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2nd June 2024

Planning Panel June 5th, 2024, 12pm:

ITEM 4.4 DA2023/1750 - 42 NORTH STEYNE MANLY & 75 THE CORSO MANLY - ALTERATIONS AND ADDITIONS TO A PUB

Dear Northern Beaches Planning Panel

We wish to raise concerns with the planning assessment, proposed approval and attached conditions. We request that our concerns are reviewed, and action is taken to mitigate in the form of appropriate new and amended conditions attached to any approval.

We request 10 conditions be either added or amended in any approval of this development application. The 10 conditions are highlighted in yellow (for ease of review) throughout the next few pages.

1/ Screening Heights breaching the development standard and impacting the view corridor to Tasman Sea and Shelly Beach,

These views are protected through L&EC approved DA2021/2257 design change and stringent ongoing conditions. DA2021/2257 design changes are not incorporated into the view analysis submitted with this application. The view analysis submitted by the applicant is incorrect.

In addition, we disagree with the assessment Section 3.4.3 principle 2 comment (page 281) referring to views only from balconies. Our open plan apartment, u505, enjoys a view corridor out across the Tasman Sea to the iconic Shelly Beach from the moment you open the entrance door. This view is most appreciated from our living room area when seated on our lounge. Also note the view from living area (see my submission) is a very different view impact from that depicted in the image on page 282 of the assessment. The picture on page 282 is not a fair representation of the impact from our living room (when seated).

Plus, we disagree with point 3 (below) in principle 4 comments (page 282) – Reason: the view impacts have not been considered from our main living area and they are not minor; the main living area views are impacted.

“3/ The impact to view is negligible to minor and the valuable elements of the view remain unaffected.”

Added to this we disagree with point 4 (below) in principle 4 comments (page 282) reason: there are many other areas in the venue that can house all the mechanical plant below the venue's roof parapet (see my original submission) – we are extremely disappointed that other available areas in the venue to house plant have not been utilised to avoid view impacts and increases in building height.

“4/ The proposed works that impact upon the view, being for solar panels and mechanical plant screening are logically located on the rooftop.”

We would appreciate re-consideration of these impacts.; please refer to photos in my original submission.

Specific Assessment and approval concerns:

To address specific concerns with the assessment proposing 'approval' we request condition amendments and additions for clarity:

Screening Height:

The assessment is missing clarity on the exact approved screening height, and we request that this be rectified through an amendment to condition 18, page 295.

Context: The current submitted master plans depict the rooftop screening higher than the current installed rooftop screening. The current screen installation was reduced in height by the previous certifier when we put in a request to them (see my submission). The Assessment image and text on page 281 states that the screening will be at a maximum 18.33 RL (highest), but this is contradicted by both the master plans and by page 253 stating the screening height is required to comply by condition 10 of DA2019/1403, note that condition 10 was for screening in the venue that sat below the parapet of the roof and not for plant that breached the parapet level.

To avoid any ambiguity, it is essential that any approval is clear and includes a **condition that screening must not exceed the current height of existing screening at RL18.33** as stated in assessment (or lower).

Condition change/add request 1:

Amendment to condition 8, page 292/3 to include the following:

(The following amendments to the approved plans are required)

“RL18.33 be added as the highest height of any/all rooftop screening”.

Condition change/add request 2:

Amendment to condition 18, page 295 to include the following:

“A survey certificate prepared by a Registered Surveyor at the following stage of construction: At completion of the roof top screening, confirming that the height is in accordance with a height not exceeding RL18.33 (or lower)”

Condition change/add request 3:

In addition, we note the recommendation to change the screening from louvre to solid for the purpose of acoustic protection. We are concerned that a solid ‘wall’ will not be aesthetically pleasing and request that a suitable material is presented in a design change as a pre-construction condition with the design showing the highest RL of screening to be no higher than 18.33RL. We have a preference for the louvred option, in a colour that blends with the rest of the rooftop. Reason: to ensure neighbours’ views are respected and that a visual appeal is maintained.

2/ Noise mitigation and conditions pertaining to noise.

Surrounding residences have been plagued by noise pollution since IRIS Capital purchased The Steyne Hotel. This excessive noise pollution is from the outdoor open-air courtyard/beer garden.

Residences have been previously protected from noise pollution with both noise mitigation and the two critical ongoing operational conditions pertaining to the courtyard in DA91/2011

ANS05

The ongoing management of the premises must be in full accordance with the Protection of the environment Operations Act, 1997. Including but not limited to:

- Noise arising from patrons must not be audible within any habitable room of any neighbouring residential premises at any time
- Noise arising from music, live entertainment or other such amplified sound must not be audible within any habitable of any neighbouring residential premises at any time.

and

ANS 07

A Plan of Management, as approved by Council, must provide a section dedicated to the ongoing management and operation of the outdoor beer garden area. The Plan of Management is to be submitted to Council prior to the issue of the Occupation Certificate.

These outdoor courtyard/beer garden operating conditions have never been superseded, but they have been ignored and omitted from the venue’s POM. This assessment has also now ignored these conditions and it have not been replicated in the suggested conditions of this DA assessment.

Page 250 of the assessment states:

“Conditions applied under previous consents are not overridden by this development, should development consent be granted...”

Yet ANS05 & ANS07 from DA91/2011 have not been referenced or included in the assessment conditions. Further to this, assessment page 271 includes comment “...the operation of the existing

pub and ancillary tourist and visitor accommodation is not proposed to change under this application..." Removal of the ongoing beer garden noise condition from DA91/2011 is a change to the existing operation/ongoing conditions of the pub.

A new condition number 25, page 296 covering the entire venue is proposed as follows:

"Noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00 am."

This condition is an absolute noise pollution disaster for all surrounding residents as it is far more lenient than the existing (current) ANS05 (DA91/2011) condition that is in place for the open-air courtyard/beer garden.

Condition change/add request 4:

Include the ongoing conditions ANS05 and ANS07 from DA91/2011 for the outdoor beer garden/open-air courtyard in the conditions of any approval. These are to be added to condition 21 on Page 295/6 and condition 25 on page 296.

Condition change/add request 5:

Proposed condition 25 (page 296) pertains to the rest of the venue (exclusive of the courtyard) be updated to **"...not audible within any habitable room in any residential premises between the hours of 10:00pm and 8:00am.."** in alignment with the same noise restrictions across other neighbouring venues with outdoor spaces. Example venue 'Insitu' DA2023/0368 approved 21/02/24.

In addition, no conditions in this assessment solve for the horrendous noise issues prior to 10pm from the use of externally sourced sound systems in the open-air courtyard. I give you the example of a recent event: Saturday, 11th May 2024, 'Mel C DJ set/event' which was a 2pm to 10pm event. Council Environmental Compliance (Officer Mr J Montgomery and associate) attended our home and other units in Pacific Waves to record the breach in offensive noise in follow up to the Prevention Notice, Section 96 – POE Act 1997 issued December 2023. The noise from this courtyard event was so loud that it not only permeated into our homes but all through the common area corridors of our building (Pacific Waves).

The suggested acoustic treatments and accompanying report make no provisions for the mitigation of noise pollution from external sound systems (operating in isolation to the venue's own internal sound system) in the open air/outdoor courtyard. The report only makes provision for 'normal' venue operation. Mr J Montgomery was going to follow up with NBC Planning on noise mitigation that could be included in any approval to this DA. This mitigation included a suggestion to restrict the use of external sound systems in any open air (courtyard or terraces) areas in the venue. This condition is in alignment with similar conditions for open-air areas of other nearby pubs and venues

which include use of only internal venue sound systems on sound limiters in open-air areas of the venue. External sound sources only to be used in indoor areas of a venue.

In addition, NSW Liquor and Gaming proceeded with enforcement action in July 2023 requiring the Hotel Steyne and licensee to comply with a number of noise mitigation conditions. One condition was to add noise limiters to the venue's internal sound system for the open-air courtyard, which has demonstrated an improvement to the noise pollution situation when the venue is using its own internal sound system. The offensive noise pollution however continues whenever the venue operators introduce external sound systems into the open-air courtyard that are not on noise limiters.

Condition change/add request 6:

"Audio in the outdoor, open-air courtyard/beer garden and all outdoor terraces can only be played through the venue's internal sound system which will be permanently set to the sound limits set by NSW Liquor & Gaming in the enforcement action from July 2023. Externally sourced, independent sound systems can only be utilised in the indoor areas of the venue – reason: To ensure reasonable levels of amenity for adjoining residents in the surrounding area."

Important: This proposed condition fully aligns with conditions for other surrounding venues and their respective Plan of Management(s). Examples include: 1/ The New Brighton Hotel (71 The Corso) where only ambient audio through the internal sound system is allowed in the open-air rooftop space, with bands and DJs using external sound equipment only allowed in the indoor areas of the venue ([see POM conditions reference 3040 2nd April 2013](#)). 2/ Insitu (1/18 Sydney Rd), where the [stamped acoustic report](#) for DA2023/0368 which must be read in conjunction of the [conditions of development consent](#) stipulate that all music and amplified sound be controlled by noise limiters (in their open-air courtyard) with prescribed limits and that live music and DJs are contained inside the venue, plus doors are closed from 8pm so the inside noise does not escape outside.

We suggest that if (in the future), the venue does want to use externally sourced sound systems in the open-air courtyard/beer garden, that the applicant submits a new application or modification to install a fully sealed acoustic roof over the entire courtyard/beer garden which would modify the courtyard to a fully enclosed internal area of the venue.

3/ Heritage

The heritage report and the heritage details in the assessment on page 258 request relocation of telecommunications aerials:

The Corso: Site Specific Controls includes the following requirements, guidelines & suggestions for 75 The Corso - Steyne Hotel:

- Relocate telecommunications aerials from corner tower to less prominent.

This relocation of telecommunications aerials has not been included in the proposed approval conditions. Request that the relocation telecommunication aerials be added as a preoccupation condition of consent.

Condition change/add request 7:

“Relocate telecommunications aerials from corner tower to less prominent.”

*To note; the Optus telecommunications aerials at 75 The Corso face mounted on the brickwork and coloured to blend in – it is suggested that relocation of these aerials are also face-mounted.

4/ Construction traffic management/use of Henrietta Lane & work zones

Henrietta Lane is a small laneway that should be free of vehicles for emergency vehicle access. This laneway is already heavily congested. Previous DA2021/2257 suggested use of Henrietta Lane for construction traffic and use of Pacific Waves land as a turning circle - which was objected by owners due to a weight limits on the land and no vehicle standing due to the Northern Beaches Council carpark below. As such DA2021/2257 will have access/work zone from the front of the site (North Steyne). Details can be found in the [NBC Traffic Engineer response to DA2021/2257](#) and the [Land & Environment Court \(L&EC\) conditions of consent](#).

Condition change/add request 8:

Replication of the following L&EC conditions of consent DA2021/2257 be included (in full) in any approval:

Headlines only provided:

14/ Construction Traffic Management Plan

15/ On-Street work zone (North Steyne)

37/ Demolition Traffic Management Plan

40/ Road Reserve

42/ Implementation of Demolition Traffic Management Plan

43/ Implementation of Construction Traffic Management Plan

44/ Ongoing Management

5/ Solar Panels: Henrietta Lane rooftop

We disagree with the assessment approval of the solar panels and question the validity of the supporting solar panel glare report. As such we request that two conditions be added both a pre-occupation certificate condition and a post occupation condition as follows:

Condition change/add request 9:

Preoccupation condition added to any approval as follows:

Survey and solar glare study be conducted from a minimum of 5 units across floors 4 to 8 in the Southeast corner of the Pacific Waves building. The survey(s) must be conducted across a full day of sun exposure from sunrise to sunset. If this survey and study fails to comply with glare report submitted with the development application, action must be taken to remediate glare impact by either repositioning panels or removing panels to achieve compliance and alignment with the report.

Condition change/add request 10:

Post-occupation condition to any approval as follows:

Survey and solar glare study to be conducted 6 months after the preoccupation survey and solar glare study to be conducted from a minimum of 5 units across floors 4 to 8 in the Southeast corner of the Pacific Waves building. The survey(s) must be conducted across a full day of sun exposure from sunrise to sunset. This study is to validate that compliance during the opposite yearly sun-cycle to the preoccupation survey and solar glare study. If this survey and study fails to comply with glare report submitted with the development application, action must be taken to remediate glare impact by either repositioning panels or removing panels to achieve compliance and alignment with the report.

Thank you for your consideration to ensure our homes and amenity are protected,

Regards

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