

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0449
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Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 1 DP 859455, 2 West Promenade MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2016/0176 granted for Construction of a mixed use development comprising a registered club at ground level and residential accommodation above basement carparking and associated landscaping
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	No
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Manly Civic Club
Applicant:	Pbdt Projects Services

Application lodged:	23/08/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	05/09/2018 to 08/12/2018
Advertised:	24/11/2018
Submissions Received:	2
Recommendation:	Approval

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest

- groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - Zone B2 Local Centre

Manly Local Environmental Plan 2013 - 4.3 Height of buildings

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

SITE DESCRIPTION

Property Description:	Lot 1 DP 859455 , 2 West Promenade MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of West Promenade, Manly.</p> <p>The site is regular/irregular in shape with a frontage of 33.35m along 43.98m to Gilbert Street and 24.59m to Eustace Street. The site has an average depth of 46m and an overall site area of 1,562m².</p> <p>The site is located within the B2 Local Centre zone and is currently under construction for the mixed use development approved under DA0176/2016.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential flat buildings and a place of public worship.</p>

Map:



SITE HISTORY

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

- DA0176/2016 for construction of a mixed-use development and alterations to the existing Auckland Garage building, comprising a registered club at ground level and residential accommodation above, basement carparking and associated landscaping was approved on 28 June 2017 the Sydney North Planning Panel.
- DA0176/2016 Part 2 for Section 96 to modify approved construction of a mixed-use development and alterations to the existing Auckland Garage building, comprising a registered club at ground level and residential accommodation above, basement carparking, associated landscaping and strata subdivision was approved on 19 September 2017 under staff delegation.
- DA0176/2016 Part 3 for Section 96 to modify approved construction of a mixed-use development and alterations to the existing Auckland Garage building, comprising a registered club at ground level and residential accommodation above, basement carparking, associated landscaping and strata subdivision was approved on 1 November 2017 under staff delegation.
- Mod2018/0318 for Modification of Development Consent DA176/2016 granted for construction of a mixed use development comprising a registered club and residential dwellings was approved on 31 July 2018 under staff delegation.
- DA2018/1843 for Stratum subdivision of one Lot into two Lots of an approved mixed use development is currently under assessment by Council.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent to modify Development Consent No. DA0176/2016 as follows:

- Addition of outdoor shower;
- Addition of air-lock to club entrance;
- Internal reconfiguration and addition of plant room in basement;

- Addition of basement OSD/rainwater tank;
- Bin room layout modified and mezzanine to bin room added;
- Internal reconfiguration of club and residential units;
- Minor changes to facade, balconies and windows; and
- Modification of planters and landscaping.

AMENDMENTS TO SUBJECT APPLICATION

A preliminary review of the application identified a number of discrepancies in the plans submitted with the application when viewed against the original approval. The applicant was made aware of this issue by letter dated 17 October 2018.

The applicant responded on 12 November 2018 submitting amended plans which clearly identify the proposed modifications and minor changes from the original approval to the current application. These amendments/modifications have also been annotated on the plans and supporting statement of modification. As a result of the amendments the application was re-notified on 21 November 2018.

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 DA0176/2016 and subsequent approved modifications (DA0176/2016 Part2, DA0176/2016 Part 3, MOD2018/0318), in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) 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	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 DA0176/2016.

Section 4.55(1A) - Other Modifications	Comments
granted and before that consent as originally granted was modified (if at all), and	
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environment Plan 2013 and Manly Development Control Plan 2013.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

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

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 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)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation was submitted with the

Section 4.15 'Matters for Consideration'	Comments
	<p>original application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter has been addressed via a condition in the original 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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

Name:	Address:
Mr Paul Harrington	402 / 54 West Esplanade MANLY NSW 2095
Mrs Leonie Joan Harrington	PO Box 273 SPIT JUNCTION NSW 2088

The following issues were raised in the submissions and each have been addressed below:

- **Louvre modifications on the southern elevation are unclear - noise and smoke pollution impacts on the street.**
- **Two new entries proposed directly from the street may result in security risks.**

The matters raised within the submissions are addressed as follows:

Southern Louvre Modifications

Comment:

As per the Statement of Modifications, the approved louvres on the southern elevation are increased in height by 1m. The increase is not anticipated to result in any unreasonable increase to noise impacts. Appropriate mechanical ventilation is approved within the “outdoor gaming room” to ensure smoke does not unreasonably impact upon the public domain.

Street Entries

Comment:

The entries directly connected to the street originally proposed in this application have been deleted and the landscape buffer is to remain as approved.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	<p>Further to a review of available documents, The application is a S.96, substantially the same as the originally approved DA. Therefore, it is fair to assess that impact of the current proposal will be closely similar to the impact of the previously approved DA.</p> <p>Based on the above, I have no objection to this proposal from heritage perspective and deem heritage conditions not required.</p> <p>Proposal is acceptable without conditions.</p> <p>Kind Regards Zoran Popovic Heritage Adviser</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Police - Local Command (CPTED)	The NSW Police raised no objections to the proposal, and did not require addition of any further conditions.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7(1)(a) of SEPP 55 requires the consent authority to consider whether land is contaminated. The Applicant submitted a satisfactory Detailed Site Investigation with the original development application. In accordance with Condition No. ANS03 of DA0176/2016, a Remedial Action Plan was prepared prior to the issue of the Construction Certificate. No further investigation is required.

SEPP 65 - Design Quality of Residential Apartment Development

The proposed modifications do not alter the development's approved compliance with the *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development* and the Apartment Design Guide. The assessment and conclusions reached as part of the assessment of the original application, as modified, remain.

SEPP (Building Sustainability Index: BASIX) 2004

The modifications to the approved development were not supported by an amended BASIX Certificate. A condition has been applied, requiring the preparation of an amended BASIX Certificate prior to the issue of the Construction Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	15m	22m	22m New works up to 20.3m, no	46.66% 35.3%	No - Existing and unchanged

			increase to bulk or envelope		
Floor Space Ratio	3:1 4,686sqm	2.85:1 4,463sqm	2.95:1 4261.3	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
6.4 Stormwater management	Yes
6.9 Foreshore scenic protection area	Yes

Detailed Assessment

Zone B2 Local Centre

The subject development is comprised of a registered club (the Manly Civic Club) with a residential flat building above. Registered clubs are permissible with consent within the B2 Local Centre zone, while residential flat buildings are prohibited. The development cannot be considered 'shop top housing' as the registered club does not constitute retail or business premises as per the relevant definitions within the Manly LEP 2013. The approved development was deemed permissible within the zone with consent, in accordance with Clause 5.10 (10) of the Manly LEP 2013.

4.3 Height of buildings

See detailed assessment in the section of this report relating to Clause 4.6 Exceptions to development standards of the MLEP 2013.

4.6 Exceptions to development standards

Description of non-compliance:

Whilst the modification application will result in a building height that exceeds the maximum permitted by Clause 4.3 of the MLEP 2013, the application does not strictly need to address the requirements of Clause 4.6. This application has been made under Section 4.55 the Environmental Planning and Assessment (EP&A) Act 1979, which is a free-standing provision that in itself authorises the development to be approved notwithstanding any breach of development standards.

Section 4.55 is subject to its own stand-alone tests (such as substantially the same test and consideration of all relevant s.79C 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 96 modification applications. In accordance with this, the Applicant has not provided a written request to vary the Height of Buildings Development Standard. Nevertheless, an assessment of the variation is as follows:

Development standard:	Height of Buildings
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Requirement:	15m
Approved:	22m
Proposed:	Max. 22m New works up to 20.3m (window changes)
Percentage of Variation	35.3% to new works

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

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

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

As detailed, a written request is not required in this case.

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

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the B2 Local Centre zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the MLEP 2013 are:

- 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 proposed modifications include minor reconfiguration and modifications (windows) above the maximum height of building set by the Height of Buildings development standard. However, these modifications are alterations to approved structures, and do not result in any additional building height. The maximum building height remains at RL 26.25. As such, the proposed modifications retain a building height and roof form consistent with the approved development, the landscape, the prevailing building height, and the desired future streetscape character of the locality.

- b) to control the bulk and scale of buildings,*

Comment:

As above, the proposed modifications are minor in nature, retain the approved maximum building height, and are alterations to approved structures. As such, the bulk and scale of the building is appropriately controlled, consistent with the approved development.

- 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 modifications are minor in nature and do not result in any unreasonable view loss to, from, or between public or private 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 proposed modifications are minor in nature and do not result in any unreasonable loss of solar access to public or private open spaces, nor to any habitable rooms of adjacent dwellings.

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:

Not applicable. The subject site is zoned B2 Local Centre.

Zone objectives

The underlying objectives of the B2 Local Centre zone are:

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 modifications maintain a range of retail and business areas which will satisfy this objective.

To encourage employment opportunities in accessible locations.

Comment:

The proposed modifications retain employment opportunities in proximity to accessible locations.

To maximise public transport patronage and encourage walking and cycling.

Comment:

The subject site is located in close proximity to public transport and will encourage public transport use.

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

Comment:

The proposed modifications will not result in conflict between land uses in the B2 Local Centre zone or surrounding zones, and will not result in any unreasonable amenity impacts on adjoining or nearby residential land uses.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the B2 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.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed.

Manly Development Control Plan

Built Form Controls

The proposed modifications do not alter the development's approved compliance with the built form controls under Part 4 of the Manly DCP 2013.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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

Manly Section 94 Development Contributions Plan

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 2000;
- 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

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2018/0449 for Modification of Development Consent DA2016/0176 granted for Construction of a mixed use development comprising a registered club at ground level and residential accommodation above basement carparking and associated landscaping on land at Lot 1 DP 859455,2 West Promenade, MANLY, subject to the conditions printed below:

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

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A200-A Level B2 Lower Plan	22 October 2018	Mijollo International
A201-B Level B2 Plan	22 October 2018	Mijollo International
A202-B Level B1 Plan	22 October 2018	Mijollo International

A203-B Level Ground Plan	25 July 2018	Mijollo International
A204-C Plan - Level 1 (Residential Level)	25 July 2018	Mijollo International
A205-C Plan - Level 2 (Residential Level)	25 July 2018	Mijollo International
A206-C Level 3 Plan	25 July 2018	Mijollo International
A207-C Level 4 Plan	25 July 2018	Mijollo International
A208-C Level 5 Plan	25 July 2018	Mijollo International
A301-B Elevations East	25 July 2018	Mijollo International
A302-B Elevations West	25 July 2018	Mijollo International
A303-B Elevations North	25 July 2018	Mijollo International
A304-B Elevations South	25 July 2018	Mijollo International
WD-100 Proposed Ground Floor Plan	25 August 2018	Mijollo International

d) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

f) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
LA01 Ground Floor Landscape Plan	12 November 2018	Taylor Brammer
LA02 Level 1 Landscape Plan	12 November 2018	Taylor Brammer

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

B. Add Condition Amended BASIX Certificate ANS05B as follows:

An amended BASIX Certificate reflecting the proposed modifications is to be submitted to the satisfaction of the Certifying Authority, prior to the issue of the Construction Certificate.

Reason: To ensure the work is carried out in accordance with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Claire Ryan, Planner

The application is determined on 14/01/2019, under the delegated authority of:



Luke Perry, Acting Development Assessment Manager