

# AGENDA

## NORTHERN BEACHES LOCAL PLANNING PANEL

Notice is hereby given that the Northern Beaches Planning Panel will be held via Teleconference on

**WEDNESDAY 14 FEBRUARY 2024**

Beginning at 12.00pm for the purpose of considering and determining matters included in this agenda.



**Peter Robinson**  
**Executive Manager Development Assessment**

**Quorum**

A quorum is three Panel members

**Conflict of Interest**

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

## Agenda for the Northern Beaches Local Planning Panel to be held on Wednesday 14 February 2024

<b>1.0</b>	<b>APOLOGIES &amp; DECLARATIONS OF INTEREST</b>	
<b>2.0</b>	<b>MINUTES OF PREVIOUS MEETING</b>	
2.1	Minutes of Northern Beaches Local Planning Panel held 7 February 2024 .....	3
<b>3.0</b>	<b>CATEGORY 3 APPLICATIONS</b>	
<b>4.0</b>	<b>PUBLIC MEETING ITEMS .....</b>	<b>5</b>
4.1	Mod2023/0476 - 22 Jubilee Avenue, WARRIEWOOD & 80-82 + 84 Mona Vale Road, MONA VALE - Modification of Development Consent DA2019/0123 granted for Use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market. ....	5
4.2	DA2023/1426 - 1 Harewood Place, WARRIEWOOD - Demolition works and construction of a dwelling house including an inground swimming pool.....	24
4.3	DA2023/1399 - 2/34 Campbell Avenue, CROMER - Alterations and additions to a Sex Services Premises .....	58
<b>5.0</b>	<b>NON PUBLIC MEETING ITEMS .....</b>	<b>83</b>
	A statutory Direction by the Minister of Planning and Public Spaces states the panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection. There applications do not satisfy that criterion.	
5.1	DA2023/1476 - 64 The Corso, MANLY - Alterations and additions to an existing Business Premises .....	83

## **ACKNOWLEDGEMENT OF COUNTRY**

As a sign of respect, the Northern Beaches Local Planning Panel acknowledges the traditional custodians of these lands on which we gather and pays respect to Elders past and present.

### **1.0 APOLOGIES & DECLARATIONS OF INTEREST**

Nil

### **2.0 MINUTES OF PREVIOUS MEETING**

#### **2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 7 FEBRUARY 2024**

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#### **RECOMMENDATION**

That the Panel note that the minutes of the Northern Beaches Local Planning Panel held 7 February 2024 were adopted by the Chairperson and have been posted on Council's website.

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## 4.0 PUBLIC MEETING ITEMS

**ITEM 4.1** MOD2023/0476 - 22 JUBILEE AVENUE, WARRIEWOOD & 80-82 + 84 MONA VALE ROAD, MONA VALE - MODIFICATION OF DEVELOPMENT CONSENT DA2019/0123 GRANTED FOR USE OF PART OF THE CARPARKING AREA ASSOCIATED WITH THE PITTWATER RSL CLUB FOR THE PURPOSES OF AN ORGANIC FOOD MARKET.

**AUTHORISING MANAGER** Steve Findlay

**TRIM FILE REF** 2024/050948

**ATTACHMENTS**  
1 [↓ Assessment Report](#)  
2 [↓ Site Plans](#)

### PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a modification of a determination or decision made by a local planning panel.

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### RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. Mod2023/0476 for Modification of Development Consent DA2019/0123 granted for Use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market on land at Lot 52 DP 1237461,80 - 82 Mona Vale Road, MONA VALE, Lot 51 DP 1237461,84 Mona Vale Road, MONA VALE, Lot 27 DP 5055,22 Jubilee Avenue, WARRIEWOOD subject to the conditions set out in the Assessment Report.

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2023/0476
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<b>Responsible Officer:</b>	Claire Ryan
<b>Land to be developed (Address):</b>	Lot 52 DP 1237461, 80 - 82 Mona Vale Road MONA VALE NSW 2103 Lot 51 DP 1237461, 84 Mona Vale Road MONA VALE NSW 2103 Lot 27 DP 5055, 22 Jubilee Avenue WARRIEWOOD NSW 2102
<b>Proposed Development:</b>	Modification of Development Consent DA2019/0123 granted for Use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market.
<b>Zoning:</b>	R2 Low Density Residential SP2 Infrastructure SP4 Enterprise
<b>Development Permissible:</b>	Yes, under Clause 2.8 Temporary Use of Land of the Pittwater Local Environmental Plan 2014
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Pittwater RSL Club Ltd
<b>Applicant:</b>	Choulartons Australia Pty Ltd

<b>Application Lodged:</b>	21/09/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	27/09/2023 to 11/10/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	9
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### EXECUTIVE SUMMARY

This modification application seeks consent for modification of Development Consent No.

DA2019/0123, which granted consent for use of part of Pittwater RSL Club for the purposes of an organic food market.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) in accordance with the Local Planning Panels Direction, as the application falls under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, and seeks to modify a condition of consent imposed by the Panel.

Concerns raised in the objections predominantly relate to traffic and parking, noise, waste, adherence to conditions of consent, supporting documentation, owners consent, and previous applications.

The critical assessment issue is whether the proposal to operate the markets indefinitely constitutes a temporary use, given the approved use relies on Clause 2.8 Temporary Use of Land under the Pittwater Local Environmental Plan 2014.

This report recommends an extension of the consent period for a further 5 years, as indefinite operation constitutes a permanent part-time use, which would not be permissible under PLEP 2014.

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

#### **PROPOSED DEVELOPMENT IN DETAIL**

The proposal seeks to modify Development Consent No. DA2019/0123 with reference to the period in which the approved markets can operate.

The markets currently have consent to operate as follows:

- Sundays:
  - Set Up: 7:30am-8:30am
  - Trading: 8:30am to 1:00pm
  - Pack Down: 1:00pm-2:30pm
- Up to 42 instances per 12-month period
- Until 1 September 2024

The above operations are in accordance with DA2019/0123, as modified by Mod2020/0175 and Mod2021/0047.

The current modification application seeks to remove the market operation conclusion date so as to run 42 times per year indefinitely.

#### **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

Pittwater Local Environmental Plan 2014 - 2.8 Temporary use of land

## SITE DESCRIPTION

<b>Property Description:</b>	<p>Lot 52 DP 1237461 , 80 - 82 Mona Vale Road MONA VALE NSW 2103</p> <p>Lot 51 DP 1237461 , 84 Mona Vale Road MONA VALE NSW 2103</p> <p>Lot 27 DP 5055 , 22 Jubilee Avenue WARRIEWOOD NSW 2102</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of three allotments located to the south-west of Mona Vale Road, north-west of Foley Street, and north of Jubilee Avenue.</p> <p>The site is irregular in shape with frontages of 267 metres along Mona Vale Road, 200 metres along Foley Street, and 100 metres along Jubilee Avenue. The site has an area of approximately 39,319m<sup>2</sup>.</p> <p>The site is zoned part R2 Low Density Residential, part SP4 Enterprise, and part SP2 Classified Road, and accommodates the Pittwater RSL Club development, comprised of the club, sportsfields, bowling club and associated parking.</p> <p>The site slopes approximately 20m from east to south-west, and contains significant vegetation around the existing buildings, facilities and parking areas.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by industrial, commercial and low-density residential development.</p>

Map:



## SITE HISTORY

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

- DA2019/0123 for use of part of the car parking area associated with the Pittwater RSL Club for the purposes of an organic food market was approved by the Northern Beaches Local Planning Panel on 19 June 2019.
- Mod2019/0547 for Modification of Development Consent DA2019/0123 was refused by the Northern Beaches Local Planning Panel on 5 February 2020.
- Mod2020/0175 for Modification of Development Consent DA2019/0123 was approved by the Northern Beaches Local Planning Panel on 29 July 2020.
- REV2020/0029 for Review of Determination of MOD2020/0175 was withdrawn by the Applicant on 24 March 2021.
- Mod2021/0047 for Modification of Development Consent DA2019/0123 was approved by the Northern Beaches Local Planning Panel on 14 April 2021.

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

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;

- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/0123, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2019/0123 as it relates to extending the consent period only and does not propose any other material change to operation.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2019/0123 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.

Section 4.55 (2) - Other Modifications	Comments
development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

#### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 (2) the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of 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	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND



The site is not classified as bush fire prone land.

#### NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 27/09/2023 to 11/10/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 9 submission/s from:

Name:	Address:
Julie Miller	Address Unknown
Wen Xx	Address Unknown
Dolfi Benesh	10 Windsor Place ST IVES CHASE NSW 2075
Mr Anthony Hilliger	11 Buena Vista Avenue MONA VALE NSW 2103
Mrs Janice Lynette Bilton	8 / 6 Foley Street MONA VALE NSW 2103
Mr Philip Charles Walker	184 Warriewood Road WARRIEWOOD NSW 2102
Ms Valerie Jensen	185 Warriewood Road WARRIEWOOD NSW 2102
Ron Bode	19 Jubilee Avenue WARRIEWOOD NSW 2102
Dr Peter William McDonald	10 / 6 Foley Street MONA VALE NSW 2103

Nine (9) submissions were received in relation to the application.

Of those nine submissions, five submissions are in support of the proposal, and four are in opposition to the proposal.

The following issues were raised in the submissions that objected to the proposal:

- *Traffic congestion as a result of vendors and market customers.*
- *Insufficient parking on site for market customers, resulting in alleged illegal parking.*
- *Applicable conditions of consent are not complied with during market operation.*
- *Operation of the markets results in unreasonable noise and waste.*
- *The proposal is not supported by updated reports.*
- *The application is not supported by owners consent documentation.*
- *The previous requirement for construction of a footpath along Foley Street should be reinstated.*

Comments that infer the Applicant has a conflict of interest with Council and comments that are potentially defamatory against the Applicant are noted but remain unsubstantiated.

The above listed issues are addressed as follows:

#### Traffic and Parking

##### Comment:

The proposed modification application and supporting documentation has been reviewed by Council's Traffic Engineer, who has raised no objection to the proposal, subject to a condition of consent

requiring preparation of a Traffic Management Plan. The Traffic Management Plan will address proper management of traffic movements and parking for the purpose of the markets. Alleged illegal parking by market customers is not the responsibility of the market organisers and can be reported to Council for investigation by Rangers.

#### Conditions of Consent

##### Comment:

Council has record of four formal requests for investigation being made in 2019 to 2021 by one member of the public regarding operation of the markets. Two of the requests related to operation of the markets outside of the hours approved under DA2019/0123. The matters were investigated by Council on 8 September 2019 and 29 September 2019 and the markets were found to comply with approved hours of operation. The remaining two requests for investigation related to placement of signage on public land advertising the markets, which were resolved with the market organiser. Any further concerns that the markets are not operating in accordance with the applicable conditions of consent can be reported to Council for investigation by the Compliance Team.

#### Operation of the Markets

##### Comment:

The proposed modification application and supporting documentation has been reviewed by Council's Environmental Health Officer and Waste Officer, who have raised no objection to the proposal with respect to noise and waste impacts.

#### Updated Reports and Owners Consent

##### Comment:

No change is proposed to the intensity of the markets, so updated reports are not required. Owners consent in accordance with Council's Lodgement Requirements was submitted with the application.

#### Foley Street Footpath

##### Comment:

It is noted that the assessment report for the previous application, Mod2021/0047 recommended reinstatement of the requirement to construct a footpath along Foley Street. However, the recommendation was not adopted by the Northern Beaches Local Planning Panel in the Notice of Determination.

#### REFERRALS

Internal Referral Body	Comments
Environmental Health (Industrial)	<b><i>Supported without conditions</i></b>  This application is seeking consent for an extension to operating its lease with no set expiry date for the Organic Food Market. Environmental Health don't have concerns in relation to the extension of the land use for the markets. Environmental Health recommends approval.
Environmental Health (Food Premises, Skin Pen.)	<b><i>Supported, subject to conditions</i></b>  This application is seeking consent for an extension to operating its lease with no set expiry date for the Organic Food Market. The temporary stall selling food can be managed from a food safety point of view with the right controls in place, therefore Environmental Health recommends approval subject to conditions.

Internal Referral Body	Comments
Traffic Engineer	<p><b><i>Supported, subject to conditions</i></b></p> <p>The applicant seeks consent to extend and modify the previous consent requesting that:</p> <ol style="list-style-type: none"> <li>1. the existing 5 year approval be amended with no expiry date on the approval</li> <li>2. the markets be approved to operate on the maximum number of days permissible under any relevant LEP</li> </ol> <p>An extension of the approval for the conduct of the Mona Vale markets is not opposed however it is considered prudent to extend the approval only for another 5 years rather than on an open ended basis. This gives an opportunity for ongoing review and refinement of the approval to account for changes in the operation of the markets or for any operational issues on the Pittwater RSL land which might impact upon the operation of the markets.</p> <p>In this respect, it is noted that the existing wording of consent condition 12 relating to the appointment of traffic wardens could be improved. A revised condition has been drafted.</p> <p><u>Assessing Officer's Comment:</u></p> <p>The Applicant requested that the recommended condition requiring a Traffic Management Plan (TMP) be amended to allow for the TMP to be prepared and submitted within six weeks of the consent being issued, rather than before the first market after the consent is issued. Council's Traffic Engineer was supportive of this amendment and the condition was modified accordingly.</p>
Waste Officer	<b><i>Supported without conditions</i></b>

#### 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)

Nil

## Pittwater Local Environmental Plan 2014

Is the development permissible?	No
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

There are no principal development standards under Part 4 of the PLEP 2014 to consider as part of this assessment.

### Compliance Assessment

Clause	Compliance with Requirements
2.8 Temporary use of land	Yes

### Detailed Assessment

#### **2.8 Temporary use of land**

The subject site is zoned R2 Low Density Residential, SP4 Enterprise and SP2 Infrastructure (Classified Road). The proposal is wholly contained within the R2 and SP4 zoned land, and does not impact upon the SP2 zoned portion of land. The use (markets) is not permissible in the R2 or SP4 zones. The proposal relies on Clause 2.8 Temporary Use of Land under the PLEP 2014 for permissibility. Clause 2.8 requires that development consent must not be granted unless the consent authority is satisfied that:

*(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*

#### Comment:

The proposed modification to the consent will not prejudice the subsequent carrying out of development on the land, as the use of the site will not involve any permanent physical works. Upon cessation of the market events, the land will be returned to its former state without any unreasonable impact.

*(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*

#### Comment:

Subject to adherence to conditions of consent and the Plan of Management, the development will not result in unreasonable impacts on the amenity of adjoining land or the neighbourhood. Objections to the proposal raised concern regarding traffic and noise impacts. These matters are responded to in the section of this report relating to Submissions, and have been considered by Council's Environmental Health and Traffic Engineering experts, who raise no concerns, subject to conditions of consent. The proposal does not pose any unreasonable view loss, overshadowing or visual privacy impacts.

*(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*

#### Comment:

The development will continue to involve temporary structures only, to be set up and removed for use

during operation of the markets only. In this way, the development will still not involve alteration to features of the land, nor increase the risk of natural hazards that may affect the land.

*(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.*

Comment:

As above, the development will continue to involve temporary structures only, to be set up and removed for use during operation of the markets only. Given the temporary nature of the structures, at the cessation of operation of the markets, the land will be restored to the condition in which it was before the use commenced.

In addition to the above matters, it is prudent to consider whether the proposed modification (being to allow operation of the markets indefinitely) alters the use from being temporary. The intention of this clause is to provide for temporary consent for land uses that would otherwise be prohibited. The inference is that the use will only last for a limited time, and is therefore not permanent. It would be more accurate to describe consent for the markets to operate in perpetuity as permanent part-time, rather than temporary.

Based on the above, the consent expiry period set by Condition 10 has been extended for a further 5 years beyond the current end date, until 2 September 2029, inclusive. This provides a significant and meaningful extension to the use for the benefit of the Applicant, while retaining the temporary nature of the use. Additionally, by retaining a consent expiry date, should the Applicant wish to extend the consent period again, it provides Council with the opportunity to re-assess whether the use remains consistent with the requirements of Clause 2.8 (a) through (d) inclusive, being the key points to satisfy in order to carry out an otherwise prohibited land use.

#### **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.

#### **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;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

### **PLANNING CONCLUSION**

This proposal is for the modification of Development Consent No. DA2019/0123, which was granted consent for use of part of Pittwater RSL Club for the purposes of an organic food market and has been referred to the Northern Beaches Local Planning Panel in accordance with the Local Planning Panels Direction, as the application falls under Section 4.55(2) of the Environmental Planning and Assessment Act 1979, and seeks to modify a condition of consent applied by the Panel.

The concerns raised in the objections have been addressed as not being determinative.

The critical assessment issue was whether the proposal to operate the markets indefinitely constitutes a temporary use, given the approved use relies on Clause 2.8 Temporary Use of Land under the Pittwater Local Environmental Plan 2014. The report recommends an extension of the consent period for a further 5 years, as indefinite operation constitutes a permanent part-time use, which would not be permissible.

Overall, the proposal (as modified by conditions of consent) 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 Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2023/0476 for Modification of Development Consent DA2019/0123 granted for Use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market. on land at Lot 52 DP 1237461,80 - 82 Mona Vale Road, MONA VALE, Lot 51 DP 1237461,84 Mona Vale Road, MONA VALE, Lot 27 DP 5055,22 Jubilee Avenue, WARRIEWOOD, subject to the conditions printed below:

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-366639 Mod2023/0476	The date of this notice of determination	<p>Modification of the period for which this consent operates.</p> <p>Additional Conditions:</p> <ul style="list-style-type: none"> <li>Condition 1B Traffic Management</li> <li>Condition 13 Food Safety</li> </ul> <p>Modified Conditions:</p> <ul style="list-style-type: none"> <li>Condition 4 Amendment to Plan of Management</li> <li>Condition 8 Log Book</li> <li>Condition 10 Consent Expiry Date</li> </ul>
Mod2021/0047	14 April 2021	<p>Modification of the period for which this consent operates.</p> <p>Modified Condition:</p> <ul style="list-style-type: none"> <li>Condition 10 Consent Expiry Date (previously titled 'Trial Period')</li> </ul>
Mod2020/0175	29 July 2020	<p>Modification of the period for which this consent operates and hours of operation.</p> <p>Additional Conditions:</p> <ul style="list-style-type: none"> <li>Condition 1A Modification of Consent - Approved Plans and Supporting Documentation</li> <li>Condition 11 Operation</li> <li>Condition 12 Traffic Warden(s)</li> </ul>

		<p>Modified Condition:</p> <ul style="list-style-type: none"> <li>• Condition 4 Amendment to Plan of Management</li> <li>• Condition 6 Noise Minimisation</li> <li>• Condition 7 Hours of Operation</li> <li>• Condition 10 Consent Expiry Date (previously titled 'Trial Period')</li> </ul>
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### **Modified conditions**

#### **A. Add Condition 1B Traffic Management to read as follows:**

The applicant is to prepare a Traffic Management Plan (TMP) for the control of traffic and pedestrian movements to and from the markets on days that the markets operate. The TMP to be submitted to and approved by Council's Traffic Engineer within 6 weeks of the date of this consent.

The traffic controls outlined in the TMP must be implemented by the applicant between the hours of 7:15am and 2:45pm on any day that the markets operate to ensure safety and minimise the effect of the markets on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and the RMS' Manual – "Traffic Control at Work Sites

The TMP must include, as a minimum:

- Measures to manage traffic movements into and out of the RSL driveways used by stallholders and patrons of the markets. Such traffic control to be conducted by certified traffic controllers.
- Details of the times for bump in and bump out and any procedures or strategies to minimise congestion during these times.
- The proposed method of access to and egress from the site for stallholder's vehicles, including the size of vehicles and access routes to and from the site and Mona Vale Road and the location and type of traffic control measures, including any staggering of stallholder arrivals, for the purpose of minimising traffic congestion in the area.
- Measures to redirect traffic as required to reduce queueing and delays in Foley Street, Warriewood Road, Jubilee Avenue and Vineyard Street.
- Measures to physically prevent illegal parking activity on nature strips.
- Traffic Guidance Scheme(s) prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.

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 Traffic Management Plan is submitted.

A copy of the approved TMP must be kept on-site at all times while the markets are being carried out.

Reason: To ensure pedestrian safety and continued efficient network operation.

#### **B. Modify Condition 4 Amendment to Plan of Management to read as follows (underlined for emphasis of change):**



The submitted Operational Management Plan is to be amended to include:

- Hours of Operation, being:
  - Access for stall traders: 7:30am-2:30pm; and
    - Trading hours: 8:30am-1:00pm.
- Methods for restricting access to the site prior to 7.30am and in relation to trading hours;
- Complaints Register: A complaints register is to be kept up to date at all times, logging complaints received, and action taken;
- Complaints Contact: A contact person is to be nominated in the Operational Management Plan along with a phone number;
- Stall Numbers: Market events are not to exceed 100 stalls at any time; and
- Market events must not exceed 42 days within a 12-month period in accordance with Clause 2.8 of the Pittwater LEP 2014, or not more than the maximum number of occurrences for temporary uses set by any future LEP, whichever applies at the time.

Reason: To ensure appropriate amenity, complaints resolution and consistency with the consent.

**C. Modify Condition 8 Log Book to read as follows:**

A log book detailing each market event is to be kept up to date for inspection by Council at any time. The markets are not to occur on more than 42 days within a 12-month period in accordance with Clause 2.8 of the Pittwater LEP 2014, or not more than the maximum number of occurrences for temporary uses set by any future LEP, whichever applies at the time.

Reason: To ensure consistency with Clause 2.8 temporary Use of Land of the Pittwater LEP 2014.

**D. Modify Condition 10 Consent Expiry Date to read as follows:**

This consent is extended for a further 5 years until and including 2 September 2029.

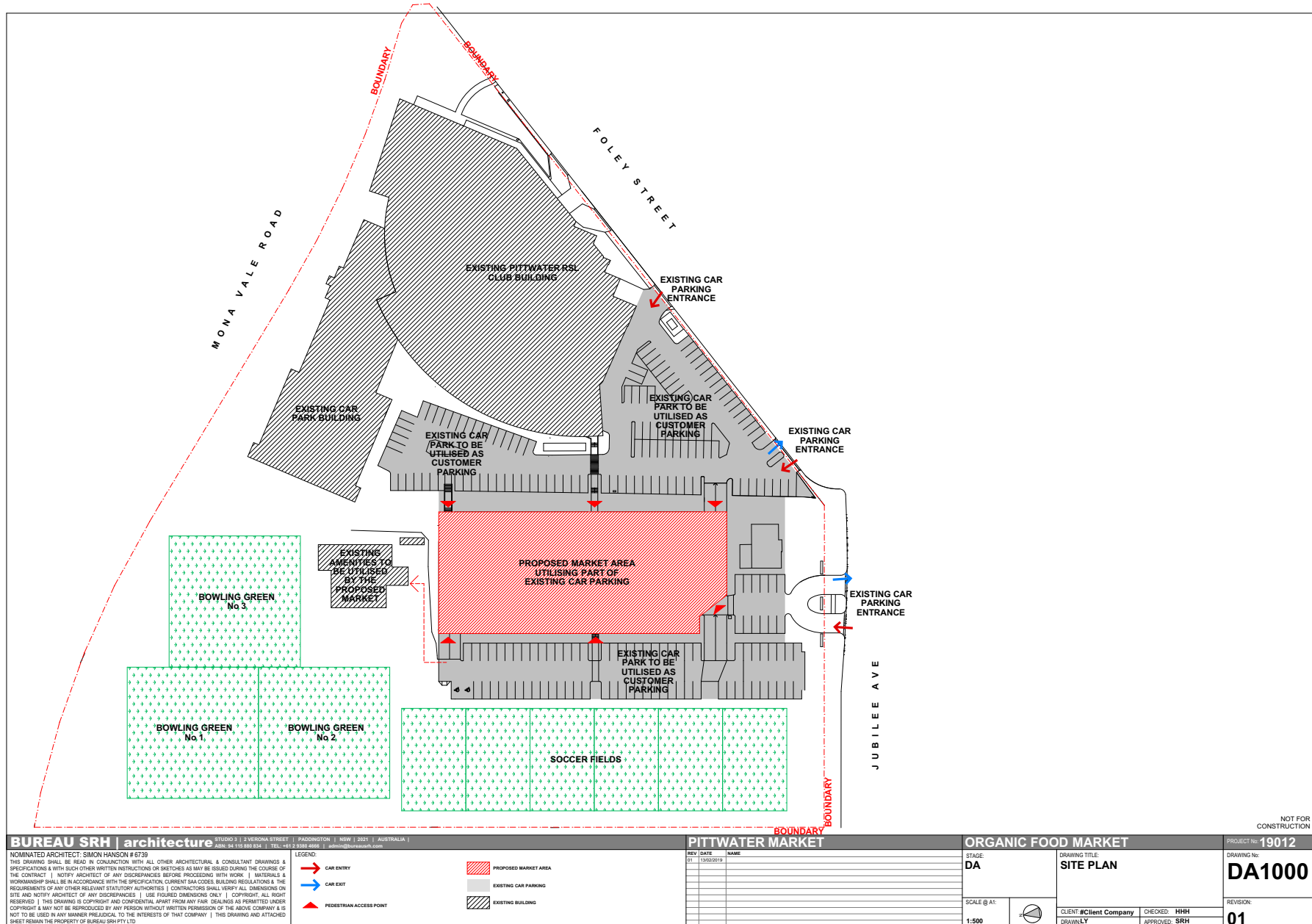
Reason: To limit the activity to a temporary use of the land.

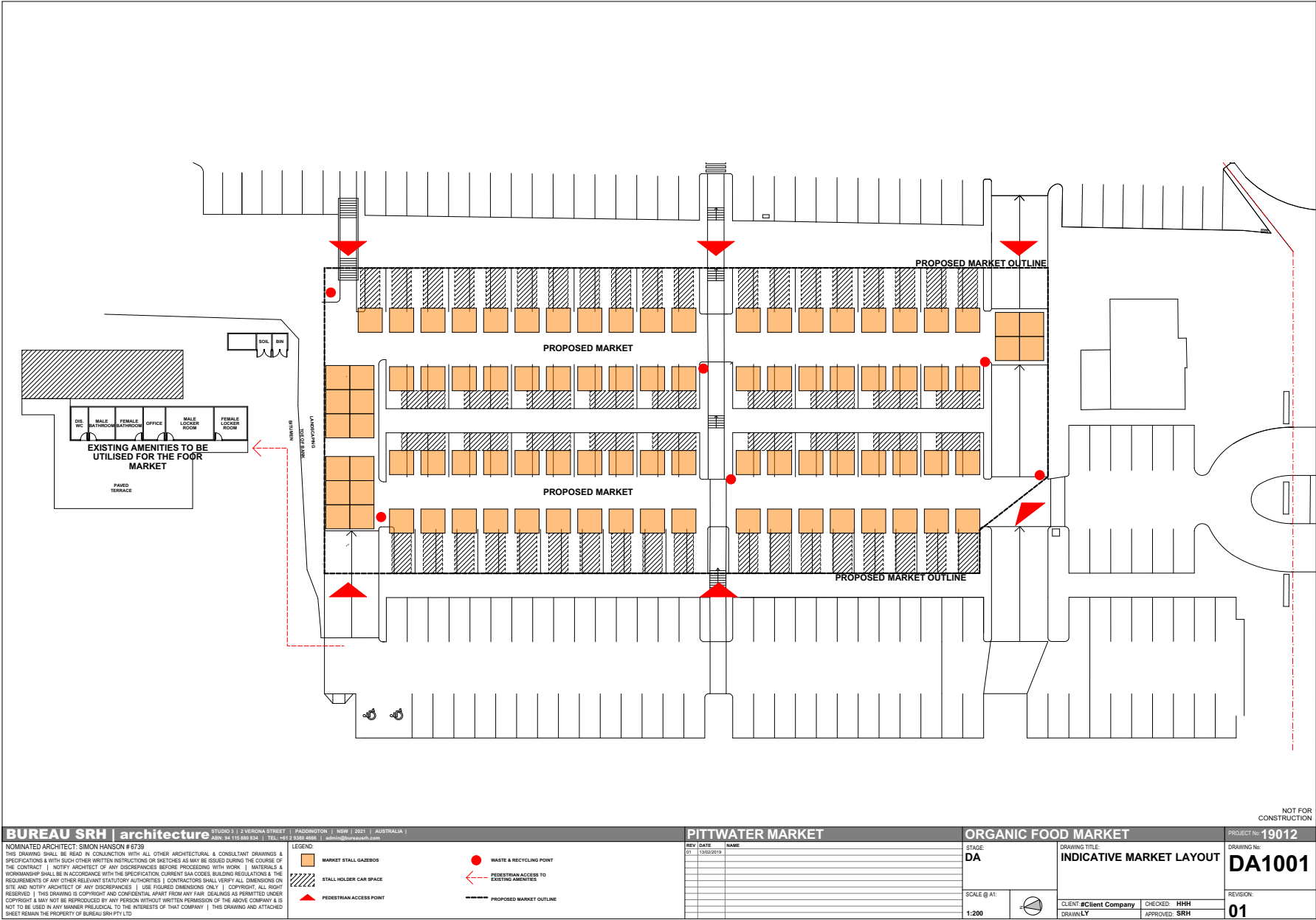
**E. Add Condition 13 Food Safety to read as follows:**

All food stalls preparing and/or serving unpackaged ready to eat food must:

- Comply with the Guidelines for Food Businesses at Temporary Events written by the NSW Food Authority dated July 2020, and
- Have warm running water readily available onsite within 5 metres of food handling.

Reason: To ensure compliance with food safety.





**ITEM 4.2**

**DA2023/1426 - 1 HAREWOOD PLACE, WARRIEWOOD -  
DEMOLITION WORKS AND CONSTRUCTION OF A  
DWELLING HOUSE INCLUDING AN INGROUND SWIMMING  
POOL**

**AUTHORISING MANAGER**

**Steve Findlay**

**TRIM FILE REF**

**2024/023497**

**ATTACHMENTS**

- 1** [↓](#) **Assessment Report**
- 2** [↓](#) **Site Plan & Elevations**

**PURPOSE**

This application has been referred to the Northern Beaches Local Planning Panel as the landowner is a relative of a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979.

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**RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT**

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approve** Application No. DA2023/1426 for Demolition works and construction of a dwelling house including an inground swimming pool on land at Lot 40 DP 26441, 1 Harewood Place, WARRIEWOOD, subject to the conditions set out in the Assessment Report.



## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/1426
<b>Responsible Officer:</b>	GAT & Associates (Planning Consultants)
<b>Land to be developed (Address):</b>	1 Harewood Place, Warriewood
<b>Proposed Development:</b>	Demolition works and construction of a dwelling house including an inground swimming pool
<b>Zoning:</b>	C4 Environmental living
<b>Development Permissible:</b>	Dwelling Houses permissible with consent
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Determination Level</b>	NBLPP
<b>Land and Environment Court Action:</b>	None
<b>Owner:</b>	Luke Sidney Preston Julie Anne Preston
<b>Applicant:</b>	Wade Stewart Cogle
<b>Application Lodged:</b>	04/10/2023
<b>Integrated Development:</b>	N/A
<b>Designated Development:</b>	N/A
<b>State Reporting Category:</b>	Residential – single new detached dwelling
<b>Notified:</b>	10/10/2023 -24/10/2023
<b>Advertised:</b>	No
<b>Submissions Received:</b>	Two
<b>Clause 4.6 Variation:</b>	N/A
<b>Recommendation:</b>	Approval, subject to conditions of consent
<b>Estimated Cost of Works:</b>	\$2,251,920

### EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of a Development Application (DA2023/1426) for the demolition of existing structures and the construction of a dwelling and an inground swimming pool.

The application was lodged with Council on 4 October June 2023. The application is referred to the Northern Beaches Local Planning Panel in accordance with Council's Management of Conflicts of Interest practices, as the landowner is a relative of a staff member in Development Assessment.

The application was notified to surrounding properties in accordance with the Environmental Planning and Assessment Act 1979, the Environmental Planning and Assessment Regulation 2021, and the Council's Community Participation Plan between 10/10/2023 to 24/10/2023 with a total of two (2) submissions received during this time.

A site inspection was also carried out with respect to the existing dwelling, tree removal and neighbouring windows of one of the objectors, located to the north adjoining at 12 Hunter Street.



Additional information was requested on 30 November 2023. In particular, concern was raised with respect to Council's Landscape Officers' request for additional information to conduct non-destructive tree root investigations and neighbouring objections raised the concern of adverse effect on adjoining amenity through overlooking.

The applicant provided a formal response to the above items on 1 December 2023, which included a revised Arboricultural Impact Statement, Architectural Plans, BASIX Certificate, and NATHERS Certificate. The items raised are considered to be resolved, with appropriate conditions detailed in this report.

Accordingly, it is recommended that the application be approved, subject to conditions of consent.

### **PROPOSED DEVELOPMENT IN DETAIL**

The proposed development seeks the demolition of the existing dwelling and the construction of a new dwelling house and an inground swimming pool. A detailed description of the works is provided below:

- Demolition works:
  - Demolition of the existing dwelling
  - Removal of the existing driveway
  - Removal of three (3) trees and 1 group of trees
  - Removal of retaining walls
- Lower Ground Level:
  - Entry foyer
  - Two-car garage with built-in storage.
  - Rumpus room
  - Music room
  - Laundry
  - Bedroom 4 with walk-in-wardrobe
    - Walk-in-wardrobe.
    - Bathroom
  - New retaining walls with path and steps on the northwest side
  - New landscaping, retaining walls, and steps on the southeast side.
  - Staircase to the upper ground level
- Upper level:
  - Master bedroom with ensuite and walk-in wardrobe
  - Bedroom 2 with built in wardrobe
  - Bedroom 3/play room with built in wardrobe
  - Bathroom
  - Open plan sitting, dining, kitchen and lounge with butler's pantry, front facing deck and rear alfresco area with BBQ.
  - Linen storage room
  - Powder Room
  - Stairs to the lower ground level
- Roof level
  - Five (5) Skylights
    - 1 x over the upper ground level pantry
    - 1 x over the upper ground level ensuite
    - 1 x over the east/rear alfresco
    - 1 x over the west/front decking
    - 1 x over the sky well to the lower ground level rumpus room
- Rear yard
  - Inground swimming pool with spa and cabana
  - landscaping



## 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

- Pittwater Development Control Plan – D14.8 – Side Setback
- Pittwater Development Control Plan D14.11 – Building Envelope

## SITE DESCRIPTION

<b>Property Description:</b>	1 Harewood Place, Warriewood Lot 40 DP 26441
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Harewood Place.</p> <p>The site is irregular in shape with a frontage of 15.24m along Harewood Place and a varied depth between 45.58m and 48.655m. The site has a surveyed area of 855.4m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living zone and accommodates a part two-storey dwelling with a detached two-car garage.</p> <p>The site slopes down from the southeast/rear corner to the southwest/front corner by 6.04m at a 14.25% grade.</p> <p>The site features managed lawn, ornamental gardens in the front setback area and two mature trees at the rear setback.</p>





**Figure 1 - Aerial View of Subject Site**



**Photo 1: Southwest/front elevation of the existing building**

### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached dwelling houses with a mix of part two-storey and part three-storey dwellings with varied steps in ground level and roof form responding to the topography of Harewood Place. The dwelling consists of a mix of brick, cladding, and rendered brick construction as well as a mix of traditional tile roof pitch and Colourbond skillion roof construction.





## SITE HISTORY

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

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

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan 2019.

As a result of the public exhibition process council is in receipt of two (2) submission/s from:

Name:	Address:
Jeanette and Albert Fenske	12 Hunter Street, Warriewood
Shayne Patterson	2 Harewood Place, Warriewood

One submission was in support of the proposal, stating that it is a well considered contemporary design, will lift the value of the street, has considered privacy and will not dominate the landscape.

One (1) submission objecting to the proposal raised the following issues:

- Privacy concerns from overlooking from the northwest windows into adjoining private open space and habitable rooms of 12 Hunter Street.
- Objection to the removal of trees identified in the landscape plans, given that they contribute to privacy.

The matters raised within the submission are addressed as follows:

- The north-facing windows on the upper ground floor W103 and W106 are bathroom and ensuite windows which are to be glazed for privacy. The bedroom windows W103a and W105 face north towards 12 Hunter Street and are to be glazed for privacy. The first-floor windows W107, W108 and W109 do not directly face 12 Hunter Street. The highlight windows W202 and W205 are high-level windows above the rooms for solar access only and therefore do not cause privacy impacts.
- The proposal has been referred to Councils' Landscaping Officers which identifies trees 4,5 and 11 as exempt trees. Part of the group of trees in G1 is to be retained with conditions of consent recommended prior to the commencement of works to engage an arborist (condition 16) and protection measures to be implemented during works (conditions 17 & 18).

## REFERRALS

Internal Referral Body	Comments
Engineering Team	<b>Supported</b> - No objections subject to conditions of consent.
Landscaping Team	<b>Supported</b> – Subject to conditions of consent including an amended landscape plan prior to the issue of a construction certificate.



External Referral Body	Comments
Ausgrid	<p><b>Supported</b> – Ausgrid has no objection to this application, however the design submission must comply with the relevant Ausgrid Network Standards and Safework NSW Codes of Practice for construction works near existing electrical assets.</p> <p>The “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.</p>

#### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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	Pittwater 21 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 regulations	<p><u>Division 8A</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider “Prescribed conditions” of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested on 30 November 2023.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is</p>



Section 4.15 'Matters for Consideration'	Comments
	<p>not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

#### ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

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

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

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



## STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS) AND STATE REGIONAL ENVIRONMENTAL PLANS (SREPS)

### STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 relates to the remediation of land. Clause 4.6 states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and, if it is contaminated, the consent authority is satisfied that the land is suitable for the purpose. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

Council records indicate that the subject site has been used for residential purposes for a significant period 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, and the land is considered to be suitable for the proposed land use.

### STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to the clearing of vegetation in non-rural areas.

The proposal includes the removal of three (3) trees and 1 group of trees from the site. An arboricultural Impact Assessment has been submitted with the application and referred to Councils' Landscaping officers.

Following the referral of additional information, Councils' landscape officers support the application subject to conditions of consent to provide amended landscape plans prior to the issue of a construction certificate.

### STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

The proposal has been assessed against the provisions of the State Environmental Planning Policy (Building Sustainability) 2022.

A BASIX Certificate has been submitted for the proposed dwelling. The proposal satisfies the targets set by the Policy in relation to water, thermal and energy.

### PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

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

#### Compliance Assessment

Clause	Compliance with Requirements
Clause 4.3 Height of buildings: 8.5m	Yes, 7.8m
Clause 7.1 Acid Sulphate Soils: Site is mapped as class 5 soils.	Yes, cut is not below 5m AHD and is not likely to affect the watertable
Clause 7.2 Earthworks:	Yes



## PITTWATER 21 DEVELOPMENT CONTROL PLAN

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives												
<b>B1 - Heritage Controls</b> <ul style="list-style-type: none"> <li>The site is not a heritage item or adjoining a heritage item. The site is not located within a heritage conservation area.</li> </ul>	N/A	N/A												
<b>B5.5 - Rainwater tanks</b> <ul style="list-style-type: none"> <li>All development creating an additional Hard/impervious roof area of 50m<sup>2</sup> or greater must provide a rainwater tank for non potable use connected to external taps for uses such as landscape watering, car washing.</li> </ul>	Yes, The dwelling is a reduction of impervious area by 12.9m <sup>2</sup> . Rainwater tanks are proposed in the lower ground floor level for BASIX compliance	Yes												
<b>B5.15 – Stormwater</b> <ul style="list-style-type: none"> <li>Stormwater drainage systems are to be designed in accordance with Council's Water Management for development policy.</li> </ul>	The proposal has been referred to Councils Engineering team with support subject to conditions of consent	Yes												
<b>B6.1 - Access driveways and works on the public road reserve</b>  Maximum driveway widths: <table border="1"> <thead> <tr> <th>Distance building line to boundary</th><th>Width at boundary</th><th>Width at kerb</th></tr> </thead> <tbody> <tr> <td>Nil to 3.5m</td><td>Width of car parking area or garage opening</td><td>Width of car parking area or garage opening, plus 0.5m</td></tr> <tr> <td>&gt;3.5m to 6.5m</td><td>4m</td><td>4.5m</td></tr> <tr> <td>&gt;6.5m</td><td>3m</td><td>3.5m</td></tr> </tbody> </table>	Distance building line to boundary	Width at boundary	Width at kerb	Nil to 3.5m	Width of car parking area or garage opening	Width of car parking area or garage opening, plus 0.5m	>3.5m to 6.5m	4m	4.5m	>6.5m	3m	3.5m	The driveway width reduces from double garage to 3m at the boundary and 3.6m at the kerb	Yes
Distance building line to boundary	Width at boundary	Width at kerb												
Nil to 3.5m	Width of car parking area or garage opening	Width of car parking area or garage opening, plus 0.5m												
>3.5m to 6.5m	4m	4.5m												
>6.5m	3m	3.5m												
<b>B6.3 – Off-street vehicle parking requirements</b> <ul style="list-style-type: none"> <li>2 spaces for dwellings with 2 or more bedrooms</li> <li>Minimum 3m x 6m internal dimensions with 2.4m entry</li> </ul>	A double garage is proposed with a 6m x 7.3m internal dimension and 5.6m entry width	Yes												
<b>B8.1 – Construction and demolition – Excavation and landfill</b>	The geotechnical risk assessment has been referred to Council's engineering team	Yes												



Clause	Compliance with Requirements	Consistency Aims/Objectives
<ul style="list-style-type: none"> <li>A certified geotechnical risk assessment is required as part of the application as excavation proposed exceeds 1.5m deep.</li> </ul>	that support the recommendations of the assessment subject to conditions of consent	
<b>B8.3 – Waste Minimisation</b> <ul style="list-style-type: none"> <li>Waste materials generated through demolition, excavation and construction works is to be minimised by re-use on site, recycling or disposal at an appropriate waste facility.</li> </ul>	Complies, the waste management plan specifies the estimated volumes of materials to be recycled and re-used on site.	Yes
<b>B8.4 – Site Fencing and Security</b> <ul style="list-style-type: none"> <li>All sites are to be protected by site fencing during the duration of works.</li> </ul>	Site fencing details provided within the Site management plan.	Yes
<b>C1 Design Criteria for Residential Development</b>		
<b>C1.1 – landscaping :</b> 60% of the front of buildings shall be landscaped.	122.66m <sup>2</sup> of 175.26m <sup>2</sup> front setback is landscaped = 69.98%	Yes
<b>C1.2 – safety and security</b> <ul style="list-style-type: none"> <li>The building layout should allow for passive surveillance from a habitable room window to the street.</li> <li>Entrances to be clearly visible from the street</li> </ul>	Passive surveillance is provided from the first floor sitting room and west facing decking	Yes
<b>C1.3 – View sharing</b> <ul style="list-style-type: none"> <li>New development is to be designed to achieve a reasonable sharing of views available from nearby properties</li> </ul>	No significant views are identified to or from the site.	Yes
<b>C1.4 – Solar access</b> <ul style="list-style-type: none"> <li>The primary private open space on site and adjoining private open space is to achieve a minimum 3 hours solar access between 9am and 3pm June 21.</li> <li>Windows to living areas on the site and adjoining dwellings are to achieve a minimum 3 hours solar access between 9am and 3pm to a minimum 50% of the windows on June 21.</li> </ul>	The shadow diagrams demonstrate the proposal and south adjoining private open space will achieve over three hours solar access	Yes
<b>C1.5 – Visual privacy</b> <ul style="list-style-type: none"> <li>Private open space including swimming pools and living rooms on site and adjoining</li> </ul>	Privacy screening is proposed on the south side of the alfresco area and landscaping along	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
dwelling are to be protected from overlooking within 9m	the perimeter to prevent overlooking	
<b>C1.6 – Acoustic privacy</b> <ul style="list-style-type: none"> <li>Noise sensitive rooms should be located away from noise sources such as main roads, parking areas and adjoining private open space.</li> </ul>	The bedrooms are proposed on the north side of the building away from adjoining private open space.	Yes
<b>C1.7 – Private open space</b> <ul style="list-style-type: none"> <li>Minimum 80m<sup>2</sup> private open space per dwelling at ground level</li> <li>Minimum 3m dimension</li> <li>No more than 75% of the private open space is to be provided in the front yard.</li> <li>A minimum 16m<sup>2</sup> principal private open space area is to be provided with a minimum 4m dimension and maximum grade of 1:20 (5%)</li> <li>Should be located to maximise solar access.</li> <li>Should be located at the rear of the dwelling to prevent overlooking.</li> <li>A balcony above the ground level but access from a living area can be included.</li> <li>Balconies along side boundaries are to be designed to prevent overlooking.</li> <li>Clothes drying facilities are to be located out of view from the street or public place.</li> </ul>	190m <sup>2</sup> excluding the pool area, total. 285.55m <sup>2</sup> including the pool and cabana  Alfresco principal private open space is 38m <sup>2</sup> accessed directly from the open plan lounge and kitchen. Clothes drying facilities can be conditioned in the consent.	Yes
<b>C1.10 – Building facades</b> <ul style="list-style-type: none"> <li>Building facades to any public place including balconies and car parking must not contain stormwater, sewer, gas, electrical or communication service pipes/conduits visible from a public place</li> </ul>	Service conduits and piping is not visible from the façade. Bin storage is proposed on the south side with architectural feature walls obscuring view of the bins	Yes
<b>C1.12 – Waste and recycling facilities</b> <ul style="list-style-type: none"> <li>Development is to be accompanied by a waste management plan</li> </ul>	A waste management plan is submitted detailing the volume of materials during demolition and construction	Yes
<b>C.17 – Swimming pool safety</b> <ul style="list-style-type: none"> <li>Swimming pool fencing is to comply with the Swimming pools Act 1992 and AS1926.1-2007.               <ul style="list-style-type: none"> <li>1.2m fence height</li> <li>900mm non-climbable zone (NCZ)</li> </ul> </li> </ul>	1.2m pool fencing is shown in the upper ground floor plans and elevations. The fence entry gate opens outwards from the Cabana.	Complies through condition of consent.



Clause	Compliance with Requirements	Consistency Aims/Objectives
	Conditions of consent are recommended to continue the fencing on the north side to prevent climb-ability from the retaining wall.	
<p>C1.23 – Eaves</p> <ul style="list-style-type: none"> <li>Dwellings shall incorporate eaves on all elevations with a minimum 450mm width excluding gutters</li> </ul>	Contemporary low pitch roof with parapet wall appearance proposed	N/A
<b>D14 Warriewood Locality</b>		
<p>D14.1 – Character as viewed from a public space</p> <ul style="list-style-type: none"> <li>Walls without articulation cannot exceed 8m to any street frontage.</li> </ul> <p>Any building façade to a public place must incorporate at least two of the following design features:</p> <ul style="list-style-type: none"> <li>Entry feature or portico</li> <li>Awnings or other features over windows</li> <li>Verandahs, balconies or window box treatment to any first floor element</li> <li>Recessing or projecting architectural elements</li> <li>Open, deep verandahs; or</li> <li>Verandahs, pergolas or similar features above garage doors</li> </ul> <p>Parking structures should be behind the building line and not occupy more than 50% of the frontage width of 7.5m (whichever is lesser)</p>	The building façades provide articulation through feature walls, steps in the building line and architectural timber screening for the first floor decking.	Yes
<p>D14.2 – Scenic protection - general</p> <ul style="list-style-type: none"> <li>Development is to minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.</li> </ul>	The site does not contain foreshore views due to the site topography. Sloping down from the east/rear to west/front.	Yes
<p>D14.3 – Building colours and materials</p> <ul style="list-style-type: none"> <li>External colours and materials shall be dark and earthy tones.</li> <li>White, light colour, red or orange roof and walls are not permitted.</li> <li>Finishes are to be low reflectivity</li> </ul>	A combination of dark colourbond, cladding and stone wall is proposed along with timber screening. Low reflectivity can be	Yes





Clause	Compliance with Requirements	Consistency Aims/Objectives
	conditioned in the consent	
<p>D14.7 – Front Building line</p> <ul style="list-style-type: none"> <li>6.5m or the established building line,</li> </ul>	The proposal features an angled front setback ranging from 8m to 10.09m	Yes
<p>D14.8 – Side and rear building line</p> <ul style="list-style-type: none"> <li>2.5m to at least 1 side</li> <li>1.5m for the other side</li> <li>6.5m rear setback</li> <li>1m setback from swimming pool coping to a side or rear setback</li> </ul>	<p>The north side is proposed with the 1m setback, encroaching by 0.5m.</p> <p>The south side is proposed with a minor encroachment to the 2.5m setback. The pool cabana is proposed with a 1m south side setback</p>	<p>Supported on merit, See discussion below.</p> <p>The encroachment to the north is to a portion of the front feature wall and wall on the northern side. A condition of consent requiring privacy treatment to northern windows is recommended to ensure adjoining privacy and the encroachment does not overshadow adjoining private open space.</p> <p>The encroachment on the south is minor with the articulated feature wall measure to encroach the side setback by 0.4m. the feature wall and cabana does not result overlooking or significant overshadowing the adjoining private open space.</p>
<p>D14.11 – Building Envelope</p> <ul style="list-style-type: none"> <li>Dwellings are to be sited within a building envelope projected at 45° from 3.5m height above ground level at the side boundaries to the maximum building height</li> </ul>	The dwelling is proposed with an encroachment to the building envelope to a portion of the front feature walls on the northwest and southwest/front corners of the building	Complies on merit, see discussion below. The encroachment is considered minor as only the west/front corners of the buildings protrude the envelope due to the site topography.
D14.13 – Environmentally sensitive land	461.6m <sup>2</sup> (54%), plus 6% (51.3m <sup>2</sup> ) paved area and decking for the swimming pool	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
<ul style="list-style-type: none"> <li>The total landscaped area on land zoned C4 Environmental living shall be a minimum 60% of the site area</li> </ul>	area = 513.9m <sup>2</sup> (60.03%) landscaping	
<p>D14.15 – fences – general</p> <ul style="list-style-type: none"> <li>Front fences shall not exceed 1m above existing ground level.</li> <li>Side and rear fencing behind the building line shall have a maximum building height of 1.8m.</li> </ul>	<p>A partial removal of the existing retaining wall is proposed. The retaining wall to be retained shall provide vegetation screening. No change to the existing side or rear fencing is proposed</p>	Yes
<p>D14.17 – Construction, retaining walls, terracing and undercroft area</p> <ul style="list-style-type: none"> <li>Where retaining walls and terracing is visible from a public place, preference is given to the use of sandstone or sandstone like materials.</li> <li>For outdoor entertaining, preference is given to timber decks of cut and fill, retaining walls and terracing.</li> </ul>	<p>Partial retaining wall removal is proposed with the majority of the front retaining walls unchanged.</p> <p>1m cut is proposed for the alfresco. Cut and fill is proposed to level the rear yard behind the alfresco with a 900mm difference in height between the rear yard and pool and cabana area.</p>	Yes

## 7.12 CONTRIBUTIONS

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

A monetary contribution of \$22,519.20 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,251,920.00.

## 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.

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

- Consistent with the objectives of the DCP



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

## **PLANNING CONCLUSION**

This proposal, for the demolition of existing structures and the construction of a dwelling and an inground swimming pool has been referred to the Northern Beaches Local Planning Panel (NBLPP) in accordance with Council's Management of Conflicts of Interest practices, as the landowner is a relative of a staff member in Development Assessment.

The concerns raised in the objections relating to privacy and landscaping have been addressed and resolved by amended plans and recommended conditions of consent.

The critical assessment issues included privacy, landscaping, setbacks, and building envelope.

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.



## RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2023/1426 for Demolition works and construction of a dwelling house including an inground swimming pool on land at Lot 40 DP 26441, 1 Harewood Place, WARRIEWOOD, 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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA_100	B	Lower Level / Street Level	Hot House Architects	1 November 2023
DA_101	B	Upper Level	Hot House Architects	1 November 2023
DA_102	B	Roof Plan	Hot House Architects	1 November 2023
DA_200	B	Elevations	Hot House Architects	1 November 2023
DA_201	B	Elevations	Hot House Architects	1 November 2023
DA_300	B	Sections	Hot House Architects	1 November 2023
DA_350	A	Driveway Details	Hot House Architects	28 September 2023
DA_600	B	Site Management Plan	Hot House Architects	1 November 2023
DA_701	B	Landscape Plans & Compliance	Hot House Architects	1 November 2023
D2	A	Stormwater Management Lower Floor Plan	NY Civil Engineering	29 September 2023
D3	A	Stormwater Management Upper Floor Plan	NY Civil Engineering	29 September 2023
D4	A	Stormwater Management Roof Plan	NY Civil Engineering	29 September 2023
D5	A	Stormwater Details	NY Civil Engineering	29 September 2023
D6	A	Stormwater Details	NY Civil Engineering	29 September 2023
D7	A	Stormwater Details	NY Civil Engineering	29 September 2023
D8	A	Sediment Control Plan	NY Civil Engineering	29 September 2023
D9	A	Sediment Control Details	NY Civil Engineering	29 September 2023



Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Waste Management Plan	-	Wade Cogle	28 September 2023
Arboricultural Impact Assessment	A	Hugh the Arborist	29 November 2023
BASIX Certificate 142608S_03	-	House Energy Certified	28 November 2023
NatHERS Certificate HR-A36U6L-02	-	Hot House Architects	28 November 2023
Geotechnical Investigation	J5149	White Geotechnical Group	29 September 2023

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	Response Ausgrid Referral	9 October 2023

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

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

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house, in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

Dwelling house means a building containing only one dwelling.

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. **Prescribed Conditions**

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



- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.  
Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in



- accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
  - (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
  - (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
  - (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
  - (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
  - (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
  - (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
  - (k) Prior to the commencement of any development onsite for:
    - i) Building/s that are to be erected
    - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
    - iii) Building/s that are to be demolished
    - iv) For any work/s that is to be carried out
    - v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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 sewerage areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$22,519.20 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 2022.

The monetary contribution is based on a development cost of \$2,251,920.00.

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.

### 7. Security Bond

A bond (determined from cost of works) of \$10,000 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 Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

#### 8. Amended Landscape Plan

- a) amended Landscape Plan(s) shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following details:
  - i) all new planting areas shown on the plans shall clearly identify the proposed planting scheme including species selection, location, quantities and pot sizes,
  - ii) mass planting shall be installed at minimum 1 metre intervals (or less) for shrubs of a minimum 200mm container size at planting, and at minimum 4 plants per metre square for groundcovers of a minimum 140mm container size at planting,
  - iii) two trees shall be installed within the property boundaries and the species selection, location, quantities and pot sizes information shall be included on the plan; at least one tree shall be located in the front setback,
  - iv) all tree planting shall be native and a minimum planting size of 75 litres; generally selected from Northern Beaches Council's Native Plant Species Guide, or Council's Tree Guide; to achieve at least 6 metres height at maturity, and shall be located at least 3.0 metres from buildings and other trees or more, and at least 1.5 metres from common boundaries.
- b) certification shall be submitted to the Certifier that these amendments have been documented.

Reason: Landscape amenity.

#### 9. Pool Fencing

Amended Architectural Plans and elevations are to be prepared to demonstrate the pool fencing is provided on the north side connects to the east/rear boundary fencing to ensure the pool area cannot be accessed by climbing the garden retaining walls.

Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure compliance with the Swimming Pool Act 1992 and Australian Standards AS1926 Swimming Pool Safety

#### 10. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Stormwater shall be conveyed from the site to the street. Details by an appropriately qualified and practicing Civil or Hydraulic Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with Council's policy are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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



**11. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 29.09.2023 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

**12. Vehicle Crossings Application**

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 3.0 metres wide in accordance with Northern Beaches Council Standard Drawing A4 3330/2 NH in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

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

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

**13. Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

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 ensure no substance other than rainwater enters the stormwater system and waterways.

**14. Northern Window Glazing**

Windows W103, W103a, W104, W105, W106, W107, W108, and W109 on the northern elevation are to be treated with obscure glazing. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy to the adjoining / nearby property.

**15. Compliance with Standards**

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

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



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

**16. 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 Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://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.

**17. External Finishes to Roof**

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.46 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a metallic steel or reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

**18. Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

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

**19. Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation).

Property / Properties:

- 2 Harewood Place, Warriewood
- 10 Hunter Street, Warriewood
- 12 Hunter Street, Warriewood



The reports must detail the physical condition of those properties listed above, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

The dilapidation reports are to be prepared by a suitably qualified person. Copies of the reports must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation reports is denied by an adjoining owner, the Applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

#### 20. **Project Arborist**

- a) a Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.
- b) the Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:
  - i) tree protection measures and works under section 9.5, 9.7, 9.8, 10.2-10.23 and 11.
- c) All tree protection measures specified must:
  - i) be in place before work commences on the site, and
  - ii) be maintained in good condition during the construction period, and
  - iii) remain in place for the duration of the construction works.
- d) the Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s).

Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

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

#### 21. **Trees and Vegetation Protection**

- a) existing trees and vegetation shall be retained and protected, including:
  - i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans (the eastern portion of G1 to be removed is approved),
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all trees and vegetation within the road reserve.
- b) tree protection shall be undertaken as follows:



- i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
  - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
  - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
  - vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
  - viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009 Protection of trees on development sites,
  - ix) the activities listed in section 4.2 of AS 4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
  - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
  - xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.
- c) the Principal Certifier must ensure that:
- i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

## 22. Condition of Trees

- a) during the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:
  - i) a general decline in health and vigour,
  - ii) damaged, crushed or dying roots due to poor pruning techniques,
  - iii) more than 10% loss or dieback of roots, branches and foliage,
  - iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
  - v) yellowing of foliage or a thinning of the canopy untypical of its species,
  - vi) an increase in the amount of deadwood not associated with normal growth,
  - vii) an increase in kino or gum exudation,
  - viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
  - ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.



- b) any mitigating measures and recommendations required by the Arborist/Project Arborist are to be implemented.
- c) the owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

23. **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.

24. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

25. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

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

26. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports for the properties referred to in the Pre-Construction Dilapidation Report condition, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The reports must:

- Compare the post-construction reports with the pre-construction reports,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the relevant property owners. Copies must also be lodged with Council.



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

Reason: To maintain proper records in relation to the proposed development.

**27. Landscape Completion**

- a) landscape works are to be implemented in accordance with the approved amended Landscape Plan(s), and inclusive of the following conditions:
  - i) landscape works are to be contained within the legal property boundaries,
  - ii) planting shall be installed as indicated on the approved amended Landscape Plan(s) unless otherwise imposed by any conditions,
  - iii) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings and other trees or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
  - iv) mass planting shall be installed at minimum 1 metre intervals (or less) for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at minimum 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
  - v) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
  - vi) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone,
  - vii) should any existing vegetation shown to be retained in the front setback be damaged or removed during construction, it shall be replaced with a like-for-like substitute to ensure the existing landscape character is maintained.
- b) prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

**28. Condition of Retained Vegetation**

- a) prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:
  - i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
  - ii) extent of damage sustained by vegetation as a result of the construction works,
  - iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

**29. 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 Certifier prior to the issue of an Occupation Certificate.





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

30. **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 Certifier prior to the issue of an Occupation Certificate.

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

31. **Geotechnical Certificate Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

32. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

- (a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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
- (b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.
- (c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.
- (d) A warning sign stating 'YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL' has been installed.
- (e) Signage showing resuscitation methods and emergency contact.
- (f) All signage shall be located in a prominent position within the pool area.
- (g) Swimming pools and spas must be registered with the Division of Local Government.

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

Reason: To protect human life.





**33. Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

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

**34. Landscape Maintenance**

- a) if any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.
- b) trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.
- c) if any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved amended Landscape Plan(s) and any conditions of consent.
- d) the approved landscape planted areas, whether containing lawn, gardens or planters shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

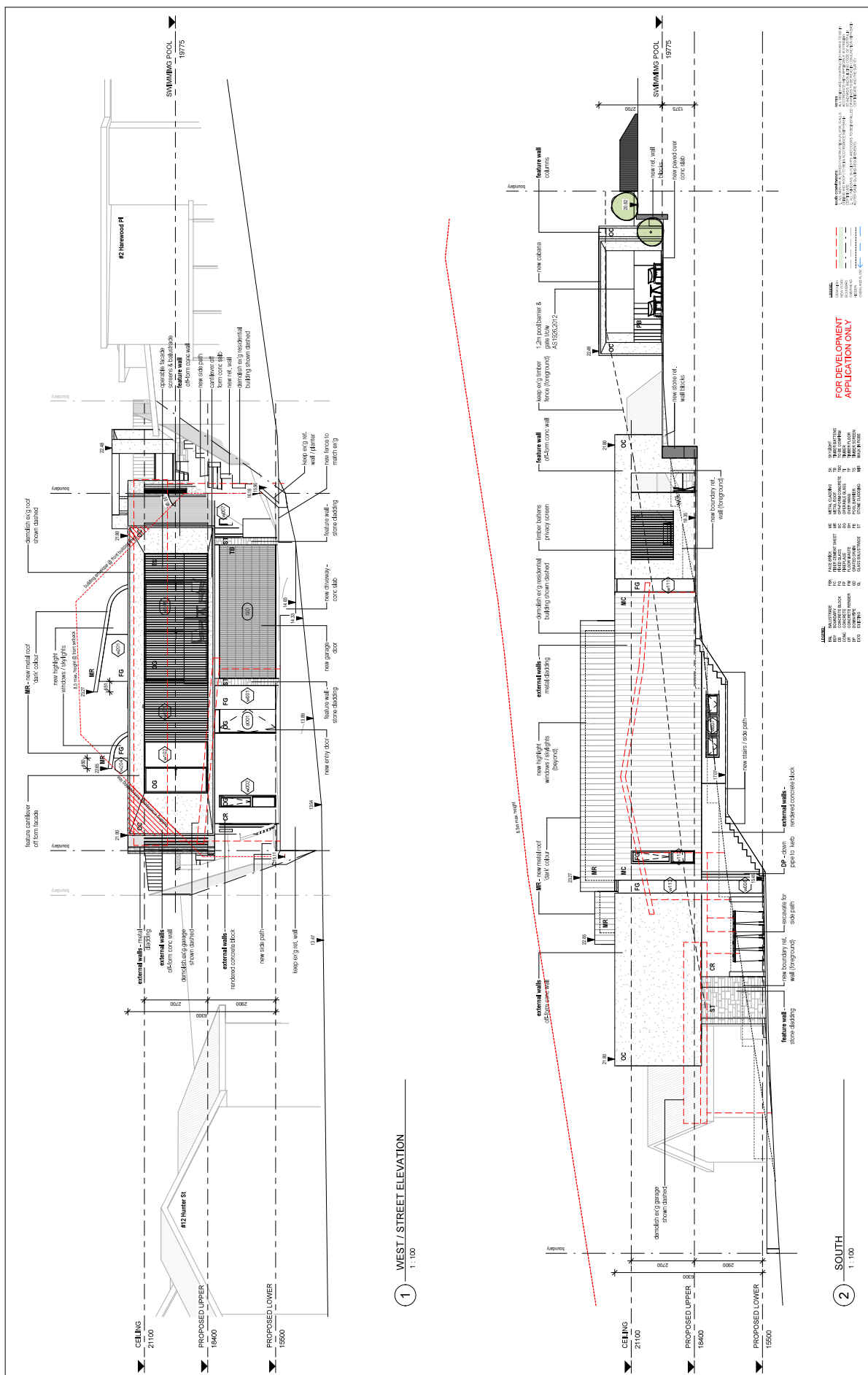
**35. Swimming Pool/Spa Motor Noise**

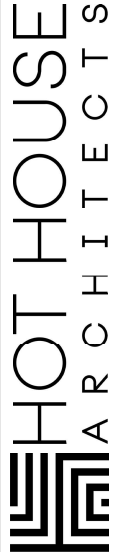
The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

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





[illegible]



ITEM 4.3	DA2023/1399 - 2/34 CAMPBELL AVENUE, CROMER - ALTERATIONS AND ADDITIONS TO A SEX SERVICES PREMISES
AUTHORISING MANAGER	Steve Findlay
TRIM FILE REF	2024/023519
ATTACHMENTS	1 <a href="#">↓</a> Assessment Report 2 <a href="#">↓</a> Site Plans

## PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a development for the purpose of sex services premises and restricted premises.

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## RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/1399 for Alterations and additions to a Sex Services Premises on land at Lot 2 SP 81726, 2 / 34 Campbell Avenue, CROMER subject to the conditions set out in the Assessment Report.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/1399
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<b>Responsible Officer:</b>	Dean Pattalis
<b>Land to be developed (Address):</b>	Lot 2 SP 81726, 2 / 34 Campbell Avenue CROMER NSW 2099
<b>Proposed Development:</b>	Alterations and additions to a Sex Services Premises
<b>Zoning:</b>	Warringah LEP2011 - Land zoned E4 General Industrial
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Nicole Anne Dobosi
<b>Applicant:</b>	Boston Blyth Fleming Pty Ltd

<b>Application Lodged:</b>	09/10/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	13/10/2023 to 27/10/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 39,500.00
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### EXECUTIVE SUMMARY

This application seeks consent for alterations and additions to an existing and lawfully approved sex services premises.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as it is sensitive development (development for the purpose of a sex services premises).

Two submissions were received during the community notification period. Concerns raised in the objections predominantly relate to the operational changes to the existing premises in relation to opening hours and staff numbers, as well as vehicle and parking management.



Critical assessment issues related to the changes to the operation of the premises include hours of operation and staffing as well as vehicle access and parking. These issues were also assessed by Council's Environmental Health Officer and Development Engineer, as well as the Crime Prevention Office of the Northern Beaches Police Area Command.

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

### **PROPOSED DEVELOPMENT IN DETAIL**

The application proposes alterations and additions and intensification of the use of an existing sex services premises known as Lot 2, Unit 17/34 Campbell Avenue, Cromer. The current use of the premises is sex services (brothel) and was lawfully approved by Council.

The proposed works include:

- Internal reconfiguration and fit-out of the existing floor plan, including additional floor areas to both ground floor and first floor
- Removal of the internal double parking area on the ground floor and replacement with car stacker for three (3) vehicles
- A new plan of management is also proposed, including changes to approved hours of operation and staffing numbers as detailed below

Hours of operation are proposed to be 24 hours and 7 days per week, compared to the existing approved hours of operation of:

- 9.00am to 12.00am (Mon - Fri)
- 9.00am to 1.00am (Sat)
- 10.00am to 12.00am (Sun)

An increase to the approved number of staff to 4 sex services workers and 2 managing staff, compared to existing approved staffing of 2 sex services workers and 1 part-time receptionist at any one time.

No changes are proposed to the existing external built form of the building.

### **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

Warringah Local Environmental Plan 2011 - Zone E4 General Industrial  
Warringah Development Control Plan - C3 Parking Facilities  
Warringah Development Control Plan - C9 Waste Management

### SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 SP 81726 , 2 / 34 Campbell Avenue CROMER NSW 2099
<b>Detailed Site Description:</b>	<p>The site is known as unit 2 in SP 81726, 2/34 Campbell Avenue, Cromer.</p> <p>The unit is located within an established industrial area of Cromer. Access to the site is provided from Campbell Avenue.</p> <p>The site is zoned E4 General Industrial.</p> <p>The complex has a range of industrial and commercial uses associated with the industrial zoning. The existing use of the subject unit is a sex services premises.</p> <p>Development in the immediate vicinity comprises industrial sites to the north and south. Cromer sports fields are located to the north west.</p> <p>Residential uses are located across Campbell Avenue to the east.</p>

Map:



## SITE HISTORY

The land has been used as a sex services premises for an extended period of time.

A search of Council's records has revealed the following relevant history:

Pre-lodgement Meeting **PLM2009/0077** was held on 23/09/2009 for a fit out and occupation of an existing industrial unit as a "Brothel"

Application **DA2009/1445** for Fit out and Use as a Brothel was approved by the Warringah Development Assessment Panel (equivalent of NBLPP) on 10 March 2010.

### EPA2022/0045

- Development Control Order issued to the owner of the site as internal fit out of the premises did not reflect the plans approved under the most recent development consent. Correspondence was provided by Council to the owner on 1 September 2022 advising the order had been complied with and the premises had been restored to the original approved condition.*

## 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	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 Matters for Consideration	Comments
environmental planning instrument	
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	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>Part 4, Division 2 of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. The fact that</p>

Section 4.15 Matters for Consideration	Comments
	<p>the use is a sensitive use by virtue of the provision of sex services has not raised any issues of social impact since its commencement and no specific concerns are raised in this regard with the intensification.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development. The suitability of the site for a sex services premises was assessed at the time the development consent was originally granted and the intensification does not raise any issues in this regard.
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. The issues raised in relation to the notification have been addressed above.
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. The level of public interest has been minimal as evidenced by the response to the notification, and the proposal satisfies the relevant planning and related controls applying to a sex services premises.

#### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

#### BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

#### NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 13/10/2023 to 27/10/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Ms Leisha Jane Clarke	17 Seeana Place BELROSE NSW 2085
Mrs Nicaly Janel Notting	19 / 34 Campbell Avenue CROMER NSW 2099

Two (2) submissions were received during the community notification period and the following concerns were raised:

- **Structural integrity**

Comment:

Concern was raised regarding structural impacts resulting from the proposed slab works upon other unit owners. A condition of consent is therefore recommended for pre and post dilapidation reporting to be conducted to ensure no adverse impacts to the structural integrity of adjoining units result from the development process.

- **Vehicle access**

Comment:

Concern was raised regarding vehicle access and maneuvering in relation to the proposed car stacker. It is noted that no change is proposed to the existing vehicle access driveway from Campbell Avenue. Council's Development Engineer has also reviewed the proposal in this context and raised no objection to approval, subject to recommended conditions of consent including for certification of the proposed off-street parking works in accordance with relevant Australian Standards.

- **Parking availability**

Comment:

Concern was raised regarding parking availability within the industrial complex. The existing premises currently caters for 5 off-street parking spaces, including 3 allocated external spaces and an internal double parking area. The proposed development retains the existing 3 external spaces whilst replacing the existing internal double parking area with a triple car stacker, therefore resulting in an overall increase of one parking space to the existing premises from 5 spaces to 6 spaces. As reflected under the assessment of Clause C3 Parking Facilities of WDCP 2011 within this report, the proposed development complies with the numerical requirement for car parking prescribed under the control. It is therefore considered that the proposed vehicle parking arrangement is able to reasonably accommodate the proposed intensification of the use of the premises.

- **Hours of operation, staff and patronage**

Comment:

Concern was raised regarding the proposed increase in patrons associated with the increase in operation hours, as well as increase in staffing, in the context of traffic management and increased incidences of anti-social behaviour. As discussed above, the proposed vehicle arrangement is considered reasonable in the context of the development. The proposal has also been referred to the Northern Beaches Local Area Command who have provided safety and security recommendations, including for CCTV and surveillance measures, which have been included as a condition of consent.

- **Pollution**

Comment:

Concern was raised regarding pollutive materials being emitted from the proposed development, particularly in the context of car exhaust fumes. The proposal is not considered to result in an excessive amount of vehicles that would be considered unreasonable or unexpected in the industrial complex. Council's Environmental Health Officer has also reviewed the application and raised no objection to approval.

- **Cost of works**

Comment:

Concern was raised regarding an objector's skepticism of the proposed cost of works. It is noted a Cost Summary Report has been submitted with the application which details the nature of the works.

- **Financial disadvantage**

Comment:

Concern was raised regarding a perceived financial disadvantage being experienced by an adjoining unit owner who are experiencing increased business-related costs as a result of the existing sex services premises. These concerns are not a planning consideration as part of a development assessment.

- **Clothing of the employees of the premises when in public**

Comment:

Concern was raised regarding the employees of the premises being inappropriately clothed in public. It is advised that if the objector believes the employees are in breach of any clothing or exposure laws this issue should be directed to the Police. Furthermore, the conditions of the original consent for the premises under DA2009/1445 (dated 24 March 2010) states that sex workers must not be visible from outside the brothel. The conditions of the original consent remain relevant and shall be read in conjunction with this subject consent.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant 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.</p> <p>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.</p>
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>This applicant is seeking consent for alteration and additions to a sex services premises. The works seek internal upgrades the existing unit while also providing additional working rooms and parking.</p> <p>Environmental Health has reviewed the plan of management and recommends approval</p>
NECC (Bushland and Biodiversity)	<p>The proposed development is considered unlikely to have any significant impact to biodiversity values, including the mapped Wildlife Corridor (Warringah Development Control Plan Control E4).</p>
NECC (Development Engineering)	<p>The proposed development is in Region 2. There are no proposed works to the exterior roof structure and hence there are no proposed</p>

Internal Referral Body	Comments
	works affecting the existing stormwater discharge regime. I have no objections to the proposed development.

External Referral Body	Comments
NSW Police - Crime Prevention Office (Local Command matters)	The application was referred to the Crime Prevention Office of the Northern Beaches Police Area Command who provided a response containing various recommendations and considerations for the operation of the premises. These recommendations have been included as a condition of consent. Subject to compliance with the recommendations of the police response, no objection to approval was raised.

#### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

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

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

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

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

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

##### Chapter 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 as a sex services premises 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 existing and proposed land use.

##### Warringah Local Environmental Plan 2011

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

##### Compliance Assessment

Clause	Compliance with Requirements
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.9 Location of sex services premises	Yes

#### Detailed Assessment

#### **Zone E4 General Industrial**

The use of the development as a sex services premises was approved in 2010 under a prior planning instrument.

The land use table for the E4 General Industrial zone under WLEP 2011 states that any other development not specified in item 2 or 4 is permitted with consent.

The existing land use as a sex services premises is therefore permitted with consent in the zone.

#### **Warringah Development Control Plan**

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E10 Landslip Risk	Yes	Yes



#### Detailed Assessment

#### **C3 Parking Facilities**

The parking requirement for the site is in accordance with the following table:

Use	Appendix 1 Calculation	Required	Provided	Complies
Sex Services Premises	<p>1 space per 2 suites for employees plus</p> <p>1 space per 2 suites for clients.</p> <p>Additional car parking spaces must be provided where other discrete uses (such as function rooms etc) are provided in the premises, at a rate appropriate to the particular use.</p>	5	6	Yes

The proposal is therefore acceptable in this regard.

#### **C9 Waste Management**

A waste management plan has not been provided with this application. As such, a condition of consent has been included within this report to ensure that any waste generated as a result of the proposed development is disposed of, or reused on site, appropriately.

#### **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**

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

## **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;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

## **PLANNING CONCLUSION**

This application has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to it constituting a sensitive development.

The concerns raised in the objections have been addressed within the relevant discussion within this report and resolved by recommended conditions of consent where appropriate.

The critical assessment issues in relation to the operational management of the premises, as well as vehicle access and parking, have also been considered and addressed.

Overall, the development satisfies 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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2023/1399 for Alterations and additions to a Sex Services Premises on land at Lot 2 SP 81726, 2 / 34 Campbell Avenue, CROMER, subject to the conditions printed below:

## Terms and Reasons for Conditions

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

### GENERAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA100	B	Site Plan	KvB Drafting Services	10 August 2023
DA101	B	Ground and Mezzanine Plan	KvB Drafting Services	10 August 2023
DA200	B	Sections 1,2 and 3	KvB Drafting Services	10 August 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Plan of Management	-	Boston Blyth Fleming	Undated

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

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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

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

Other Department, Authority or Service	EDMS Reference	Dated
NSW Police Force	NSW Police Referral Response	6 December 2023

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

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

### 3. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a sex services premises, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

**sex services premises means a brothel, but does not include home occupation (sex services).**

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. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:

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

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

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

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

Reason: Legislative requirement.

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area

affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

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

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

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

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

#### 6. **Original Development Consent**

This consent shall be read in conjunction with the original development consent for the sex services premises under DA2009/1445, dated 24 March 2010.

The conditions of consent under DA2009/1445 remain relevant to the current approved premises, with the exception of the expanded operations, hours of operation and staffing/patronage numbers and parking approved under this consent.

Reason: To ensure all relevant consent provisions apply to the sex services use of the premises.

### **FEES / CHARGES / CONTRIBUTIONS**

**7. Security Bond**

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

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

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

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

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

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

**8. Off Street Parking Design**

The Applicant shall submit a design for the parking facility in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

**9. Compliance with Standards**

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

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

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

**10. 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 Certifier 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.



## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 11. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties: 1/34 Campbell Avenue, Cromer (LLJAHPB Pty Ltd)

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

## DURING BUILDING WORK

### 12. 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.

### 13. 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.

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

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Compliance Assessment Report prepared by BCA Vision, dated 9/8/2023, Ref No.P220193, issue 1, including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

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

**15. Access & Egress**

The proposed building work is required to comply with Part D of the Building Code of Australia other than where a Performance Solution is proposed. In this regard 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 building occupant safety.

**16. Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

**BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**

**17. Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

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

Reason: To maintain proper records in relation to the proposed development.

**18. Certification of Off Street Parking Works**

The Applicant shall submit a certificate from a suitably qualified person certifying that the

parking facility was constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

19. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

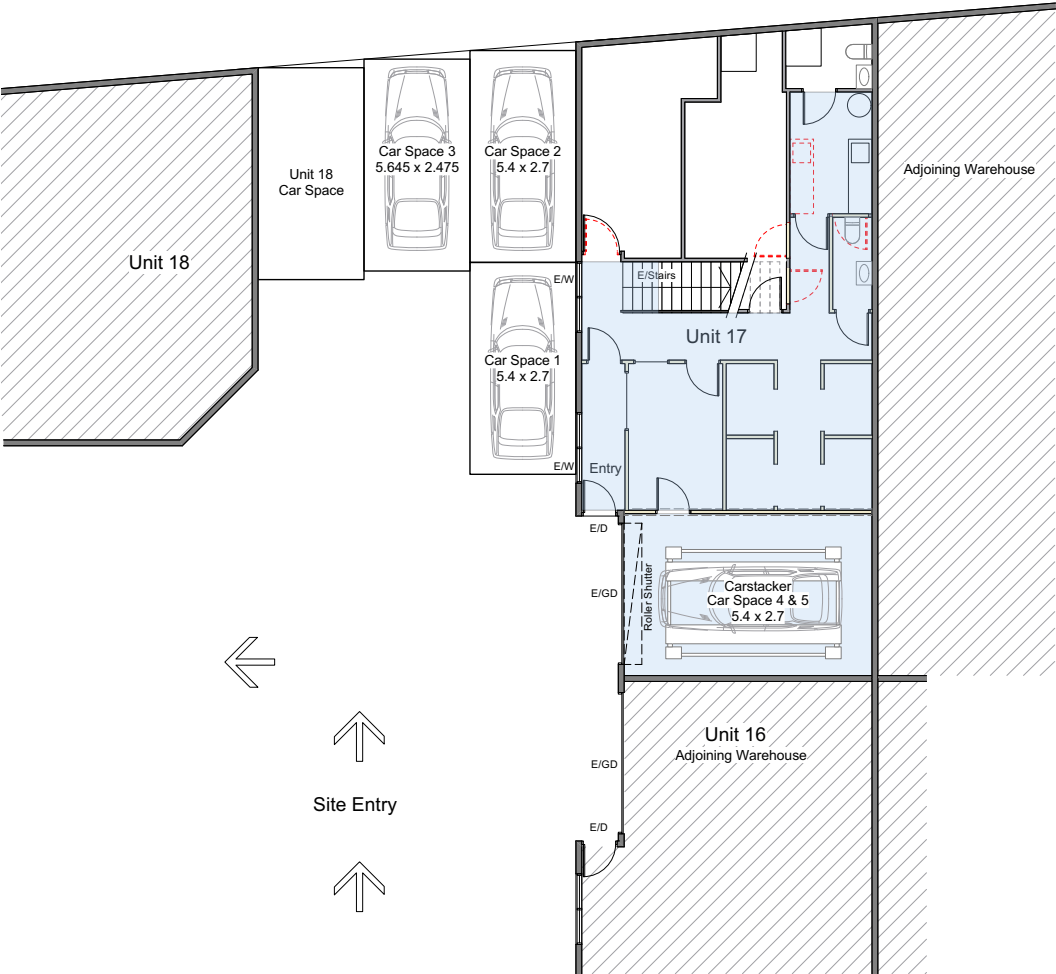
Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

20. **Number of Staff**

Maximum number of staff permitted on the premises at any one time is limited to 4 sex services workers and 2 managing staff.

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



2 Site / Car Parking Plan  
Scale: 1:100

RevNo	Revision note	Date
A	Prelim Issue	1/8/22
B	Issue for Approval	10/8/23



PROPOSED DEVELOPMENT

01 Location Plan

Legend

- Structure or Wall To Be Demolished
- Existing Wall To Remain
- Proposed New Stud Wall
- Proposed New or Altered Works

KvB Drafting Services  
Mob: 0425 284 927  
Em: ken.brandwijk@gmail.com

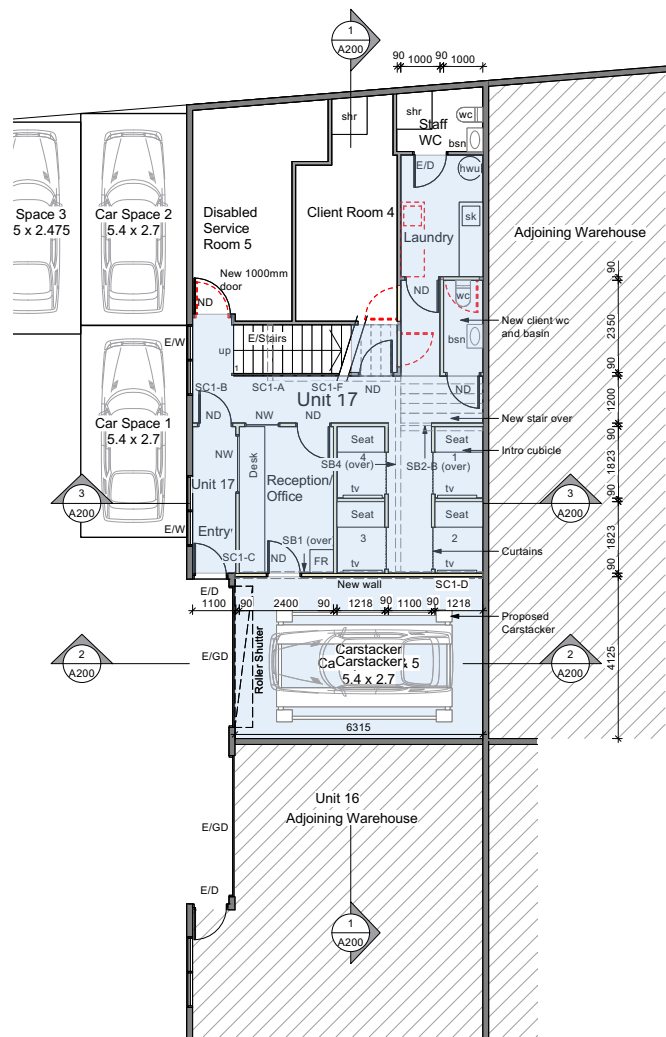
Alterations & Additions at  
Lot 2 SP 81726  
2/34 Campbell Avenue,  
Cromer, NSW 2099  
for Mr. P & Mrs. N Thorsen

Project	Date	Scale @ A3	Sheet
2206	14/7/22	1:100	

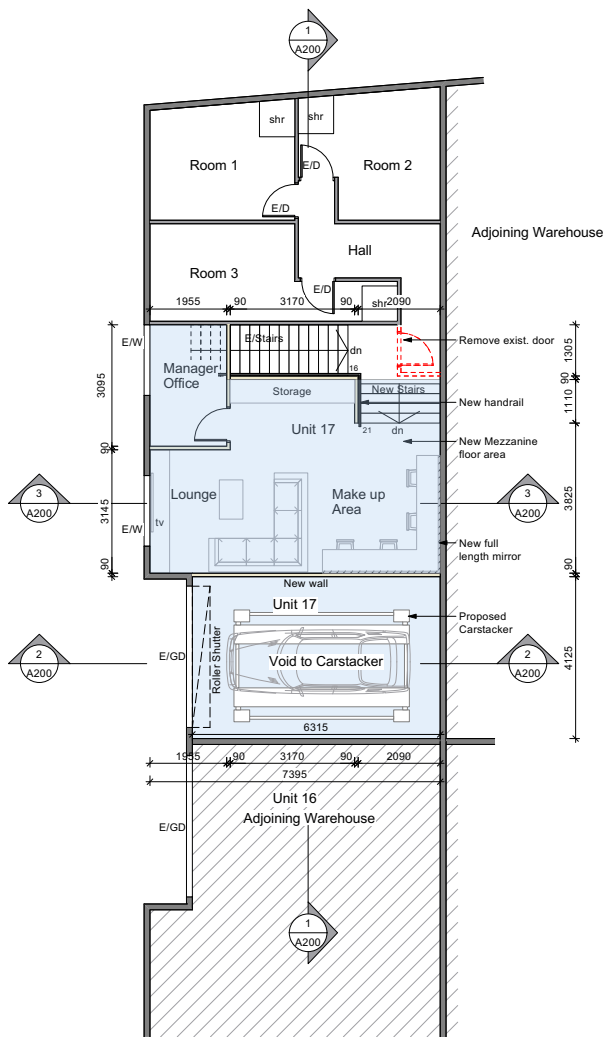
Dwg. No.	Issue No.
DA100	B

SITE / CAR PARKING PLAN

NOTE:  
Contractor to confirm all layout & dimensions on site prior to commencement of any work. Draftsman to be consulted regarding any discrepancies prior to work commencing. All work to be done in accordance with relevant Australian Standards & the BCA.



3 Ground Floor Plan  
Scale: 1:100



4 Mezzanine Floor Plan  
Scale: 1:100

- Legend**
- Structure or Wall To Be Demolished
  - Existing Wall To Remain
  - Proposed New Stud Wall
  - Proposed New or Altered Works

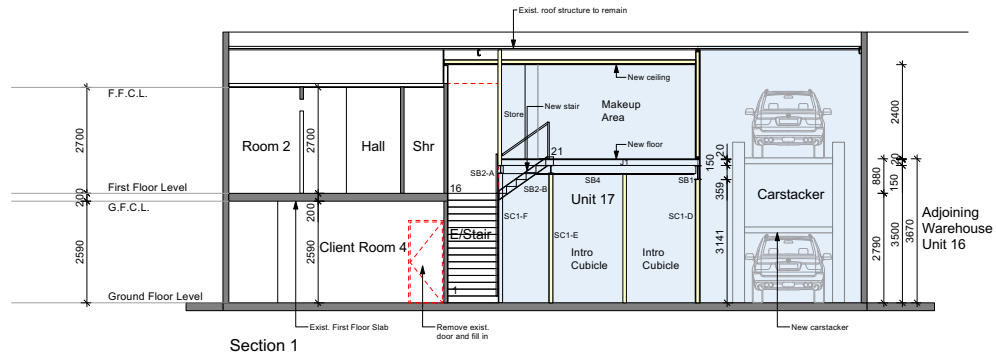
RevNo	Revision note	Date
A	Prelim Issue	1/8/22
B	Issue for Approval	10/8/23

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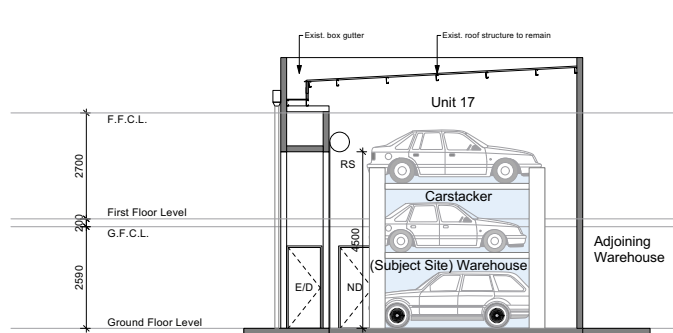
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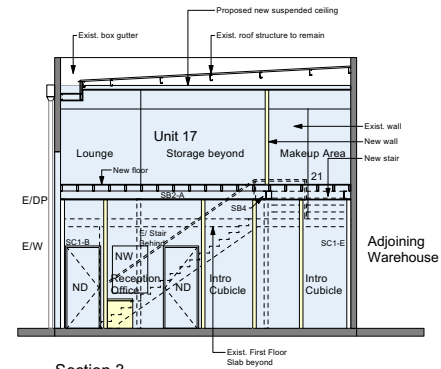
Dwg. No.	Issue No.	TRUE
DA101	B	
GROUND AND MEZZANINE PLAN		
NOTE: Contractor to confirm all layout & dimensions on site prior to commencement of any work. Draftsman to be consulted regarding any discrepancies prior to work commencing. All work to be done in accordance with relevant Australian Standards & the BCA.		



Section 1



## Section 2




Section 3

RevNo	Revision note	Date
A	Prelim Issue	1/8/22
B	Issue for Approval	10/8/23

**KvB Drafting Services**

Mob. 0425 284 927  
Em. ken.brandwijk@gmail.com

**Alterations & Additions at  
Lot 2 SP 81726  
2/34 Campbell Avenue,  
Cromer, NSW 2099  
for Mr. P & Mrs. N Thorsen**

Dwg. No. <b>DA200</b>	Issue No. <b>B</b>	
<h2>Sections 1, 2 &amp; 3</h2>		
<p><b>NOTE:-</b></p> <p>Contractor to confirm all layout &amp; dimensions on site prior to commencement of any work. Draftsman to be consulted regarding any discrepancies prior to work commencing. All work to be done in accordance with relevant Australian Standards.</p>		

## 5.0 NON PUBLIC MEETING ITEMS

ITEM 5.1	DA2023/1476 - 64 THE CORSO, MANLY - ALTERATIONS AND ADDITIONS TO AN EXISTING BUSINESS PREMISES
AUTHORISING MANAGER	Adam Richardson
TRIM FILE REF	2024/023677
ATTACHMENTS	1 <a href="#">↓</a> Assessment Report 2 <a href="#">↓</a> Site Plan & Elevations

### PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a development involving the demolition of a heritage item.

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### RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2023/1476 for Alterations and additions to an existing Business Premises on land at Lot A DP 304309, 64 The Corso, MANLY subject to the conditions set out in the Assessment Report.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/1476
----------------------------	-------------

<b>Responsible Officer:</b>	Megan Surtees
<b>Land to be developed (Address):</b>	Lot A DP 304309, 64 The Corso MANLY NSW 2095
<b>Proposed Development:</b>	Alterations and additions to an existing Business Premises
<b>Zoning:</b>	Manly LEP2013 - Land zoned E1 Local Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Sixty Four Corso Pty Ltd
<b>Applicant:</b>	Slr Consulting Australia Pty Ltd

<b>Application Lodged:</b>	25/10/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	31/10/2023 to 14/11/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 22,000.00
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### EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to an existing business premises. Specifically, the development application proposes the replacement of the existing electronic signage board at the front of the Commonwealth Bank.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the proposal involves minor demolition works to a building that is a local heritage item. These minor demolition works have been considered by Council's heritage advisor and found to be acceptable.

The proposed application was notified between 31 October 2023 to 14 November 2023. No submissions were received during not notification period.



Relevant issues included Heritage conservation, Active street frontages, Design excellence and Signage which have been assessed as being acceptable.

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

### **PROPOSED DEVELOPMENT IN DETAIL**

The proposed development seeks consent for alterations and additions to the existing Commonwealth Bank tenancy, comprising:

- Removal of the existing LCD signage (49 inches) and replaced with the installation of a floor-standing roof mounted LCD sign (75 inches).
- Installation of ceiling support and associated window frame

No other internal or external works are proposed under this development application.

### **ASSESSMENT INTRODUCTION**

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

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

### **SUMMARY OF ASSESSMENT ISSUES**

Manly Local Environmental Plan 2013 - 5.10 Heritage conservation  
Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils  
Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area  
Manly Local Environmental Plan 2013 - 6.11 Active street frontages  
Manly Local Environmental Plan 2013 - 6.13 Design excellence  
Manly Development Control Plan - 3.2 Heritage Considerations  
Manly Development Control Plan - 4.4.3 Signage

## SITE DESCRIPTION

<b>Property Description:</b>	Lot A DP 304309 , 64 The Corso MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern side of The Corso.</p> <p>The site is regular in shape with a frontage of 9.42 metres along The Corso and a depth of 36.39 metres. 64 The Corso has a surveyed area of approximately 453.9m<sup>2</sup>.</p> <p>The site is located within the E1 Local Centre zone of the Manly Local Environmental Plan 2013 (MLEP 2013) and accommodates a two (2) storey commercial building.</p> <p>The site has a northerly orientation and is a flat block with a primary front access from The Corso, and rear laneway access from Rialto Lane.</p> <p>The site has not vegetation. 64 The Corso is a listed heritage item under the MLEP 2013 - Item 109: Group of Commercial Buildings (46-64 The Corso).</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by commercial and residential premises. Manly Beach is located to the east, and Manly Wharf is located to the west.</p>

Map:



## SITE HISTORY

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

- **DA307/08.** This development application sought consent for a change of use to a bank, shop fit out including new facade and ATM (Bank West). This application was approved, subject to conditions, on 21 October 2008.
- **DA190/2013.** This development application sought consent for an eight (8) lot strata subdivision of an existing building. This application was approved, subject to conditions, on 25 February 2014.
- **DA2018/1182.** This development application sought consent for alterations and additions to the existing commercial building, specifically relating to the demolition of the existing internal wall separating the ground floor tenancies and construction of a new internal wall, and a new sliding door to gain access to The Corso. This application was approved, subject to conditions, on 9 October 2018.
- **DA2018/1927.** This development application sought consent for the fit out and use of the premises as a bank, and the installation of signage. This application was approved, subject to conditions, on 12 February 2019. This application was the subject of a modification application (**Mod2019/0119**), which sought consent to delete Condition 2, relocated approved signage and amend the glass shopfront and tile cladding. This modification application was approved, subject to conditions, on 26 April 2019.

#### 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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a recommended condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement</p>

Section 4.15 Matters for Consideration	Comments
	<p>of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is relevant and is address via a recommended condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a recommended condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 31/10/2023 to 14/11/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><b><i>Supported, subject to Conditions</i></b></p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p>
Strategic and Place Planning (Heritage Officer)	<b><i>Supported, subject to Conditions</i></b>
	Discussion of reason for referral
	<p>The proposal has been referred to Heritage as the subject property is a heritage item, being part of Item I109 - Group of commercial buildings - 46 - 64 The Corso and it is located within the <b>C2 - Manly Town Centre Conservation Area</b>. It is also adjacent to a heritage item and within proximity to a number of heritage items:</p> <p><b>Item I106 - Group of commercial buildings</b> - All numbers, The Corso</p> <p><b>Item I104 - Street trees</b> - The Corso (from Whistler Street to Sydney Road)</p> <p><b>Item I108 - Group of commercial buildings</b> - 41–45 The Corso</p>
	Details of heritage items affected
	<p>Details of the heritage items, as contained within the Manly Heritage Inventory are:</p> <p><b>Item I109 - Group of commercial buildings</b>  <u>Statement of Significance</u></p>

Internal Referral Body	Comments									
	<p>Two, two-storey terrace commercial buildings. Modern architectural significance in scale and style; major significance in contribution of additional horizontal emphasis to streetscape of The Corso.</p> <p><u>Physical Description</u></p> <p>Group of two two-storey terraced buildings with retail outlets at ground floor. No's. 46-58 The Corso: 1928 texture brick complex of six terraced shops with tiled roof. Significant elements include terracotta horizontal band at cornice level, fine margin glazing bars to first floor windows, decorative metal wall fixing plates (for suspended awning) and rainwater heads with date of construction. The group provides a strong horizontal emphasis to the streetscape.</p> <p><b>C2 - Town Centre Heritage Conservation Area</b></p> <p><u>Statement of significance</u></p> <p>The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.</p> <p><b>Item I106 - Group of commercial buildings</b></p> <p><u>Statement of significance</u></p> <p>The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort.</p> <p><b>Item I104 - Street trees</b></p> <p><u>Statement of significance</u></p> <p>Part of earliest planting on The Corso c.1850's by H.G. Smith. Historic and aesthetic importance to the streetscape.</p> <table><tr><th colspan="3">Other relevant heritage listings</th></tr><tr><td>SEPP (Biodiversity and Conservation) 2021</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr></table>	Other relevant heritage listings			SEPP (Biodiversity and Conservation) 2021	No		Australian Heritage Register	No	
Other relevant heritage listings										
SEPP (Biodiversity and Conservation) 2021	No									
Australian Heritage Register	No									

Internal Referral Body	Comments		
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	<p>The proposal seeks consent for the replacement of the existing internal LCD signage and associated minor works at the ground floor of the heritage listed building facing The Corso. The LCD screen is located inside of the existing shopfront glazing which is approximately 2m recessed from the front building line. Although the existing LCD is 500mm behind the existing glazed shopfront and the proposed replacement is only 100mm behind the glazing it still is considered to be well recessed from the building line. However, Clause 4.4.3.2 <i>Signage on Heritage listed items and in Conservation Areas of Manly DCP 2013</i> requires:</p> <p><i>c) In addition to the requirements for the particular zoning, and matters listed above, the following matters must be taken into consideration:</i></p> <ul style="list-style-type: none"> <li><i>i) Signs on shop windows should not exceed 25 percent of the window area;</i></li> </ul> <p>The proposed replacement of the LCD signage area is considerably larger than the existing signage. The size of the new signage must comply with the above control of the DCP. The illumination level of the display must be controlled and adjusted to avoid visual pollution and ensure that it is compatible with the desired amenity and visual character of The Corso.</p> <p>Therefore, no objections are required on heritage grounds subject to one condition.</p> <p>Consider against the provisions of CL5.10 of Manly LEP 2013.  Is a Conservation Management Plan (CMP) Required? No  Has a CMP been provided? No  Is a Heritage Impact Statement required? No  Has a Heritage Impact Statement been provided? Addressed in the SEE.</p>		
	<p><b>Planner Note</b></p> <p>As has been detailed within this assessment report, the assessment has found that the proposed LCD advertising sign is compliant with the requirements of control 4.4.3.2 Signage on heritage listed items. As such, the condition recommended by Council's Heritage Officer</p>		

Internal Referral Body	Comments
	has not been included in the recommended conditions of consent attached to this report.

#### 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 (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 business identification signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

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

Matters for Consideration	Comment	Complies
<b>1. Character of the area</b> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes. The subject site is located within the Manly Town Centre where commercial premises with business identification signage and advertising signage is common.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Yes. As above, the proposed advertising LCD signage is consistent with other advertising signage along The Corso.	YES
<b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No. The proposed LCD advertising sign will replace the existing LCD advertising sign. In this instance, the proposal does not detract from the amenity or visual quality of the locality.	YES



<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	No. As above, the proposed LCD advertising signage will be located within the existing ground floor tenancy.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	No. As above.	YES
Does the proposal respect the viewing rights of other advertisers?	Yes. As the proposed LCD advertising sign is located internally, there is no impact upon advertising signage or business identification signage of adjoining / nearby commercial and/or retail premises.	YES
<b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes. As the proposed LCD advertising sign is located internally, there is no impact upon the streetscape, setting and landscape making it appropriate in its context.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes. As the scale, proportion and form of the proposed LCD advertising signage is appropriate for the streetscape, by virtue of this, the proposal contributes to the visual interest of The Corso.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	Yes. The proposed design is simple and does not create clutter.	YES
Does the proposal screen unsightliness?	No. The existing building is of a good design and is not in disrepair.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No. As detailed above, the proposed LCD advertising sign is located within the existing ground floor tenancy and does not protrude externally.	YES
<b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes, as detailed above.	YES
Does the proposal respect important features of the site or building, or both?	Yes. The proposed signage respects the heritage features of the subject site and surrounding Heritage Conservation Area.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes, as above.	YES
<b>6. Associated devices and logos with advertisements and advertising structures</b> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Yes. The proposed LCD advertising sign will be illuminated.	YES

<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	No. The illumination would not result in unacceptable glare to aircraft as the awning above will block any light to above, nor would it impact upon the amenity of pedestrians and motorists.	YES
Can the intensity of the illumination be adjusted, if necessary?	Yes, if necessary.	YES
Is the illumination subject to a curfew?	Yes. This will be recommended as a condition, ensuring that the LCD advertising signage is on only during opening hours.	YES
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	No. The proposed signage will not impact upon the safety of any nearby public roads, pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No. The proposed signage will not reduce the safety for pedestrians, particularly children, as it does not obscure sightlines to and from public places.	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 4 – Remediation of Land

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

## Manly Local Environmental Plan 2013

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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10.0m	4.11m	N/A	Yes

Floor Space Ratio	FSR: 2.5:1 (2375.0m <sup>2</sup> )	*FSR: 0.32:1 (306.7m <sup>2</sup> )	N/A	Yes
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\*Previously approved DA2021/1245 granted consent for an FSR of 3.09:1 (2858.2m<sup>2</sup>) for development across 60-64 The Corso. The proposed development is sited only to the tenancy on the ground floor of 64 The Corso (being Commonwealth Bank) and the proposal does not seek to change the existing FSR of 64 The Corso.

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.14 Requirement for development control plans	Yes
6.16 Gross floor area in Zone B2	Yes
Schedule 5 Environmental heritage	Yes

#### Detailed Assessment

##### **5.10 Heritage conservation**

The proposed development has been referred to Council's Heritage Officer for review and comment., with regard to the considerations prompted by Clause 5.10(4) of the MLEP. Council's Heritage Officer has noted that the proposed LCD sign did not comply with DCP control 4.4.3.2 Signage on Heritage listed items and in Conservation Areas, namely control (c)(i) which states that signs on shop windows should not exceed 25 percent of the window area. The Heritage Officer subsequently recommended a condition that required compliance with this requirement, with the signage reduced in area.

However, the proposed LCD sign is not technically *on* a shop window, rather it is a tv screen located *within* the Commonwealth Bank premises adjacent to the front window. Notwithstanding this technicality, the existing shop window has a surface area of 11.0m<sup>2</sup>, and the proposed LCD sign has a surface area of 1.7m<sup>2</sup> (see Figure below). 25 percent of 11.0m<sup>2</sup> is 2.75m<sup>2</sup>. Therefore, the proposed LCD sign complies with this control and the recommended condition from Council's Heritage Officer has not been included within the recommended conditions of consent.

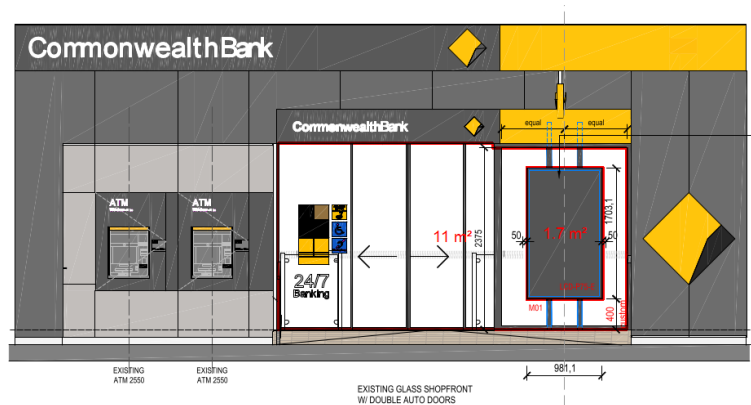


Figure 1. Proposed size of LCD sign in context of whole of shop front.

For the reasons discussed above, the proposed development is considered to be satisfactory with regard to the considerations of Clause 5.10 of the MLEP.

### 6.1 Acid sulfate soils

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

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

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

The development does not propose any excavation. In this regard, an Acid Sulfate Soil Management Plan is not considered necessary for the development of this site.

### 6.9 Foreshore scenic protection area

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

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

#### Comment:

The proposed development involves internal works to the existing ground floor level of the building, including replacing an existing LCD sign within the existing shopfront window. As the built form is not extending beyond the existing building footprint, the assessment has found that the proposed

development achieves the abovementioned matters as prescribed within this Clause.

### 6.11 Active street frontages

Under this clause, development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.

Comment:

The proposed development does not involve the erection of a new building, nor does it seek to change the use of the existing ground floor tenancy. In this instance, this Clause is not relevant to the assessment of this application.

### 6.13 Design excellence

This Clause applies to the subject site. As such, the following is to be considered:

*(3) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*

*(4) In considering whether development exhibits design excellence, the consent authority must give consideration to whether the development:*

- (a) contains buildings that consist of a form, bulk, massing and modulation that are likely to overshadow public open spaces, and*
- (b) is likely to protect and enhance the streetscape and quality of the public realm, and*
- (c) clearly defines the edge of public places, streets, lanes and plazas through separation, setbacks, amenity, and boundary treatments, and*
- (d) minimises street clutter and provides ease of movement and circulation of pedestrian, cycle, vehicular and service access, and*
- (e) encourages casual surveillance and social activity in public places, streets, laneways and plazas, and*
- (f) is sympathetic to its setting, including neighbouring sites and existing or proposed buildings, and*
- (g) protects and enhances the natural topography and vegetation including trees, escarpments or other significant natural features, and*
- (h) promotes vistas from public places to prominent natural and built landmarks, and*
- (i) uses high standards of architectural design, materials and detailing appropriate to the building type and location, and*
- (j) responds to environmental factors such as wind, reflectivity and permeability of surfaces, and*
- (k) coordinates shared utility infrastructure to minimise disruption at street level in public spaces.*

Comment:

The proposed development seeks to replace the existing LCD sign with a larger LCD sign within the shopfront window. No external works are proposed to the existing building facade.

In this instance, the building mass does not change. Therefore, the proposal does not result in any adverse or unreasonable amenity impacts (such as privacy, overshadowing or view loss) to adjoining and nearby properties within the Manly Town Centre. Furthermore, the proposal does not adversely impact upon the existing streetscape or nearby public places and plazas, nor does it impact upon the definition of the building in its relationship to the edge of public places, streets, lanes and plazas as the proposal does not involve structurally enhancing the built form. The proposal does not contribute to

street clutter or impact upon ease of movement and circulation around the building for pedestrians, bicyclists and vehicles, and service areas. Casual surveillance is maintained. The proposal is sympathetic to its setting and site context with no unreasonable or adverse impacts upon neighbouring sites or the natural topography of the site (the site has no trees, escarpments or other significant natural features). The proposal will retain the existing building's facade and will continue to promote a high architectural design with appropriate materials for the building type and location. Finally, the proposal does not alter the building's utility infrastructure therefore there is no unreasonable disruption to the public spaces on the street level.

### Manly Development Control Plan

#### Built Form Controls

There are no changes to the existing built form.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.6 Accessibility	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.2.5.3 Security Shutters	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.3 Signage	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes
Schedule 2 - Townscape Principles	Yes	Yes

#### Detailed Assessment

### 3.2 Heritage Considerations

#### Description of non-compliance

64 The Corso is a listed heritage item under the MLEP 2013 - Item 109: Group of Commercial Buildings (46-64 The Corso) in the MLEP 2013, and is located immediately adjoining, and within proximity to, other identified heritage items as listed within the MLEP 2013. The subject site is also

located within the Manly Heritage Conservation Area.

The proposed development has been referred to Council's Heritage Officer for review and comment. The Heritage Officer noted that the proposed LCD sign did not comply with control 4.4.3.2 Signage on Heritage listed items and in Conservation Areas, namely control (c)(i) which states that signs on shop windows should not exceed 25 percent of the window area. The Heritage Officer subsequently recommended a condition that required compliance with this requirement. However, as detailed within this report under section 5.10 Heritage conservation, the proposed LCD sign is not technically *on* a shop window, rather it is a tv screen located *within* the Commonwealth Bank adjacent to the front window. Notwithstanding this technicality, the existing shop window has a surface area of 11.0m<sup>2</sup>, and the proposed LCD sign has a surface area of 1.7m<sup>2</sup> (see Figure below). 25 percent of 11.0m<sup>2</sup> is 2.75m<sup>2</sup>. Therefore, the proposed LCD sign complies with this control and the recommended condition from Council's Heritage Officer has not been included within the recommended Conditions attached to this report.

The assessment has found that the proposed works are not considered to unreasonably impact upon the internal fabric of the heritage item. In this instance, the proposed internal amendment to the LCD sign are acceptable. The proposed LCD sign will result in minor change to the visual presentation of the external façade, while not technically altering the external fabric of the building.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

*Objective 1) To retain and conserve environmental heritage and cultural significance of Manly including:*

- *significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- *the foreshore, including its setting and associated views; and*
- *potential archaeological sites, places of Aboriginal significance and places of natural significance.*

Comment:

As detailed above, the proposed works will not cause any unreasonable changes to the internal and external fabric of the building, its setting, relics or views associated with the heritage item and conservation area. While being located within the foreshore scenic protection area, the proposed works are minor and will not have any adverse or unreasonable impacts upon the foreshore area, its setting and any associated views. The proposal will have no impact upon any potential archaeological sites, places of Indigenous significance and/or places of natural significance as the proposed works are sited entirely within the existing ground floor fabric of the building.

*Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.*

Comment:

The proposed development is considered to be of an appropriate design that does not adversely or unreasonably impact upon the significance of the heritage item or the conservation area.

*Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.*

Comment:

As above, the proposed development is considered to be of an appropriate design that does not adversely or unreasonably impact upon the significance of the heritage item or the conservation area. Furthermore, the proposed LCD sign is consistent with other signs to adjoining and nearby commercial properties along The Corso.

*Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.*

Comment:

As above, the proposed development is considered to be visually compatible with the surrounding character and visual context of The Corso when considering the heritage area to which the subject site is located.

*Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.*

Comment:

The ground floor tenancy has, for some time, been used as a commercial premises that has undergone various construction works. In this instance, it is highly likely that the original internal fabric has been removed from the existing ground floor. In this instance, the proposed internal works will have no impact on the heritage significance of the building. The proposed LCD sign will be consistent with other signs for commercial properties along The Corso and within the wider Manly Town Centre.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

#### **4.4.3 Signage**

Detailed description

##### **4.4.3.1 Controls for all Development Types**

The site, as existing, has three (3) business identification signs (awning, under awning, and top hamper sign), one (1) independent logo sign affixed to the external wall and an LCD advertising sign within the shopfront window. This is numerically non-compliant with the requirements of (a) Maximum number of signs, however, this has been approved in a past consent and is not changing under this current proposal.

The proposed development seeks only to modify the LCD advertising sign within the shopfront window. (c) Advertising Content within this control states that *advertising content must relate to the building or goods sold on the premises to which it is attached. Any third part advertising of goods sold on the premises must not dominate the advertising of the building or premises. Where the maximum*



*number of signs is achieved in locations in accordance with (a)...further signs, particularly above the awning, are not permitted.* The proposed LCD advertising sign will relate to the services offered by the Commonwealth Bank.

#### **4.4.3.2 Signage on Heritage listed items and in Conservation Areas**

This control requires any signage to complement the building and surrounding uses and that the architectural features of the building should be the dominant feature. Further, this control stipulates that any advertising should preferably be placed in locations on the building or item which would traditionally have been used as advertising areas.

This control stipulates that signs on shop windows should not exceed 25 percent of the window area. Council's Heritage Officer raised concern regarding this requirement and recommended a condition to ensure compliance with this requirement. However, the proposed LCD advertising sign is not technically on a shop window, rather it is a tv screen located *within* the Commonwealth Bank adjacent to the front window and able to be viewed by passersby along the Corso. Notwithstanding this technicality, the existing shop window has a surface area of 11.0m<sup>2</sup>, and the proposed LCD sign has a surface area of 1.7m<sup>2</sup>. 25 percent of 11.0m<sup>2</sup> is 2.75m<sup>2</sup>. Therefore, the proposed LCD sign complies with this control and the recommended condition from Council's Heritage Officer. As such there is no need for the recommended condition.

#### **4.4.3.3 Controls for Particular Development Types**

This control stipulates development types, including advertising panels (n), which notes that the panel may have a border so long as it does not exceed 0.5 metres in width if the border is one colour and contains no advertising material. The proposed LCD advertising sign has a border of 0.03 metres, and will be a black colour with no advertising material.

#### Merit consideration

- Objective** *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.*
- 1)

#### Comment:

The proposed LCD advertising sign is minor, when compared to other development and existing signage along The Corso. In this instance, the proposal will not detract from the scenic beauty and amenity of the Manly locality. Further, the proposed LCD advertising will replace the existing LCD advertising in the same location, thus harmonising with the surroundings and to the building the signage is sited within.

- Objective** *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.*
- 2)

#### Comment:

As detailed above, the proposed LCD advertising sign will replace the existing one. In this instance, there is no increase to the existing signage, both business identification signs and advertising signs, along the northern elevation (shop front). In this instance, the number of signs remain and will not be unnecessary or cause visual clutter and confusion along The Corso.

- Objective** *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.*
- 3)

Comment:

The proposal does not seek consent for a business identification sign. This objective is not relevant to the proposal.

- 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 LCD advertising sign will be commensurate with the existing LCD advertising sign. In this instance, there is no change to the urban character of The Corso or scenic amenity of the Manly locality. Furthermore, as the LCD advertising sign will be located within the tenancy, there is no change to the external fabric of the building, allowing the architectural styles and finishes to remain and continue to complement the The Corso.

- 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:

As detailed above, the proposed signage does not detract from, nor does it block, the presentation of the heritage item or area to the general public on heritage items and conservation areas.

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

Comment:

The proposed signage is of a high quality design and provides clear advertising for the purposes of Commonwealth Bank.

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

Comment:

Not applicable. The subject site is located within the E1 Local Centre (previously known as the B2 Local Centre) Zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

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

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

## **CONCLUSION**

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

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

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

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

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

## **PLANNING CONCLUSION**

This proposal, for alterations and additions to an existing business premises, has been referred to the Northern Beaches Local Planning Panel (NBLPP) as the proposal involves minor demolition works to a building that is a local heritage item.

The proposal was notified between 31 October 2023 and 14 November 2023, and no submissions were received.

Relevant assessment issues included 5.10 Heritage conservation, 6.1 Acid sulfate soils, 6.9 Foreshore scenic protection area, 6.11 Active street frontages, 6.13 Design excellence of the MLEP 2013; and,

3.2 Heritage considerations, and 4.4.3 Signage of the Manly Development Control Plan (MDCP).

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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2023/1476 for Alterations and additions to an existing Business Premises on land at Lot A DP 304309, 64 The Corso, MANLY, subject to the conditions printed below:

## Terms and Reasons for Conditions

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

### GENERAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA1.00	A	Title / Location Map	Ahrens	3 October 2023
DA1.01	A	Existing Full Branch Floor Plan	Ahrens	3 October 2023
DA1.02	A	Proposed Full Branch Floor Plan	Ahrens	3 October 2023
DA2.01	A	Existing and Proposed Shopfront Elevations	Ahrens	3 October 2023
DA2.02	A	Details of Single Floor to Ceiling Mounting Display	Ahrens	3 October 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Waste Management Plan	N/A	SLR Consulting Australia Pty Ltd	11 October 2023

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

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation

that applies to the development.

## 2. Prescribed Conditions

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

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

### 3. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.  
Demolition and excavation works are restricted to:
  - 8.00 am to 5.00 pm Monday to Friday only.  
(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).
- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that

applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

- iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety



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

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

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

##### **4. Compliance with Standards**

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

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

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

##### **5. 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 Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://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.

#### **DURING BUILDING WORK**

##### **6. 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.

**7. 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 Certifier, 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.

**8. Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

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

**9. Illumination of LCD Advertising Sign**

The approved LCD Advertising Sign is to only be illuminated during approved hours of operation.

Reason: To ensure adequate amenity to nearby residential properties and public places.

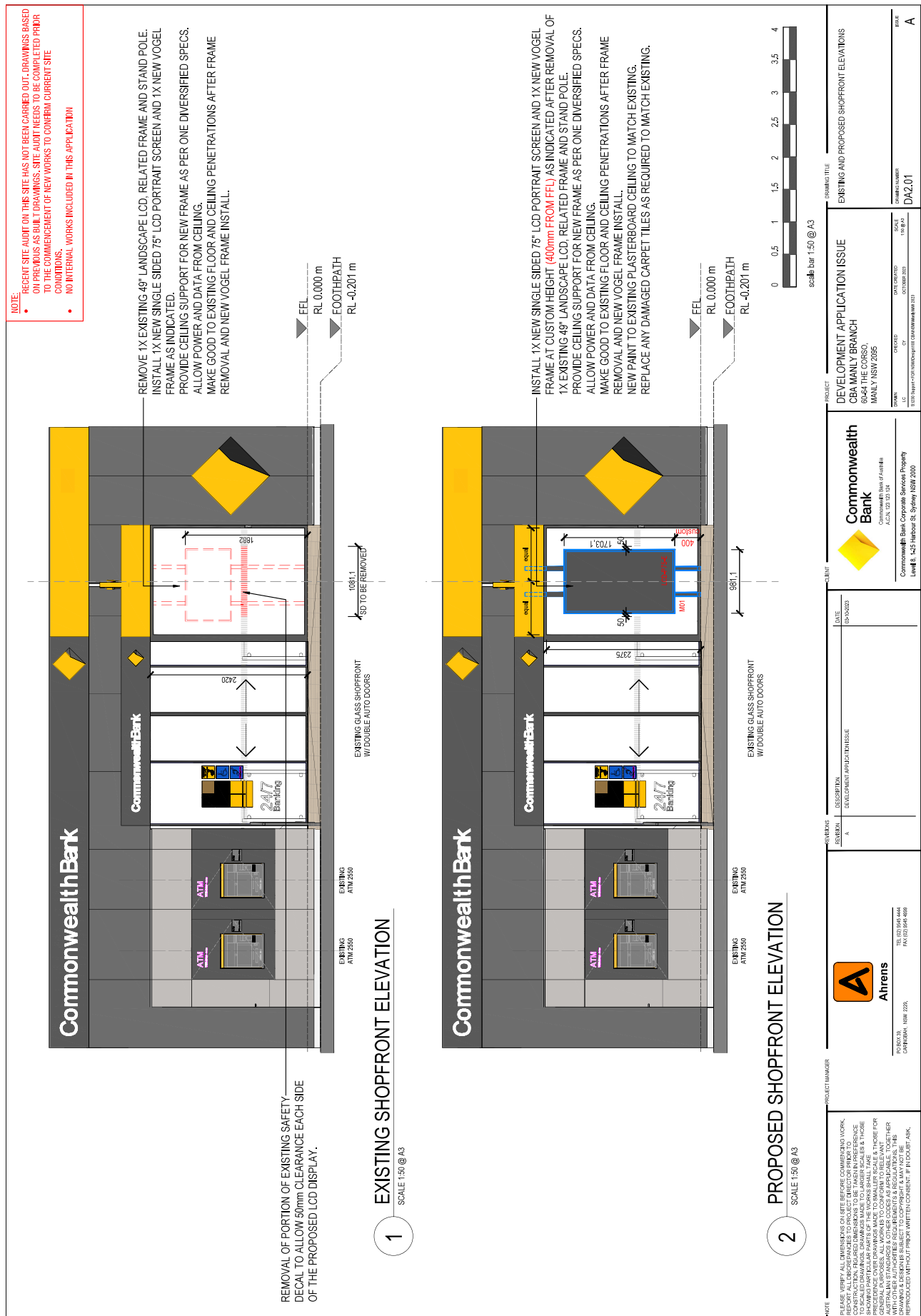
**10. Illumination Intensity and design**

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

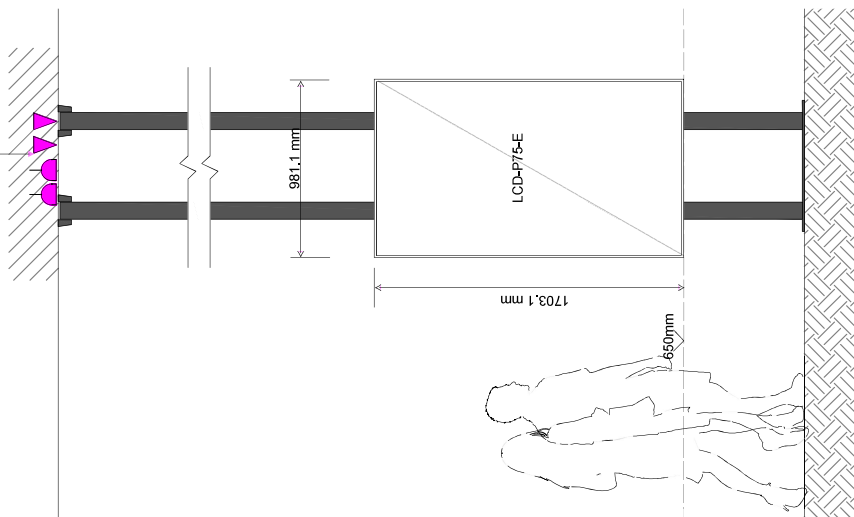
Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties.

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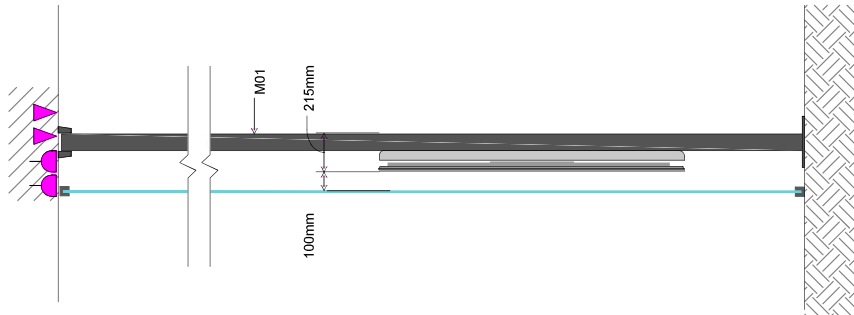
1 PROPOSED FULL BRANCH FLOOR PLAN  
SCALE 1:100 @ A3



DPO & Double Data  
within ceiling for each screen.



LCD-P75-E & M01  
TYPICAL ELEVATION



LCD-P75 & M01  
DISTANCE FROM SHOPFRONT

## 1 DETAILS OF SINGLE FLOOR TO CEILING MOUNTING DISPLAY

1

SCALE 1:25 @ A3

[illegible]