: Requirement of TMC for any works that impact on traffic flow.

31. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

32. **Road Reserve**

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

Reason: Public safety.

33. **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 RMS 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.

34. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

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

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

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

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

36. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip

as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

37. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

38. Onsite Encapsulation of Contaminated Material

No onsite encapsulation of contaminated material is to occur without approval under a separate DA or modification submitted to Council.

Reason: To allow for a proper evaluation of any proposed encapsulation works and to ensure that any contaminated material is effectively capped and managed long term.

39. Asbestos

All removal, repair or disturbance of or to asbestos materials must comply with the relevant guidelines and legislation including the following:

- The Work Health and Safety Act 2011;
- The Work Health and Safety Regulation 2017;
- NSW SafeWork Code of Practice - How to Safely Remove Asbestos; and
- NSW SafeWork Code of Practice - How to Manage and Control Asbestos in the Workplace.

All asbestos waste must be disposed of at a lawful waste disposal facility that accepts asbestos waste.

Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Following the removal of asbestos containing materials an asbestos clearance certificate is to be issued by a suitably qualified and experienced professional such as an Occupational Hygienist or Licenced Asbestos Assessor before the recommencement of any work.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To protect human health.

40. **Compliance with Recommendations within Hazardous Building Materials Register**

Any recommendations within the Hazardous Building Materials Register are to be implemented during works.

Reason: To protect human health.

41. **Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

42. **Classification of waste & Off-site Disposal of Waste (fill and/or soil material)**

Prior to the exportation of waste (fill and/or soil) from the site, the waste materials must be tested and classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014).

Testing is required prior to off-site disposal. In accordance with DECC Waste Classification Guidelines (2014) materials identified for off-site disposal must be removed by a suitably qualified contractor to an appropriately licensed waste facility.

'Chain of Custody' documentation including receipts shall be kept for the exportation of waste (fill and/or soil material) from the site.

Details demonstrating compliance are to be submitted to the Principal Certifier within seven (7) days of transport and made available to Council upon request.

Reason: Appropriate disposal of waste and protection of environment.

43. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan dated 14 January 2022.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

44. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be

retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

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

45. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

46. Loading Bay Management Plan

A Loading Bay Management Plan shall be prepared by the applicant and submitted to and approved by the Principal Certifying Authority prior to the issue of any Occupation Certificate.

The Plan will need to demonstrate how the loading bay will be managed to ensure that there will be only one vehicle entering and exiting the loading bay at any time and how safe servicing arrangements including waste collection will be undertaken without interrupting general traffic and minimising obstruction of other on-site parking bays. Vehicle queuing on public road(s) is not permitted.

Reason: to ensure the loading bay is managed appropriately and that tenants are aware of responsibilities and procedures for drivers undertaking loading/unloading activities.

47. Mechanical Servicing of car stackers

The applicant is to include a Section 88E instrument on the title permitting Council to provide direction as to the repair/maintenance of the mechanical car stacker devices. In the instance where the building manager does not comply with the direction of Council, or fails to address repair/maintenance requirements in a timely manner, Council reserves the right to undertake the repairs and all fees associated will be borne by the building manager.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure the mechanical services are maintained in a serviceable state at all times.

48. Reinstatement of Kerb

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces.

49. Garbage and Recycling Facilities

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close

proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

50. **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 Certifying Authority prior to the issue of the Interim / Final 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 under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

51. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

52. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

53. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

54. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation

Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

55. Sight Lines Within Carparks

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

56. Tandem and Stacked Parking Spaces

Tandem parking spaces are to be assigned to the same residential unit. Spaces in mechanical stackers may be allocated to different units.

Reason: To minimize conflicts regarding parking areas.

57. Allocation of Spaces

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

- 9 - Residential
- 1 - Retail

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

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

Reason: To ensure that adequate parking facilities to service the development are provided on site.

58. Hours of Operation

The hours of operation for the six (6) retail premises are to be restricted to:

- Monday to Friday – 9:00AM to 5:00PM
- Saturday – 9:00AM to 5:00PM
- Sunday and Public Holidays – 9:00AM to 5:00PM

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.

59. **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.

60. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed.

61. **Deliveries**

No deliveries, loading or unloading associated with the retail premises are to take place between the hours of 7:00PM and 6:00AM on any day.

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

62. **Commercial Waste Collection**

Waste and recyclable material, generated by the retail premises, must not be collected between the hours of 10:00PM and 6:00AM on any day.

Reason: To protect the acoustic amenity of surrounding properties.

63. **Acoustic Management**

The retail premises shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

64. **Fencing Height / Vegetation**

All fencing and/or vegetation along the frontage road(s) shall not impede pedestrian or driver visibility. This requires that vegetation does not exceed one (1) metre in height. Appropriate plants shall be selected within the 2.0 x 2.5m splay to ensure this condition is met.

Reason: To ensure maximum vehicular and pedestrian visibility.

65. **Resident Parking Permits**

Any residents and/or tenants of the subject site are not eligible for resident parking permits. This condition is to be provided on the property Title.

Reason: To ensure the residents & tenants are aware that they are not entitled to a permit regardless if they are within a Resident Parking Scheme (RPS).