

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2023/0397
Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 100 DP 1069144, 75 The Corso MANLY NSW 2095 Lot 101 DP 1069144, 75 The Corso MANLY NSW 2095 Lot 102 DP 1069144, 75 The Corso MANLY NSW 2095 Lot 1 DP 1280856, 42 North Steyne MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata-subdivision.
Zoning:	Manly LEP2013 - Land zoned E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Steyne Hotel Operations Pty Ltd ATF Steyne Hotel Operations Trust Barecall Pty Ltd Steyne Hotel Freehold Pty Ltd
Applicant:	The Trustee For Steyne Hotel Operations Trust
Application Lodged:	03/08/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	11/08/2023 to 08/09/2023
Advertised:	11/08/2023
Submissions Received:	6
Clause 4.6 Variation:	4.3 Height of buildings: This clause do not apply to a modification, but proposal does exceed control by 19.2% 4.4 Floor space ratio: This clause do not apply to a modification, but proposal does exceed control by 12.12% and 22.96%
Recommendation:	Approval

EXECUTIVE SUMMARY

The application seek approval for a modification of the consent of DA2021/2257, granted consent by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata and stratum subdivision.

The modifications proposed under this application generally relate to the conversion of the existing bottle shop to a hotel reception/entrance to Hotel Steyne and minor internal and external alterations to the approved shop top housing development at 42 North Steyne.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to a variation to the Height of Buildings and Floor Space Ratio (FSR) development standard of more than 10%.

The non-compliance with the building height and FSR development standard arises from the approved non-compliant FSR and building height. The approved building has an approved height of 15m and total gross floor area of 1582sqm. The proposed modified works are below the maximum building height at 14.7m and the proposed alterations reduce the overall gross floor area by 14sqm (1568sqm total gross floor area). The works proposed under this application do not increase the maximum gross floor area or building height approved under DA2021/2257.

A total of six objections were received as part of the exhibition of the application. Issues raised include noise and compliance with the existing conditions of consent. The issues raised in objection have been reviewed and they do not warrant the refusal of the application.

The modified development is substantially the same as the approved development and the modifications do not materially impact the amenity of surrounding properties, alter the approved design or impact on the natural environment.

This report concludes with a recommendation that the **NBLPP** should grant approval to the application, subject to the conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

This modification application lodged pursuant to Section 4.56 of the EP&A Act seeks to modify the approval issued under development consent DA2021/2257.

The modifications proposed include:

- Hotel lift 3 & level access relocated
- Remove existing bottle shop and replace with hotel reception
- Hotel room adjusted to accommodate hotel lift 3 entry
- Adjustment of ground floor layout
 - hotel reception relocated to existing bottle shop
 - cafe and kitchen relocated
 - toilets relocated
 - floor levels raised to meet flood levels
 - residential garbage relocated
 - redesign residential lobby & entry
- Convert storage commercial area into residential storage area
- Remove bedroom 2 window on unit 201
- Addition of sliding doors to studies
- Curved corners to glazing (level 4)
- Modification of mullions & transom
- Mew skylights added on the roof level; and

- Modification of strata and stratum subdivision

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

Environmental Planning and Assessment Act 1979 - Section 4.56 - Environmental Planning and Assessment Act 1979 - Section 4.56 - with S4.15 Assessment
 Assessment - SEPP (Sustainable Buildings) 2022
 Manly Local Environmental Plan 2013 - 4.3 Height of buildings
 Manly Local Environmental Plan 2013 - 4.4 Floor space ratio
 Manly Development Control Plan - 5.5 Road Widening and Realignment

SITE DESCRIPTION

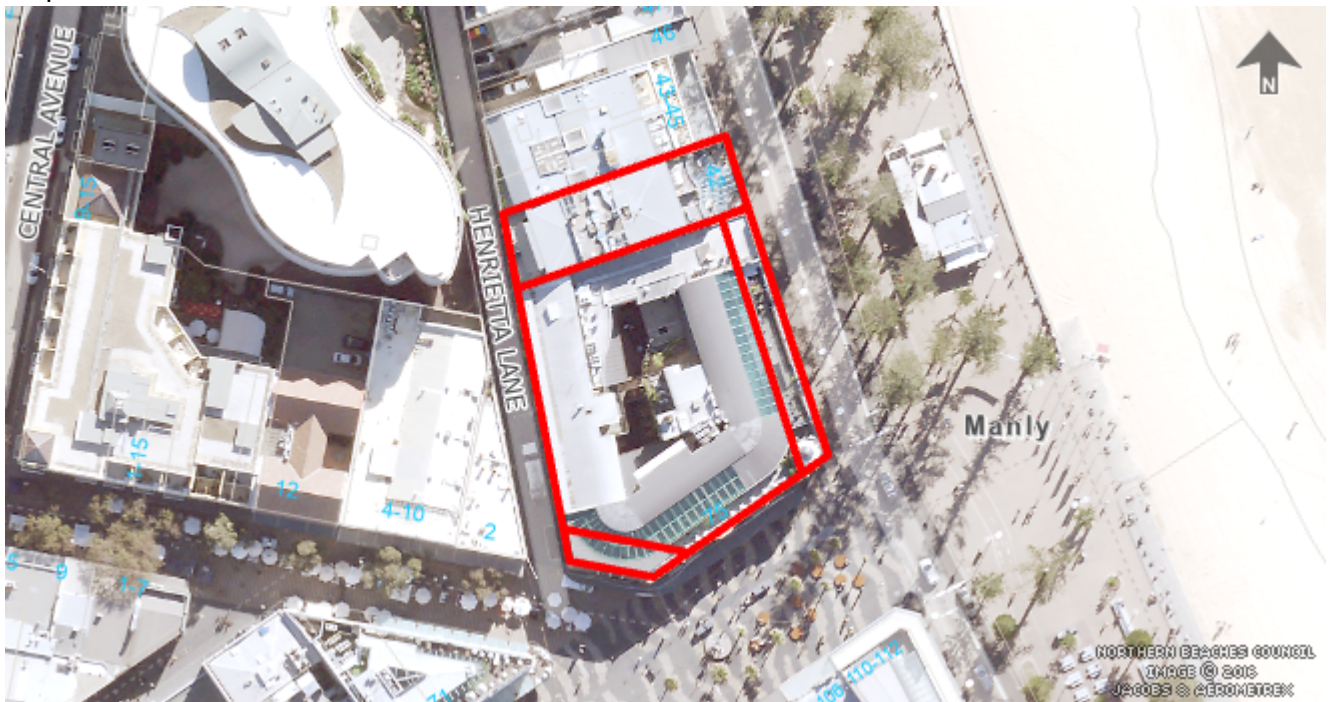
Property Description:	Lot 100 DP 1069144 , 75 The Corso MANLY NSW 2095 Lot 101 DP 1069144 , 75 The Corso MANLY NSW 2095 Lot 102 DP 1069144 , 75 The Corso MANLY NSW 2095 Lot 1 DP 1280856 , 42 North Steyne MANLY NSW 2095
Detailed Site Description:	<p>The subject sites are commonly known as 75 The Corso, Manly and 42 The Corso, Manly (Lot 1, DP 1034722 and Lot 100, DP 1069144).</p> <p>The site is irregular in shape with a primary frontage of 34.075m along The Corso and secondary frontages of 53.525m along North Steyne, 13.665m along Sydney Road and 56m along Henrietta Avenue. The land has total area of 2216m².</p> <p>The site is situated in the E1 Local Centre zone (formerly</p>

B2 Local Centre zone) under the Manly Local Environmental Plan 2013 (MLEP 2013).

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by multi-level commercial, residential, and mixed-use developments. Manly Beach is located directly opposite the property to the east

Map:



SITE HISTORY

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

DA2021/2257 - Alterations and additions to an existing building to comprise of shop top housing and strata subdivision.

Approved by the Land and Environment Court on 20 September 2022, by way of consent orders.

Mod2022/0630 - Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata subdivision.

The proposed modifications included:

- Construction of a swimming pool and spa to the approved fourth level terrace along the Market Lane frontage.
- Associated landscaping.

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 DA2021/2257, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56- Other Modifications	Comments
(1) 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	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2021/2257, for the following reasons:</p> <ul style="list-style-type: none">• The modified development remains consistent with the original approval in terms of use and density of development.• The proposed is maintained within the footprint of the original consent.• The bulk and scale of the development remain largely the same and the visually is not significantly altered from the original approval when viewed from the street and adjoining properties.
(b) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental

Section 4.56- Other Modifications	Comments
(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 development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA2021/2257.
(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 4.56 of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.56 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 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p>Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to BCA compliance.</p> <p>Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent..</p> <p>Clause 69 of the EP&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) 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) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) 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 'Matters for Consideration'	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/08/2023 to 08/09/2023 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 6 submission/s from:

Name:	Address:
Mr Ray Caryl Stone	704 / 9 - 15 Central Avenue MANLY NSW 2095
Mr Jesse Alex Chester	7 / 24 The Crescent MANLY NSW 2095
Mr Gregory Ernest Brown	8 Macquarie Road PYMBLE NSW 2073
Mr Gavin John Stow Mrs Samantha Barbara Stow	505 / 9 - 15 Central Avenue MANLY NSW 2095
Ms Zina Dybac	509 / 9 - 15 Central Avenue MANLY NSW 2095
Mr Faustino Miguel Martinez De Morentin	508 / 9 - 15 Central Avenue MANLY NSW 2095

The following issues were raised in the submissions:

- **Acoustic report**
- **Proposed paving**
- **Compliance with conditions**
- **Heritage**

The above issues are addressed as follows:

- **Acoustic report/ Noise from Steyne Hotel courtyard**

The submissions raised concerns about the suitability of the acoustic reports finding and

recommendations from DA2021/2257 the parent DA. The submission also noted that conditions from DA91/2011 are to be continuously maintained.

Comment:

This modification application does not propose any changes to the acoustic operation of the subject site. Conditions relating to 91/2011 are not relevant to this modification application.

- **Proposed paving**

The submissions raised concerns about proposed paving to Henrietta Lane. This matter was dealt with under the parent development application.

Comment:

This matter was dealt with under the parent development application by way of condition (Condition No. 21 *Submission Roads Act Application for Civil Works in the Public Road*) . The applicant is to submit a application for infrastructure on the roadway, pursuant to he Sections 138 and 139 of the *Roads Act* 1993 prior to the issue of the construction certificate. The condition states that engineering plans submitted as part of this application where to incorporate details of the road pavement, kerb and gutter for the reconstruction of the road.

- **Compliance with conditions**

The submissions raised concerns that existing conditions are to be complied with.

Comment:

Excluding design changes shown on the proposed architectural plans, no existing construction or operational are proposed to be altered or deleted.

- **Heritage**

The submissions raised concerns that there are outstanding heritage issues raised by Council's Heritage advisor.

Comment:

Additional information provided by the applicant has addressed concerns raised by Council's Heritage advisor, with the heritage advisor supporting the proposal, subject to conditions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<i>Supported, subject to conditions</i> 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.

Internal Referral Body	Comments
	<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>
<p>Environmental Health (Industrial)</p>	<p><i>Supported, subject to conditions</i></p> <p>This modification application seeks consent to amend the Land and Environment Court determination, dated 20 September 2022, which approved 'alterations and additions to an existing hotel, including the construction of a shop top housing development and strata subdivision' (DA Ref 2021/2257) at 75 The Corso & 42 North Steyne, Manly.</p> <p>The modifications proposed in this application are described in detail in Section 4 and generally include:</p> <ul style="list-style-type: none"> - Demolition plan changes to satisfy new BCA requirements - Internal layout changes - Minor design changes - Subdivision <p>Renzo Tonin and Associates have addressed potential noise impacts that may occur due to the new modifications. The report has stated;</p> <p><i>With this ceiling treatment, and with the acoustic treatments already detailed in the Original Acoustic Report, there will be no change in the noise impacts (either on 42 North Steyne itself, or on surrounding development).</i></p> <p>Environmental Health recommends approval subject to conditions.</p>
<p>Environmental Health (Food Premises, Skin Pen.)</p>	<p><i>Supported, subject to conditions</i></p> <p>This modification application seeks consent to amend the Land and Environment Court determination, dated 20 September 2022, which approved 'alterations and additions to an existing hotel, including the construction of a shop top housing development and strata subdivision' (DA Ref 2021/2257) at 75 The Corso & 42 North Steyne, Manly.</p> <p>The modifications proposed in this application are described in detail in Section 4 and generally include:</p> <ul style="list-style-type: none"> - Demolition plan changes to satisfy new BCA requirements - Internal layout changes - Minor design changes - Subdivision <p>The relocation of the cafe and kitchen can still achieve compliance with the AS4674:2004.</p> <p>Environmental Health recommends approval subject to conditions.</p>

Internal Referral Body	Comments
NECC (Coast and Catchments)	<p>Supported, without conditions The modification application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Manly LEP 2013 and Manly DCP.</p> <p><i>Coastal Management Act 2016</i> The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed modifications are in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p>Comment: On internal assessment, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H.</p> <p>As such, it is considered that the modification application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Manly LEP 2013 and Manly DCP No coastal related issues identified.</p> <p>As such, it is considered that the modification application does comply with the requirements of the coastal relevant clauses of the Manly LEP 2013 and Manly DCP.</p>

Internal Referral Body	Comments
NECC (Development Engineering)	<p>Supported, without conditions</p> <p>The proposed modifications to the existing approval have been reviewed and are supported no further development engineering conditions are required.</p>
NECC (Flooding)	<p>Supported, subject to condition</p> <p>The proposed modifications primarily relate to internal layout changes and modifications to internal floor levels. Raising of the floor levels at ground level has been undertaken to protect the lifts and stairs from floodwaters entering from Henrietta Lane where the FPL is 5.53m AHD. It is considered that this requirement, conditioned in DA2021/2257, has now been met.</p>
NECC (Water Management)	<p>Supported, without conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy); and • Relevant LEP and DCP clauses <p>The condition of consent (DA2021/2257 under the court approval LEC No. 2022/00032828) related to stormwater treatment measures and groundwater interference are unaffected by the proposed modifications.</p> <p>NECC Water Management has no objection to the proposal</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>Supported, subject to conditions</p> <p>The proposal has been referred as the site is a heritage item, being Item I111 - Hotel Steyne, 75 The Corso and is located within the C2 - Manly Town Centre Conservation Area. It is also in the vicinity of a number of heritage items:</p> <p>Item I168 - Ocean foreshores - Manly municipal area, boundary adjacent to the ocean</p> <p>Item I174 - Beach Reserve—Merrett Park North Steyne and South Steyne</p>
	Details of heritage items affected
	<p>Details of the heritage item, as contained within the heritage inventory, are:</p> <p>Item I111 - Hotel Steyne, 75 The Corso</p> <p><u>Statement of significance</u></p> <p>This building is a fine example of Inter-War Art Deco style Hotel. Landmark building on the corner of The Corso and South Steyne.</p> <p><u>Physical description</u></p> <p>Original Hotel built 1862 and rebuilt in 1936 in Inter-war Art Deco Style of polychrome brickwork with heavy brick modelling along parapet and corrugated asbestos roof. Significant elements</p>

Internal Referral Body	Comments																					
	<p>include: fan shaped lintels to windows; tile and brick detailing beneath windows; original tiling to ground floor, octagonal corner 'tower'.</p> <p>C2 - Manly Town Centre Conservation Area <u>Statement of significance</u> 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.</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><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr><tr><td>Other</td><td>No</td><td></td></tr></table> <p>Consideration of Application</p> <p>Amended Plans - submitted 20 September 2023 The proposal seeks consent for modifications to the LEC approved DA 2021/2257, involving changes to the heritage item and the approved shop top housing development.</p> <p>The existing Bottle Shop at the southern portion of Hotel Steyne, facing The Corso is proposed to be replaced with the hotel accommodation reception. The existing staircase in this area is proposed to be rebuilt with the insertion of a new lift core, which requires partial demolition at the ground floor level for the erection of the new lift. The works involve the removal of the furniture and interior fittings, but do not involve the removal of any brick walls and are limited to partitions and doors at the ground level and partial demolition of an existing room for the new lift core. The proposed works also include the removal of the steps at the entrance to The Corso, to provide accessible entry. The proposed works for the new shop top housing involve reconfiguration of the ground floor layout and changes to the fenestration of the main facade facing North Steyne.</p> <p>Heritage raised a number of concerns on the original plans</p>	Other relevant heritage listings			SEPP (Biodiversity and Conservation) 2021	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	No	
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RAIA Register of 20th Century Buildings of Significance	No																					
Other	No																					

Internal Referral Body	Comments
	<p>submitted with this Modification. In response to this, the applicants have submitted an <i>Amended Statement of Heritage Impact (HIS)</i> by City Plan Heritage (dated 18 September 2023), along with amended plans by Squillace Architecture/Interiors, received by Council on 20 September 2023. Each issue is discussed below:</p> <p>Relocation of hotel lobby to existing bottle shop There are no objections to the hotel lobby being relocated to the area currently occupied by the bottle shop. The Amended HIS provided more information on the fabric to be demolished for this relocation and concluded that this area had been modified, particularly in 2003 and any original fabric had either been removed, or was possibly concealed behind existing walls/ceilings. On this basis, heritage is able to support this work on the basis that demolition works in this area are supervised by a built heritage specialist and any original fabric revealed during demolition, is retained in-situ or salvaged and stored for future re-use.</p> <p>The other concern with this relocation was proposed changes to the doors fronting The Corso and any signage. The Amended HIS and plans now propose that the existing timber and glass manual sliding doors will be retained, with the end door (where steps are to be removed), will be made a full length door to match the remaining doors. This is an acceptable heritage outcome. Signage changes are limited to changes to the wording of the Bottle Shop under awning sign to refer to Accommodation. This minor change is considered acceptable on heritage grounds.</p> <p>Changes to fenestration on 42 North Steyne This issue has been reconsidered and no heritage objections are now raised to the proposed changes to the fenestration detailing on the building at 42 North Steyne.</p> <p>Heritage Interpretation Strategy It is acceptable for the interpretation panels to remain located in the portion of the development known as 41 North Steyne, in the new café, as opposed to being in the hotel lobby. This location is identified in the approved <i>Heritage Interpretation Strategy</i> document by City Plan dated February 2023, on page 22. The only difference is that this area will now only be used as a café not a “café and hotel reception”, which is not important as the focus for these interpretation panels is the history of the original building at 41 North Steyne, which is being demolished as part of this development. However, it is considered the approved <i>Heritage Interpretation Strategy</i> report by City Plan (dated February 2023) should be updated to refer to the new plans, the subject of this Modification application, including the plan extract referred to on page 22 of the report.</p> <p>Having reviewed the amended plans and amended Heritage</p>

Internal Referral Body	Comments
	<p>Impact Statement it is considered that the previous heritage concerns have now been addressed.</p> <p>Therefore, no objections are raised on heritage grounds, subject to the imposition of a number of conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013:</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? Yes - Previously Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>
Strategic and Place Planning (Urban Design)	<p><i>Supported, without conditions</i></p> <p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p> <p>The Modification Application Mod2023/0397 seeks consent for alterations and additions at 75 The Corso MANLY NSW 2095.</p> <p>The applicant seeks consent for modifications that relate primarily to demolition, internal and layout changes, in part resulting from changes to NCC/BCA provisions. The proposed changes include:</p> <ul style="list-style-type: none"> • remove bedroom 2 window on unit 201 • addition of sliding doors to studies • curve corners to glazing • slight modification of mullions & transom • new skylights added on the roof level • floor levels raised to meet flood levels <p>Urban Design raise no objection to the proposed development.</p> <hr/> <p>Please note: Regarding any view impacts and any impacts on solar amenity and overshadowing these matters will be dealt with under</p>

Internal Referral Body	Comments
	the evaluation of Councils Planning Officer. Any impacts of non-compliances regarding heritage will be dealt with under the evaluation of Councils Heritage Officers, and any Landscape non-compliances will be dealt with under the evaluation of Councils Landscape Officers.
Traffic Engineer	Supported, without conditions The proposed modification does not impact upon the approved quantum of parking or access to it. There is also no change to the development yield. There are therefore no traffic engineering issues preventing approval of the modification and no additional conditions to apply
Waste Officer	Supported, subject to conditions. To enhance the public amenity of Manly CBD Council will not permit the presentation of bins on public land awaiting collection. Council will provide a "wheel out/ wheel in" service for all residential waste and recycling bins from the designated waste bin storage room within the building. To ensure an efficient provision of service the bin storage room must meet access requirements for collection staff.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	Supported, subject to conditions The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations were imposed under the original condition of consent.
Nominated Integrated Development - WaterNSW - Water Management Act 2000, s90(2) - Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location	Supported, without conditions WaterNSW has reviewed the information submitted with the application regarding the proposed modifications relating to the subdivision, demolition, internal layout changes and other alterations to comply with BCA requirements of 42 North Steyne & 75 The Corso, Manly NSW 2095 and considers that for the purposes of the Water Management Act 2000, no further investigation is required by this agency

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 (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Biodiversity and Conservation) 2021

Chapter 6 – Water catchments

The subject property is located within the Sydney Harbour Catchment and Sydney Harbour Foreshores and Waterways Area therefore the provisions of Chapter 6 Water catchments of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* apply to this development. Accordingly, an assessment under Chapter 6 has been carried out as follows:

Division 3 Development in Foreshores and Waterways Area

6.28 General

(1) In deciding whether to grant development consent to development in the Foreshores and Waterways Area, the consent authority must consider the following—

(a) whether the development is consistent with the following principles—

- (i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good,*
- (ii) the public good has precedence over the private good,*
- (iii) the protection of the natural assets of Sydney Harbour has precedence over all other interests,*
- (b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,*
- (c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,*
- (d) whether the development promotes water-dependent land uses over other land uses,*
- (e) whether the development will minimise risk to the development from rising sea levels or changing flood patterns as a result of climate change,*
- (f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,*
- (g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,*
- (h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.*
- (2) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—*
 - (a) having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites,*
 - (b) if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,*
 - (c) if the development is for or in relation to industrial or commercial maritime purposes—public access that does not interfere with the purposes will be provided and maintained to and along the foreshore,*
 - (d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,*
 - (e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from—*
 - (i) the Foreshores and Waterways Area, and*
 - (ii) public places, landmarks and heritage items.*

Comment:

The proposed modification maintains consistency with the above principles. The proposed modification will not have any unreasonable impact upon the foreshore area.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- b) coastal environmental values and natural coastal processes,
- c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

The proposed modifications are generally relatively minor compared to the previous approval, and will not significantly alter any impacts to the above matters for consideration.

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

Comment:

No significant impacts will be caused by the proposed modifications.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - ii) overshadowing, wind funnelling and the loss of views from public places to
 - iii) foreshores,
 - iv) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - v) Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:

- i) the development is designed, sited and will be managed to avoid an
 - ii) adverse impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal will remain consistent with the aims and considerations for the coastal environment of Manly along North Steyne.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

No significant impacts will be caused by the proposed modifications.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The proposed modifications are generally relatively minor, and will not cause any increased risk of coastal hazards.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

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

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	Approved	Proposed	% Variation	Complies
Height of Buildings	12m	15m	Natural ground level - 14.7m (Top of new glazing level 4)	19.2%	No
Floor Space Ratio	Site C: 3:1 (914.1sqm) Site C + D: 2.5:1 (396sqm)	Site C: 3.7:1 (1142sqm) Site C + D: 2.77:1 (440sqm)	Site C: 3.68:1 (1124sqm) Site C + D: 2.8:1 (444sqm) Total reduction of 14sqm of gross floor area across the site	22.96% 12.12%	No No

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
4.3 Height of buildings	No
4.4 Floor space ratio	No
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore 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
6.15 Tourist and visitor accommodation	Yes
6.16 Gross floor area in Zone B2	Yes

Detailed Assessment

4.3 Height of buildings

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	12m
Proposed:	Natural ground level - 14.7m (Measured to top of proposed glazing alterations level 4).
Percentage variation to requirement:	19.2%

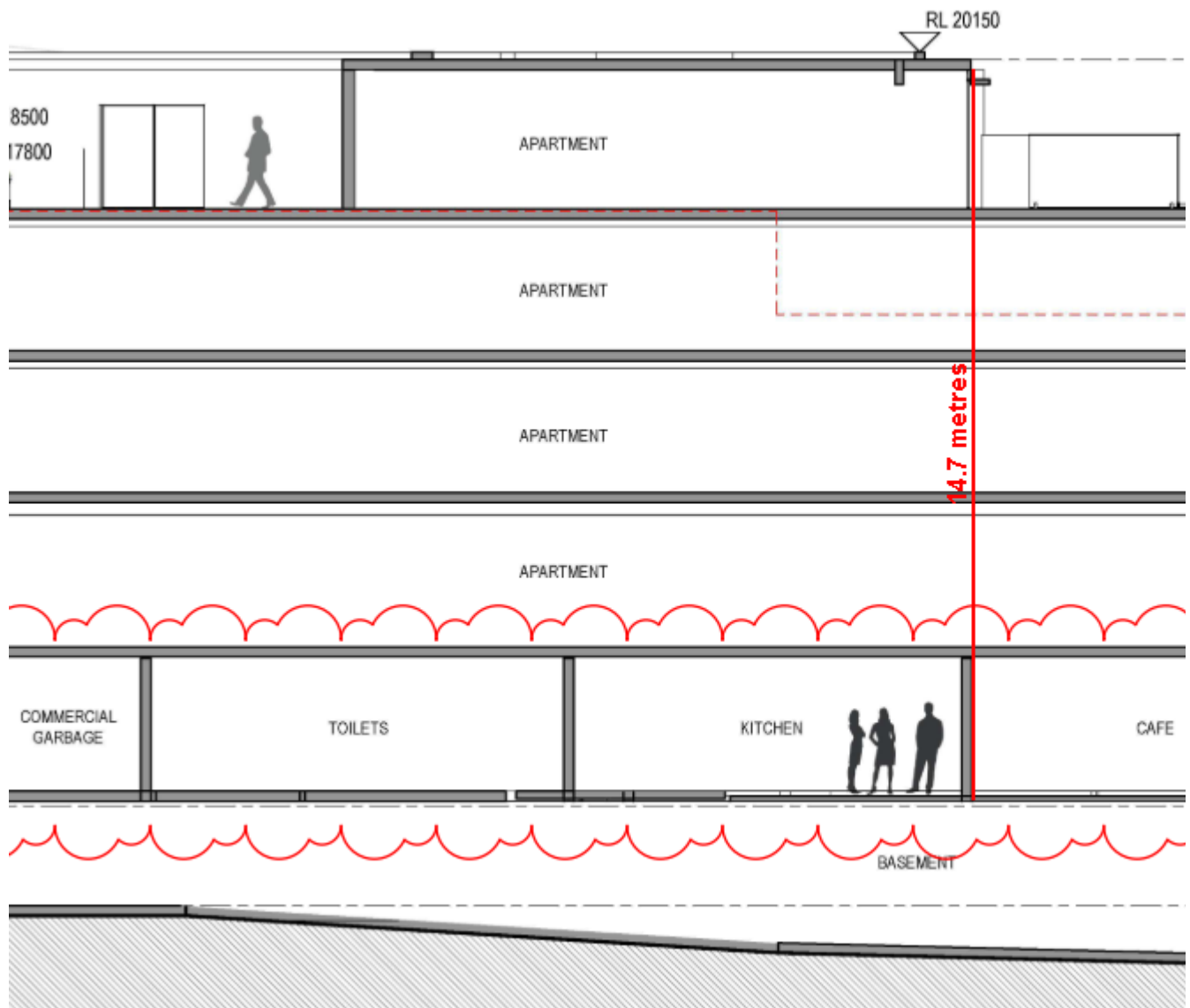


Figure 1 - Building height calculation

Assessment of request to vary a development standard:

Whilst the modification application will result in a building height that exceeds the maximum permitted by Clause 4.3 of the Manly LEP 2013, the application does not strictly need to address the

requirements of Clause 4.6.

The application has been made under Section 4.56 of the Environmental Planning and Assessment (EPA) Act 1979, which is a free standing provision that in itself authorises the development to be approved notwithstanding any breach of development standards. Section 4.56 is subject to its own stand-alone tests (such as the substantially the same test and consideration of all relevant Section 4.15 matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application.

Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 4.56 modification applications. As such, the applicant is not required to submit a written request adequately addressing the matters required to be demonstrated by cl 4.6(3).

Notwithstanding that Clause 4.6 does not apply to Section 4.56 modification applications, the merits of the variation have been assessed with regard to the objectives of the height of buildings development standard and the underlying objectives of the E1 Local Centre zone. Notwithstanding that Clause 4.6 does not strictly apply, the assessment has also taken into consideration the relevant tests of the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Comment:

The objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard (As detailed below). Demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

There are sufficient environmental planning grounds to justify contravening the development standard,

Comment:

The development promotes good design and amenity of the built environment, noting that the proposed alterations will not contribute to any unreasonable impact on amenity considerations (i.e solar access, privacy and view loss) to neighbouring properties.

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

4.3 Height of buildings

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

a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The height of building non-compliance under this application is in reference to the proposed

glazing alterations to the level 4 apartment. The approved height of the approved shop top housing development is not altered.

b) to control the bulk and scale of buildings,

Comment:

The works will allow for an appropriate relationship and spatial separation with surrounding development. The visual bulk of the swimming pool as viewed from public open space (Manly Beach) is not adverse nor unreasonable.

c) to minimise disruption to the following—

(i) views to nearby residential development from public spaces (including the harbour and foreshores),

(ii) views from nearby residential development to public spaces (including the harbour and foreshores),

(iii) views between public spaces (including the harbour and foreshores),

Comment:

The proposed development will not result in unreasonable view loss to and from private and public open spaces.

d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The solar impacts of this aspect of the development are minor and acceptable in terms of the impacts on habitable rooms of the adjoining properties and public open spaces.

e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses,

Comment:

The site is not located in recreation or protection zone.

Zone objectives

The underlying objectives of the E1 Local Centre zone

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Comment:

The proposed development retains the use of the site as shop top housing, so includes retail premises at ground level. This supports the needs of the people who live in, work in, and visit the local area.

- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

Comment:

As above, the proposed development retains retail premises at ground level, which will provide employment opportunities. The subject site is accessible in that it is located within short walking distance of regular bus, ferry services and courtesy bus services.

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

Comment:

The subject site is located within short walking distance of bus and ferry services, as well as walking and cycling paths. The site adjoins The Corso and will contribute the Manly townscape.

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

Comment:

The application includes a commercial premise on the ground floor.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*

Comment:

The proposed residential apartments and neighbouring residential development will retain suitable levels of amenity.

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

Comment:

The proposed development will contribute the diverse nature of North Steyne and The Corso.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

As above, the architectural design of the development will complement the townscape of Manly.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the

E1 Local Centre zone.

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

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

Comment:

The subject application is made under Section 4.56 of the EPA Act. As such, Clause 4.6 does not strictly apply and the concurrence of the Secretary is not required to be obtained.

4.4 Floor space ratio

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	Site C: 3:1 (914.1sqm) Site C + D: 2.5:1 (396sqm)
Proposed:	Site C: 3.68:1 (1124sqm) Site C + D: 2.8:1 (444sqm) Total reduction of 14sqm of gross floor area across the site. Approved Site C: 3.7:1 (1142sqm) Site C + D: 2.77:1 (440sqm)
Percentage variation to requirement:	Site C: 22.96% Site C + D: 12.12%

Assessment of request to vary a development standard:

Whilst the modification application will result in a floor space ratio that exceeds the maximum permitted by Clause 4.4 of the Manly LEP 2013, the application does not strictly need to address the requirements of Clause 4.6.

The application has been made under Section 4.55 of the Environmental Planning and Assessment (EPA) Act 1979, which is a free standing provision that in itself authorises the development to be approved notwithstanding any breach of development standards. Section 4.56 is subject to its own stand-alone tests (such as the substantially the same test and consideration of all relevant Section 4.15 matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application.

Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 4.56 modification applications. As such, the applicant is not required to submit a written request adequately addressing the matters required to be demonstrated by cl 4.6(3).

Notwithstanding that Clause 4.6 does not apply to Section 4.56 modification applications, the merits of the variation have been assessed with regard to the objectives of the floor space ratio development standard and the underlying objectives of the E1 Local Centre zone. Notwithstanding that Clause 4.6 does not strictly apply, the assessment has also taken into consideration the relevant tests of the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Comment:

The objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard (As detailed below). Demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

There are sufficient environmental planning grounds to justify contravening the development standard,

Comment:

The development promotes good design and amenity of the built environment, noting that the proposed alterations will not contribute to any unreasonable impact on amenity considerations (i.e solar access, privacy and view loss) to neighbouring properties.

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

4.4 Floor space ratio

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

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

Comment:

The proposed floor space alterations will not compromise the scale of the development when viewed from the North Steyne or Henrietta Lane.

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

Comment:

The proposed bulk and scale of the proposed development is not unreasonable impacted by the proposed alterations to floor space noting that the change comes as a result of internal alterations.

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

Comment:

As noted above, the approved building envelope and will not change the bulk and scale of the development.

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

Comment:

The proposed amendments to gross floor area does not unreasonably impact on the amenity of the neighbouring properties.

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

Comment:

The proposed commercial use at the ground floor of the development encourages business and employment opportunities in the area.

Zone objectives

The underlying objectives of the E1 Local Centre zone

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Comment:

The proposed development retains the use of the site as shop top housing, so includes retail premises at ground level. This supports the needs of the people who live in, work in, and visit the local area.

- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

Comment:

As above, the proposed development retains retail premises at ground level, which will provide employment opportunities. The subject site is accessible in that it is located within short walking distance of regular bus, ferry services and courtesy bus services.

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

Comment:

The subject site is located within short walking distance of bus and ferry services, as well as walking and cycling paths. The site adjoins The Corso and will contribute the Manly townscape.

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

Comment:

The application includes a commercial premise on the ground floor.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*

Comment:

The proposed residential apartments and neighbouring residential development will retain suitable levels of amenity.

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

Comment:

The proposed development will contribute the diverse nature of North Steyne and The Corso.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

As above, the architectural design of the development will complement the townscape of Manly.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E1 Local Centre zone.

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

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

Comment:

The subject application is made under Section 4.56 of the EPA Act. As such, Clause 4.6 does not strictly apply and the concurrence of the Secretary is not required to be obtained.

Manly Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	Yes	Yes
4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	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
4.2.5.6 Late Night Venues	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
5.5 Road Widening and Realignment	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

5.5 Road Widening and Realignment

The subject site is identified within Schedule 1 - Map E as land to be acquired for road widening and

realignment.

However, as a consequence of a judgement of Biscoe J in the matter of *Triton Services Group Pty Ltd v Manly Council* [2011] NSWLEC 69, in which Council was found to have not served notice under s262(3) of the Local Government Act 1919 (now repealed) for its proposed widening of North Steyne, no road widening order within the meaning of s25 of the Roads Act 1993 applies to the Subject Site. Road widening is no longer being pursued by Council and the road reserve closed.

Therefore the provisions the provisions of this Clause are not applicable to the assessment of this application

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

Section 7.12 contributions were levied on the Development 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 modification of DA2021/2257 has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the variation to the Height of Building and Floor Space Ratio development standards.

The concerns raised in the objections have been addressed and resolved by way of existing condition, the conditions will ensure reasonable levels of amenity will be retained to neighbouring residential properties.

The critical assessment issues include general amenity and BCA compliance.

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

RECOMMENDATION

THAT Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2023/0397 for Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata-subdivision. on land at Lot 100 DP 1069144,75 The Corso, MANLY, Lot 101 DP 1069144,75 The Corso, MANLY, Lot 102 DP 1069144,75 The Corso, MANLY, Lot 1 DP 1280856,42 North Steyne, MANLY, 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- 351259 MOD2023/0397	The date of this notice of determination	<p>Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata-subdivision.</p> <p>Add Condition 1B -Modification of Consent 2 - Approved Plans and supporting Documentation</p> <p>Add Condition 36C. Building Code of Australia Fire Safety Requirements</p> <p>Add Condition 36D. Access and Facilities for Persons with Disabilities</p> <p>Add Condition 36E. Mechanical ventilation Plans</p> <p>Add Condition 36F. Photographic Heritage Record - Bottle Shop</p> <p>Add Condition 36G. Update of Heritage Interpretation Plan</p> <p>Add Condition 58A. Works to Bottle Shop</p> <p>Add Condition 86B. Acoustic Treatment</p> <p>Add Condition 86C. Kitchen Design, construction and fit out of food premises certification</p> <p>Add Condition 86D. Mechanical Ventilation certification</p> <p>Add Condition 86E. Registration of food Business</p> <p>Add Condition 86F. Certification of Works as Executed</p> <p>Add Condition 98C. Works to Bottle Shop</p>
PAN-281320 MOD2022/0630	1 March 2023	<p>Modification of Development Consent DA2021/2257, approved by the Land and Environment Court for alterations and additions to an existing building to comprise shop top housing and strata-subdivision.</p> <p>Add Condition 1A -Modification of Consent - Approved</p>

		Plans and supporting Documentation Add Condition 98A - Swimming Pool and Spa mechanical plant and equipment Add Condition 36A - Swimming Pool water Add Condition 36B - Acoustic Report Implementation Add Condition 86A - Acoustic Certification Add Condition 36B - Finishes and colour scheme Add Condition 98B - Swimming pool trough
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Modified conditions

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

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.

Squillace

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-018	C	Lower Basement Level - Demolition Plan	Squillace	22 June 2023
DA-019	D	Basement Level - Demolition Plan	Squillace	22 June 2023
DA-020	D	Ground Level - Demolition Plan	Squillace	22 June 2023
DA-021	E	Level 1 - Demolition Plan	Squillace	31 August 2023
DA-022	D	Level 2 - Demolition Plan	Squillace	22 June 2023
DA-023	D	Level 3 - Demolition Plan	Squillace	22 June 2023
DA-024	D	Level 4 - Demolition Plan	Squillace	22 June 2023
DA-098	C	Lower Basement Plan	Squillace	22 June 2023
DA-099	F	Basement Floor Plan	Squillace	22 June 2023
DA-100	G	Ground Floor Plan	Squillace	31 August 2023
DA-101	G	Level 1 Floor Plan	Squillace	31 August 2023
DA-102	E	Level 2 Floor Plan	Squillace	22 June 2023
DA-103	E	Level 3 Floor Plan	Squillace	22 June 2023
DA-104	F	Level 4 Floor Plan	Squillace	31 August 2023
DA-105	F	Roof Plan	Squillace	22 June 2023
DA-201	F	East and West Elevations	Squillace	22 June 2023
DA-202	G	North and South Elevations	Squillace	22 June 2023
DA-401	F	Section A	Squillace	22 June 2023
DA-402	E	Section B	Squillace	22 June 2023

DA-403	C	Section C	Squillace	22 June 2023
DA-1010	B	New hotel entry plan - Finishes	Squillace	14 September 2023
Sheet 1 of 6 sheets	N/A	Location Plan	LTS	13 July 2023
Sheet 2 of 6 sheets	N/A	Lower basement	LTS	13 July 2023
Sheet 3 of 6 sheets	N/A	Basement	LTS	13 July 2023
Sheet 4 of 6 sheets	N/A	Ground	LTS	13 July 2023
Sheet 5 of 6 sheets	N/A	Levels 1 -3	LTS	13 July 2023
Sheet 6 of 6 sheets	N/A	Level 4 and above	LTS	13 July 2023
Strata Sheet 1 of 7	N/A	Location Plan	LTS	13 July 2023
Strata Sheet 2 of 7	N/A	Basement	LTS	13 July 2023
Strata Sheet 3 of 7	N/A	Ground	LTS	13 July 2023
Strata Sheet 4 of 7	N/A	Level 1	LTS	13 July 2023
Strata Sheet 5 of 7	N/A	Level 2	LTS	13 July 2023
Strata Sheet 6 of 7	N/A	Level 3	LTS	13 July 2023
Strata Sheet 6 of 7	N/A	Level 4	LTS	13 July 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document

BASIX Certificate No. 1246451M_04	04	EPS	27 June
Acoustic report	N/A	Renzo Tonin & Associates	15 June 2023

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

In the event of any inconsistency with 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.

B. Add Condition 36C. Building Code of Australia Fire Safety Requirements - to read as follows:

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Compliance Capability Statement, dated 31/7/2023, Project No. 11120, prepared by AED and the Fire Engineering DA Statement dated 5/7/2023, Ref 12613651, Rev 0 prepared by GHD, 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.

C. Add Condition 36D. Access and Facilities for Persons with Disabilities - to read as follows:

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In particular the Accessibility Compliance Capability Statement prepared by AED, dated 3/7/2023 is to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

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

D. Add Condition 36E. Mechanical ventilation Plans - to read as follows:

Where Mechanical ventilation is required to be installed in the food premises ,prior to any Construction Certificate (CC) being issued, detailed plans must be submitted to and approved by the Principle certifier that demonstrate compliance with the following:

- Australian Standard (AS) 1668.2 “The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings”; and

Any external structures are required to submit a separate development application. No approval is provided for any external works beyond those shown on the approved plans.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

E. Add Condition 36F. Photographic Heritage Record - Bottle Shop to read as follows:

A simple photographic heritage record is to be made of the bottle shop area, as a record of this area prior to works.

This photographic record should be made using digital technology and should:

- Identify the location of property, date of survey and author of survey;
- Include a site plan at a scale of 1:200;
- Include photographs of all internal and external areas to be altered, referenced to a plan and catalogue sheet.

This record must be submitted to Council's Heritage Advisor, for approval prior to commencement of any demolition or works. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To provide an historical photographic record of the bottle shop area, prior to any demolition or works.

F. Add Condition 36G. Update of Heritage Interpretation Plan to read as follows:

The Heritage Interpretation Plan by City Plan Heritage, dated February 2023 is to be updated, so that it refers to and is consistent with, the amended plans which relocate the hotel lobby to the existing bottle shop.

This updated Heritage Interpretation Plan is to be submitted to Council's Heritage Advisor for approval. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that the Heritage Interpretation Plan accurately reflects the approved plans.

G. Add Condition 58A. Works to Bottle Shop - to read as follows:

All demolition works to the existing bottle shop area are to be supervised by a built heritage specialist. If significant original fabric is revealed during demolition, this fabric is to be recorded and remain in-situ, or removed and stored for future use on-site.

Confirmation of appointment of this built heritage specialist is to be provided to Council's Heritage Advisor prior to commencement of any demolition or works. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that any significant original fabric is not destroyed as a result of works to the bottle shop area.

H. Add Condition 86B. Acoustic Treatment - to read as follows:

Prior to the issue of a Occupation Certificate, documentation is to be submitted to the Principal Certifying Authority that a double layer ceiling that has been recommended in the Original Acoustic Report dated 28 October 2021, has been applied to the new ground floor kitchen area.

Reason: To ensure the noise amenity of the surrounding area

I. Add Condition 86C. Kitchen Design, construction and fit out of food premises certification - to read as follows:

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

J. Add Condition 86D. Mechanical Ventilation certification - to read as follows:

Where Mechanical ventilation is required to be installed in the food premises it must comply with the following:

- Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings";

Any external structures are required to submit a separate development application. No approval is provided for any external works beyond those shown on the approved plans.

Certification is to be provided to the Principal Certifier prepared by a suitably qualified person to demonstrate that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

K. Add Condition 86E. Registration of food Business - to read as follows:

The food business must be registered with the appropriate regulatory authority, prior to the Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

L. Add Condition 86F. Certification of Works as Executed - to read as follows:

A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and in particular that ground floor levels have been set at or above the levels shown on Drawing DA-100/F.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

M. Add Condition 98C. Works to Bottle Shop - to read as follows:

Commercial waste and recycling bins are not to be placed at the kerbside or upon any public land awaiting collection.

Waste collection arrangements must include a procedure whereby the collection contractor enters the property to retrieve the bins from the dedicated bin storage area and then returns the bins to the dedicated bin storage area immediately after emptying.

Reason: To maintain public amenity in Henrietta Lane.