

---

**Sent:** 27/01/2022 7:09:33 AM

**Subject:** DA 2021/2257 OBJECTION CORRESPONDENCE

**Attachments:** DA2021 2257 OC OBJECTION LETTER.docx; Land and Environment Court judgement 42 North Steyne.pdf;

Please

Kind Regards,

A handwritten signature in dark ink, appearing to read 'Greg', is written over the printed name 'GREG BROWN'.

GREG BROWN

Mob:0413714400

see the attached objection correspondence.

The original documents were placed in the receiving mail box at 1 Belgrave Ave Manly on Saturday 22/01.22 but I noticed that the objection had not appeared on the website as of last night.



PACIFIC WAVES RESIDENTIAL COMPLEX  
STRATA PLAN 61139  
9-15 CENTRAL AVENUE MANLY 2095  
OFFICE OF THE EXECUTIVE COMMITTEE CHAIR  
Email [gebrown@optusnet.com.au](mailto:gebrown@optusnet.com.au) Tel 0413714400



21 January 2022

The General Manager,  
Northern Beaches Council,  
1 Belgrave Street,  
MANLY 2095

### **DEVELOPMENT APPLICATION OBJECTION DA2021/2257**

I am the Chair of Strata Plan 61139, lot owner and resident of unit 806 in the Pacific Waves building situated at 9-15 Central Ave Manly. In the context of being Chair I represent 124 lot owners. The Owners Corporation of Strata Plan SP61139 wish to lodge the following objections to the subject development application.

#### **41 North Steyne**

The submission states that the Manly CBD conservation area heritage provisions do not apply to this building and that it is not part of a consolidation for heritage purposes with the Steyne Hotel (75 The Corso Manly).

Yet further in the applicant's application documentation it appears to take the opposite view when trying to justify its position on another point.

These conflicting points were highlighted in the uploaded report prepared by The Design and Sustainability Advisory Panel dated 23/12/2021. This report in summary recommends against approval in its current format. **The Owners Corporation supports this decision.**

**The Owners corporation believes that alterations to the façade, building height and alterations to the internal Brackets bar should not be approved.**

#### **42 North Steyne**

We submit that there is no valid reason to raise the envelope height of this building other than to increase developer profitability. Contrary to what is submitted by the applicant there is no added benefit to the Manly CBD residential or business communities should approval be granted.

**Whereas the loss of amenity to lot owners and residents will be significant over several years whilst the construction process plays out.**

The Hamptons Property Services report (undated) makes no mention of the Land & Environment Court Appeal decision referred to in Appeal reference 10571 of 2006. By definition therefore the applicant has not addressed the appellate judgment document in the Land and Environment Court Appeal Annexure A document 10571 of 2006 (Barecall Pty Ltd V Manly Council), in particular the section headed Additional Conditions to those set out above, point 2. On the face of it, this judgement appears to place the following restrictions on this site:

No change to the floor space.

No change to build materials.

**No changes or alterations as per L & EC conditions.to the top floor**

**A permanent height limit on the site which Council has no authority to change.**

A copy of this document is attached.

**The Owners Corporation submits that The Hamptons Property Services report is materially deficient and further that Council has no judicial authority to override this Court decision.**

The existing building has a ground floor public pedestrian walkway between North Steyne and Henrietta Lane which appears to have conveniently disappeared in the new proposal. We submit that this community facility should remain.

### **Project Construction Phase**

The Varga Traffic Planning report dated 28/10/21 **fails** to mention that the SP61139 common area opposite the proposed construction site is also used all day for parking by businesses on Sydney Road who are entitled to unrestricted access from the SP61139 common property onto Henrietta Lane.

The size of the works including specifically the underground carpark extension is far to large for the size of the site and the capacity of Henrietta Lane to manager construction traffic in conjunction with the already optimum capacity use of Henrietta Lane during peak morning and afternoon periods.

A solution suggested is to allow construction vehicles including readymix concrete trucks and associated pump vehicles to use Henrietta Lane from 5.00am through 8.00am in the mornings exiting via Sydney Road.

Parking on Henrietta Lane of concrete pumping machinery will be extremely disruptive to nearby users of facilities and should be refused.

**This is unreasonable.** Pacific Waves and for that matter the buildings situated at 43 North Steyne amongst others fronting the lane are predominately residential and residents should not be disturbed before the normal 7.00am start.

The submission refers to possible use of the area above the council underground carpark to facilitate changing vehicle direction.

**This area is common property of Strata Plan 61139 and any use thereof should not be taken into consideration in the application approval process.** In any event there is an easement vehicle weight limit, amongst other restrictions, which for all intent and purposes would exclude construction vehicles and equipment from accessing it. Parents with young children attending the childcare centre situated at 4 Sydney Road Manly use this easement as an access route from the council car park lift entrance.

The Renzo Tonin report (27/10/21) addresses potential noise pollution. Appendix B, item 4 refers to Noise monitoring equipment.

**Unless vibration and transfer of construction noise above db 50 can be eliminated the application should be rejected .**

In the event that approval is given, **we request that permanent operative loggers be installed as appropriate within the Pacific Waves buildings which will monitor breaches of approved limits thus facilitating immediate action to remedy breaches including construction stoppage pending remedial action.**

The Renzo Tonin report (27/10/21) also addresses vibration specifically in Section 5. This will most certainly be an issue to lot owners and residents because vibration will travel through the concrete structure affecting many units causing some loss of amenity and potential damage. This has not been adequately addressed in the applicant's submission. We ask that the dilapidation report requirements (5.2) be inclusive of all lots within the Pacific Waves complex .

If approval is given, **we ask that permanent operative vibration loggers be installed as appropriate within the Pacific Waves buildings which will monitor breaches of approved limits thus facilitating immediate action to remedy breaches including construction stoppage pending remedial action.**

The Renzo Tonin report dated 27/ 10/21, 5.1, table 16 refers to remedial action being consider after sustained complaints are received. This approach will leave Pacific Waves residents unreasonably exposed.

**We ask that all complaints must be investigated within 24 hours of receipt.**

### **Post Construction**

There will be an adverse effect on views from balconies situated towards the south eastern end of Manly beach and continuing to Shelley Beach. Again caused simply because of the desire to make increased profits by the applicant.

The applicant claims that proposed FSR changes are minor in nature. In our opinion is not the case. **The proposed changes must be considered major** with the potential flow on effect within the Manly Conservation Zone if these changes are approved.

Traffic congestion on Henrietta Lane will once again be increased because of over development. There is already a problem with trucks park stacking awaiting delivery access from the middle to Raglan Street end of Henrietta Lane where vehicles exit the Pacific Waves car park and two other residential carpark exits.

**This problem will be amplified should this development be approved.**

Yours Truly,

**Greg Brown**  
**Chair SP61139**





**Annexure 'A'**  
**Conditions of Consent**

**Barecall Pty Ltd v Manly Council**

**Development Application: 278/05**

**Premises: 42 North Steyne, Manly**

**Proposal: Alterations and Additions to existing mixed Commercial/Residential Flat Building including new fourth floor containing two (2) one-bedroom Units.**

**DA1** This approval relates to drawings/plans Nos. DA01 rev C 11.10.06; DA02 rev F 11.10.06; DA03 rev G 11.10.06; DA 04 rev C 11.10.06 being Exhibit "A" in these proceedings

**ANS01** Any new upper floor level is strictly confined to the approved building envelope and any additional structures, utilities or equipment contained on the roof is to be subject to separate approval by Council.

**DA016** Pursuant to Section 97 of the Local Government Act, 1993, Council requires, prior to issue of the Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$7,500. The Deposit is required as security against damage to Council property during works on the site.

**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, at least 7 days prior to the commencement of any work on site.

**Note:** Where Council is not the principal certifying authority, refund of the trust fund deposit will also be dependant upon receipt of a final occupation certificate by the Principal Certifying Authority and infrastructure inspection by Council.

**DA017** No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.

**DA342** Separate application shall be made to Council's Infrastructure Division for approval to complete, to Council's standards and specifications, works on Council property. This shall include vehicular crossings, footpaths, drainage works, kerb and guttering, brick paving, restorations and any miscellaneous works. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property. Applicant to notify Council at least 48 hrs before commencement of works to allow Council to supervise/inspect works.





- DA018** Details of the builder's name and licence number contracted to undertake the works shall be provided to Council/Accredited Certifier prior to issue of the Construction Certificate.
- DA021** Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
- DA024** A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm. Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.
- DA031** Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
- DA038** A Certificate of Adequacy signed by a practising Structural Engineer is to be submitted to the Council/Accredited Certifier in respect of the load carrying capabilities of the existing structure to support the proposed additions prior to the issue of the Construction Certificate.
- DA039** Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.
- DA044** The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.
- DA048** The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.

- DA058** An adequate security fence, is to be erected around the perimeter of the works prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.
- DA060** On completion of the building structure a report from a Registered Certifier is to be submitted to the Principal Certifying Authority confirming that the building has been completed in accordance with the levels as shown on the approved plan.
- DA357** Four (4) copies of Architectural Drawings consistent with the development consent and associated specifications are to be submitted to Council/Accredited Certifier prior to the issue of the Construction Certificate.
- DA109** All demolition is to be carried out in accordance with AS2601-2001.
- DA111** Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
- DA084** Roofwaters and surface stormwaters from paved areas are to be conveyed by pipeline to Council's street gutter in accordance with Council's standards and specification for Stormwater Drainage.
- DA119** A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9, Clause 168 of the Environmental Planning and Assessment Regulation 2000. Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.
- DA120** The building being erected in Type A, Construction for a Class 2, 6 & 7 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.
- DA121** All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- DA230** No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- DA269** A Construction Certificate Application is required to be submitted to and issued by the Council/Accredited Certifier prior to any building works being carried out on site.
- DA270** Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction then the following inspection/certification are required:-

Reinforced concrete slab



Framework inspection

Wet area moisture barrier

Final inspection



The cost of these inspections by Council is \$920 (being \$230.00 per inspection inclusive of GST). **Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$100.00.

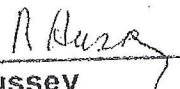
- DA271** An Occupation Certificate is to be issued by the Principal Certifying Authority prior to occupation of the development.
- DA285** Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority prior to the commencement of framework.
- DA337** Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- DA289** Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays. Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

#### **ADDITIONAL CONDITIONS TO THOSE SET OUT ABOVE**

1. Amended plans are to be submitted to Council to reduce mechanical plant items as submitted by the applicant to replace those existing. In particular the western most duct is to be relocated internally adjacent to the bedrooms; and the roof cowls and vents are to be reduced in bulk and in height by approximately 50%.

*Important*

2. No further height increases or additional building bulk are permitted for plant beyond the existing with the exception of the glass lift overrun.
3. Erection of a privacy screen adjoining 43-45 North Steyne Manly at the frontage of the subject property to minimise overlooking and improve privacy between neighbours in accordance with sketch plan "SK-01" dated 27 October 2006 being Exhibit "E" in these proceedings.
4. Details shall be submitted to the Council/accredited certifier prior to issue of the Construction Certificate indicating the proposed method of waterproofing and drainage of the concrete slabs over which landscaping is provided.
5. Landscaping to the western setback is to comprise only a species which will, at maturity not exceed a height of 2400mm above floor level. Species are to be nominated in a landscape plan prepared by an appropriately qualified landscape architect or arborist and provided to Council for its approval prior to issue of a Construction Certificate.
6. The roof of the proposed development and wall cladding (where indicated) material is to be of zinc sheeting or similar non-reflective material and colour.
7. The approved plant shall match the colour of the roof material.
8. The timber screen shall be constructed of Western Red Cedar and stained with a clear finish.
9. A contribution pursuant to section 94 of the *Environmental Planning & Assessment Act* 1979 and the Manly Council Section 94 Contributions Plan 2004 in relation to the proposed development in the amount of \$35,191.74 in respect of contributions for traffic and parking, streetscape, environmental programs, community facilities, open space embellishment and open space acquisition is to be paid prior to the issue of a Construction Certificate in respect of the development.

  
R Hussey  
Commissioner of the Court  
rjs

