

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0647
Responsible Officer:	Penny Wood
Land to be developed (Address):	Lot 101 DP 1110110, 96 - 97 North Steyne MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA 272/2017 for Alterations and additions to an existing Residential Flat Building
Zoning:	Manly LEP2013 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Cecil George Koutsos Isabel Brenda Koutsos
Applicant:	Squillace Architects

Application Lodged:	26/08/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	13/09/2021 to 27/09/2021
Advertised:	13/09/2021
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

The application seeks consent for alterations and additions to an existing residential flat building.

The proposal results in a net increase to the gross floor area of the building by 32.6sqm. Whilst the actual increase to the residential flat building is minor, the existing development as a whole significantly exceeds the maximum FSR by 1108sqm or 55.3% such that the additional floor area results in a variation to the FSR development standard of 57% for the building overall.

The proposal also results in an increase to the building height. The building currently exceeds the 13m

maximum building height by 1.9m creating a 14.6% variation to the development standard. The modification application proposes to increase the height of the development by a further 1.55m as a result of the proposed mechanical plant and screening located centrally on the roof. The mechanical plant and screening results in a 26.5% variation to the building height standard overall.

The development proposes to extend the ground floor terrace to the eastern (North Steyne) boundary which will reduce the approved landscaped area from 55sqm to 37.2sqm. The site requires 293.87sqm of landscaped area. Given the substantial existing non-compliance Council cannot support the further reduction of landscaped area. A condition is imposed which will ensure the proposed works to the ground floor terrace do not form part of this consent.

The resultant variation to the floor space ratio and building height development standards exceed 10% and the proposal is related to a residential flat building (Class 2). As such, the application is referred to Northern Beaches Local Planning Panel (**NBLPP**) for determination.

The NBLPP can be satisfied that notwithstanding the variation to FSR and Height, the proposal generally complies with the relevant controls contained within the Manly LEP and DCP. No objections have been raised from internal experts, subject to conditions. On balance, the proposal is recommended for approval having considered the relevant issues as part of the assessment of the plans submitted.

PROPOSED DEVELOPMENT IN DETAIL

The subject modification application proposes the following works:

Ground Floor:

- Larger waste room.
- Reconfiguration of entry stairs.
- Additional outdoor shower at the entry.
- Additional privacy screens and gate at unit 2&3.
- Demolish existing terrace wall & replace with new wall & stone cladding
- Reconfiguration/extension of wall on the east side.
- Unit 3: new pool/spa and new glazed pool fence in terrace
- Unit 4: Extend ensuite and reconfigure glazing line

Level 1 & 2:

- Reconfigure new vertical privacy screens along the balcony in three different types, fixed, sliding, and bi fold (refer to elevation plans).
- Reshape / curved small portion of edge of the balcony to match the existing building shape.
- Reconfigure southern balcony area and privacy screens - curved edge removed and rationalised to straight edge.
- Unit 8 & 14: reconfigure external southern wall.
- Units 8, 10, 14 & 16: additional new condenser units and screen in west balcony.
- Unit 9& 15: Laundry area removed and the area added to Units 8 & 14.
- Unit 10 & 16: extension of northern external wall/windows into bedroom 1.

Level 3:

- Reconfigure new vertical privacy screens along the balcony in three different types, fixed,

sliding, and bi fold. (refer to elevation plans).

- Reshape / curved small portion of edge of the balcony to match the existing building shape.
- Reconfigure southern balcony area and privacy screens - remove curved edge removed and rationalise to straight edge.
- Unit 20: reconfigure external southern wall.
- Units 21 & 22: additional new condenser units and screen in west balcony.

Level 4:

- Units 21 & 22: extension of external eastern wall by 1m.
- Units 18, 19: additional new spa units to balcony.
- Units 17 & 22: extend terrace area.

Roof:

- Reduce extent of new roof at south west corner.
- Roof overhang reduced generally.
- Relocate skylights to maximise solar access.
- New roof plant with acoustic screen.

Landscaping:

- Removal / relocation of palm trees (refer to Landscape plan & Arborist report)
- Modification of front landscaped area.

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 - 4.3 Height of buildings
 Manly Local Environmental Plan 2013 - 4.4 Floor space ratio
 Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features
 Manly Development Control Plan - 4.1.10 Fencing

SITE DESCRIPTION

Property Description:	Lot 101 DP 1110110 , 96 - 97 North Steyne MANLY NSW 2095
Detailed Site Description:	<p>The subject property is commonly known as 96 North Steyne and legally known as Lot 101 in DP 1110110. The site is located on the western side of North Steyne. The property is irregular in shape and has a frontage of 29.46m to North Steyne, an average depth of 44m. The site has a surveyed area of 1335m².</p> <p>The site is located within the R3 Medium Density Residential zone from MLEP 2013 and accommodates a five (5) storey residential flat building with vehicular access provided off Pine Street to an existing basement car park. The site is relatively flat and is located within the foreshore scenic protection area.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by shop top housing and residential flat buildings. The adjacent property to the north, at 98 North Steyne, is developed with a five-storey residential flat building. The building is not identified however is located in proximity of a number of other items of local heritage significance. Directly west of the site fronting Pine Lane and Pine Street is a 2 storey residential apartment building. Directly opposite the site to the east is Manly Beach.</p>

Map:



SITE HISTORY

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

- DA357/2010 - Strata Subdivision of existing Residential Flat Building into twenty-two (22) lots. Approved under delegation on 13 April 2011.
- DA272/2017 - Alterations and additions to an existing residential flat building. Approved at Northern Beaches Planning Panel (NBLPP) on 4 April 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 DA272/2017, in full, with amendments detailed and assessed as follows:

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

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<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 DA272/2017 for the following reasons:</p> <ul style="list-style-type: none"> • The bulk and scale of the development is generally retained with any changes to the building envelope resulting in a discernible impact when viewed from adjoining and nearby properties and when viewed from a public space. • The amenity of the adjoining properties is not compromised with views and privacy as previously approved being generally maintained. • Solar access is retained and remains compliant as originally approved.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA272/2017 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a 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, and the Northern Beaches Community Participation Plan.
(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.	No submissions were received in relation to this application.

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 96 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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><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.</p> <p><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 clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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 matter has been addressed via a condition in the original consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	<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 clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact 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) 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 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received in relation to this application.
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 13/09/2021 to 27/09/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>No objection</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i>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.</i></p>
Environmental Health (Industrial)	<p>No objection with conditions</p> <p>Among the proposed changes to the development , of interest to Environmental Health are the noise related matters: "Units 21 & 22: additional new condenser units and screen in west balcony, and new roof plant with acoustic screen".</p> <p>An acoustic review by Acoustic logic ref: 20180678.2/2707A/R3/HC 5/05/2021 has examined noise implications of the condenser units roof top and levels 1,2,and 3 and determined that noise reduction measures can be implemented to eliminate nuisance.</p> <p>The review concludes: A detailed plant design and selection has not been undertaken at this stage. Therefore, a detailed acoustic review should be undertaken at CC stage to determine acoustic treatments to control noise emissions to levels complying with the noise emission criteria in Section 2.1. We believe potential noise issues can be satisfactorily addressed.</p>
Landscape Officer	<p>No objection with conditions</p> <p>The application is to modify development consent DA0272/2017, and the Landscape Referral considerations include modification to the landscape along the North Steyne frontage.</p> <p>A Arboricultural Impact Assessment is provided with assessment of the impact to existing trees/palms within the site. The recommendations include retention of tree 1 - Willow Bottlebrush, trees 4, 7, and 9 - Cabbage Tree Palms, and tree 10 - Triangle Palm, and the removal of trees 2, 3, 5, 6 and 8 - Cabbage Tree Palms that cannot be retained under the development proposal. A Project Arborist shall be engaged to supervise development works in proximity to the development proposal as</p>

Internal Referral Body	Comments
	<p>recommended in the Arboricultural Impact Assessment, and conditions shall be imposed.</p> <p>A Landscape Plan is provided that enhances the landscape areas under the development proposal and utilises appropriate coastal plant species. The existing landscape area at the corner of Pine Street and Pine Lane not impacted by the development works shall be retained and replacement Cabbage Tree Palm planting shall be included as replacement planting, and conditions shall be imposed to soften the built form.</p>

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. Council records indicate that the subject site has been used for residential 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP 65 - Design Quality of Residential Apartment Development

The original development application was assessed under the provisions of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) and the ADG.

The modifications proposed are relatively minor and do not alter the assessment made in the original development application, and the proposal remains consistent with the design principles of SEPP 65.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 880579M_02, 19 August 2021).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	35	37

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 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 development is contained wholly within the subject site and is not considered likely to negatively impact upon the matters raised in subclause (1).

- (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 subclause (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:

The development is located within the boundaries of the subject site with the proposed works reducing any impact to the surrounding land. The proposed development is not considered to negatively impact upon the matters raised in subclause (1).

14 Development on land within the coastal use area

(1)

- (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 foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
- (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *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 proposed development will not impact on existing public access along the foreshore and there will be no additional amenity impacts towards adjoining properties. The proposed alterations and additions will not impact on the visual amenity when viewed from the waterway. The development is considered to be in keeping with the visual character of North Steyne and along the foreshore of Manly. The development is therefore not likely to cause an adverse impact on the matters referred to above.

15 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:

The proposed development will not impact on existing public access along the foreshore and there will be no additional amenity impacts towards adjoining properties. The site will not impact on the visual amenity when viewed from the waterway. The development is considered to be in keeping with the visual character of North Steyne and the broader Locality of Manly. The development is therefore not likely to cause an adverse impact on the matters referred to above.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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:	13m	14.9m	16.45m	26.5%	No
Floor Space Ratio	FSR: 1.5:1 (2002.5sqm)	FSR: 2.33:1 (3110.5sqm)	FSR: 2.35:1 (3143.1sqm)	57%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.1 Acid sulfate soils	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
6.12 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

The application proposes mechanical plant with acoustic screening on the roof of the subject residential flat building. The mechanical plant and screening will measure a maximum height of 1.55m resulting in an overall building height of 16.45m (RL22.41). A condition is imposed in the consent to ensure that the highest point of the development does not exceed RL22.41 with the louvred screening in association with the mechanical plant will not measure greater than 1.55m above the approved top of roof (RL20.79). Whilst the plant and screening exceeds the maximum 13.0m height prescribed for the site, the mechanical plant and screening will not be visible from a public place, with generous setbacks to the eastern, western, southern and northern boundaries. The residential flat building currently measures 14.9m in height with the previous application (DA272/2017) approving amendments to the roof form.

The non-compliant mechanical plant and screening is confined to a central portion of the roof and is considered to have a minimal impact towards the amenity of the surrounding properties and the appearance of the building when viewed from a public space.

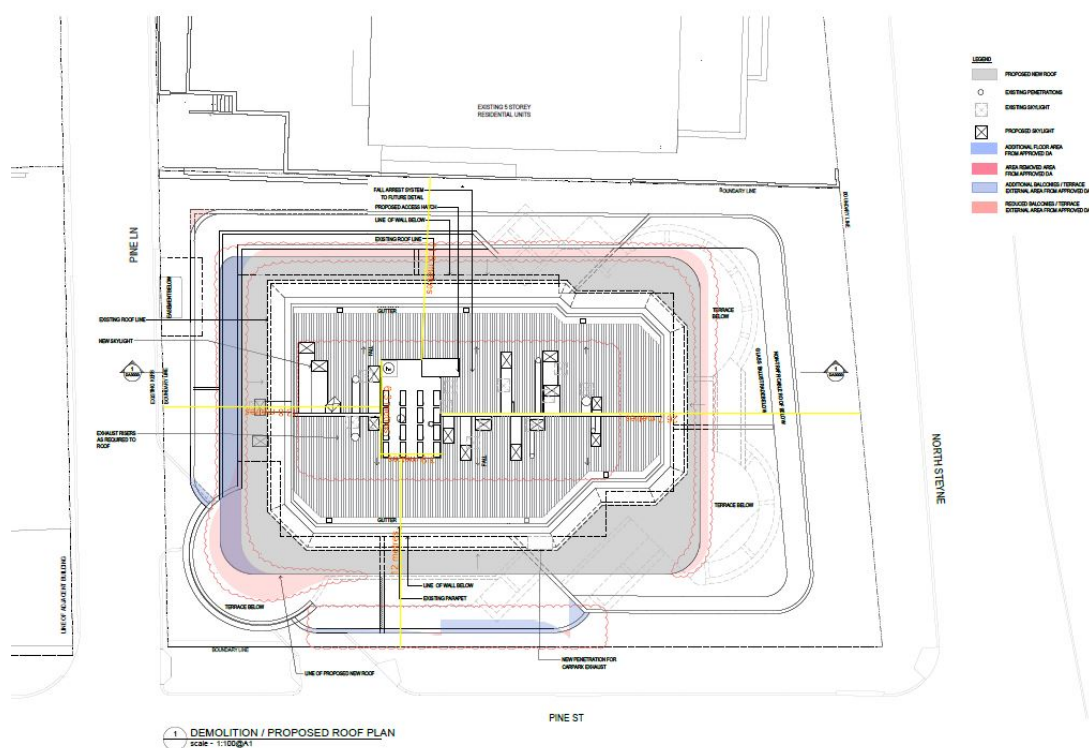


Image 1: Roof plan indicating setbacks from mechanical plant screening to eastern, western, northern and southern boundaries.

Despite the proposed intensification of the height non-compliance, the addition to the building height will be centrally located within the roof and will not be an overly visible addition to the residential flat building. The development does not give rise to inconsistency with the objectives of the building height control, as follows:

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

Comment: The proposed modification will increase the approved building height by 1.55m. The non-compliant mechanical plant with louvred screening maintain consistency with the topography and prevailing building height in the area. The proposed mechanical plant and screening will not be visible from North Steyne

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

Comment: Whilst the proposed mechanical plant and screening is not compliant with the building height control, the location of the mechanical plant and screening is such that it will not be a visible addition to the existing residential flat building and will not add any considerable bulk to the development. The mechanical plant and screening will measure 3.9m in depth (east to west) and 6.3m in length (north to south). The screening is setback 13.8m from Pine Lane, 26.7m to North Steyne, 12m to Pine Street and 11.6m to northern boundary. The proposed works will not impact on the design of the building in that an articulated facade is maintained.

- *to minimise disruption to the following:*
(i) *views to nearby residential development from public spaces (including the harbour and*

- (ii) views from nearby residential development to public spaces (including the harbour and*
- (iii) vies between public spaces (including the harbour and foreshores)*

Comment: It is assessed that the proposed minor increase to the height of the overall residential flat building will have a negligible impact on views to, from or between public spaces and residential development.

- *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 modification results in a development which results in generally the same building envelope as the approved development. The proposed development is sufficiently modulated and setback to minimise overshadowing on the adjoining and nearby properties.

- *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 proposed development has regard for the existing vegetation and topography, as discussed above.

The subject modification is not subject to the rigour of clause 4.6 of MLEP 2013. It is considered that that consent authority can be satisfied that the extent of the increased height proposed in the subject modification is relatively minor and not detract from the consistency with the objectives of this control.

4.4 Floor space ratio

The application proposes 41sqm of additional floor space. The application also proposes to delete 8.4sqm of floor area approved within the previous development application therefore resulting in a increase of 32.6sqm of additional floor space. The additional floor space is reasonably evenly distributed over the four (4) levels of the residential flat building with the additional floor space. The additional floor space proposed increases the approved non-compliance from 3110.5sqm or 2.33:1 to 3143.1sqm or 2.35:1.

Despite the proposed intensification of the FSR non-compliance, the additional floor space does not give rise to inconsistency with the objectives of the floor space ratio control, as follows:

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

Comment: The proposed development is consistent with the existing and desired streetscape character. The proposed works are in keeping with the bulk, scale and design of surrounding residential flat buildings along North Steyne and within the immediate vicinity.

- *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 floor space ratio of the proposed development does not give rise to any unreasonable impacts.

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

Comment: The visual impact of the development is compatible with surrounding development with the proposed amendments providing adequate setbacks and a desirable articulated design.

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

Comment: The proposed development does not result in any adverse environmental impacts on the use or enjoyment of adjoining land and the public domain.

- *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: N/A

The subject modification is not subject to the rigour of clause 4.6 of MLEP 2013. Nonetheless, the consent authority can be satisfied that the extent of the additional floor space proposed in the subject modification is relatively minor and does not detract from consistency with the objectives of the FSR development standard. Furthermore, the bulk and scale of the development is substantially the same as that anticipated in the original approval.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1335sqm	Requirement	Approved	Proposed	Complies
4.1.2.1 Wall Height	North side: 12m	14.25m	13.7m	No
	West side: 12m	14.25m	13.7m	No
4.1.2.2 Number of Storeys	3	5	5 (existing)	No (existing)
4.1.4.1 Street Front Setbacks	6.0m or streetscape	400mm - 4.0m	Nil - terrace (ground floor) (consistent with streetscape)	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	Level 4 - North side: 4.5m (based on wall height)	Level 4 Terrace 4.1m	Level 4 Terrace 2.1 - 2.5m	No
	Level 3 - North side 4.5m (based on wall height)	Level 3 Terrace - nil	Level 3 Terrace - nil (further extend terrace along northern boundary in an easterly direction)	No

	Secondary street frontage (Pine Street): Prevailing setback / 4.5m	Consistent with prevailing setback	Consistent with prevailing setback	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS1	Open space 45% of site area (600.75sqm)	88% (1175.5sqm)	96.4% 1288.1	Yes
	Open space above ground 40% of total open space (470.2sqm)	71.7% (843.3sqm)	83.3% 979.2sqm	Yes
4.1.5.2 Landscaped Area	Landscaped area 25% of total open space (293.87sqm)	18.72% (55sqm)	12.6% (37.2sqm)	No
4.1.5.3 Private Open Space	12sqm per dwelling	Units 2-4, 6-10 and 12-22: >12m ²	22 units >12m ²	Yes
		Units 1,5 & 11: <12m ²		
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	N/A	Unit 3 (ground level) - ground level Unit 18 (Level 4) - 11.3m Unit 19 (Level 4) - 11.3m	Yes No No
	1m curtilage/1.5m water side/rear setback	N/A	Fronting North Steyne - Unit 3 (ground level) - 0.3m (water) 0.5m (curtilage) North - Unit 18 (Level 4) - 5.4m (water) 5.1m (curtilage) South (Pine Street) - Unit 19 (Level 4) - 5.0m (water) 5.3m (curtilage)	No Yes Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	No	No
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	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
4.1 Residential Development Controls	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	No
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.1.10 Fencing	Yes	Yes
4.4.1 Demolition	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.1.1 Streetscape (Residential areas)

Clause 3.1.1.2 of the MDCP 2013 sets out the following requirements for front fences, which read as follows:

- a) Notwithstanding the maximum height provisions for fencing at paragraph 4.1.10; the siting, height and form of boundary fences and walls should reflect the fencing characteristic of the locality, particularly those of adjacent properties. All fencing and wall materials must be compatible with the overall landscape character and the general appearance of the building and the streetscape.*
- b) Boundary fences or walls must not be erected where they would conflict with the local character.*
- c) Front fences and gates must be constructed in materials that complement the architectural style and period of the dwelling and improve the streetscape. In particular, fencing adjacent to a public road or place must not be constructed in metal cladding, powder coated or otherwise.*
- d) Gates must not encroach on public land when opening or closing.*

Comment:

In response to the above criteria, a detailed assessment is carried out below:

- a) The height of the proposed fence contains a maximum height of 2.0m, which exceeds the 1m requirement specified within Clause 4.1.10 of the MDCP 2013. The fence comprises a masonry wall with stone cladding and two (2) timber battern gates. The proposed fence will measure the same height

as the existing wall whilst being moved to the eastern boundary. The height of fences along North Steyne does vary with examples of lower fences and more open style fences located to the north of the subject site. The proposal will reduce the landscaped area along the eastern boundary to accommodate for the proposed ground floor terrace extension and new wall. The existing landscaped area is significantly non-compliant with the required numeric control with the modification proposing to further reduce the landscaped area by 17.8sqm resulting in a 87.35% variation to the control. This is considered a significant departure and will not alleviate the visual impacts of the wall. Furthermore, the reduced landscaped area will not assist in softening the built form given the corner positioning of the building. For these reasons, the fence is considered to be inconsistent with part a) of this control.

b) The 2.0m front fence is inconsistent with the established local character along North Steyne and will alter the existing appearance of the development when viewed from a public domain. A reduction in the landscaped area and repositioning of the proposed wall closer to the eastern boundary will not contribute to a development compatible with the local character of development along North Steyne. For these reasons, the fence is considered to be inconsistent with part b) of this control.

c) The design and materials of the wall are considered to be in keeping with the architectural style of the building.

d) The development does not propose any gates to open or close over the front boundary. Based on the above assessment, it is concluded that the proposal does not satisfy the streetscape requirements for fences.

Merit consideration

With regard to the consideration of a variation, the proposal is considered against the underlying objectives of the control as follows:

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage

Comment:

The 2.0m fence is generally consistent with the existing streetscape character along North Steyne and is considered to satisfy the requirements outlined within the MDCP 2013. Adequate planting is proposed along the eastern boundary to assist in alleviating the visual impacts of the fence.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

Comment:

The fence will be generally consistent with the established streetscape character along the North Steyne.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

Comment:

The relocation of the front fence will result in the removal of a significant portion of landscaped open space along the eastern boundary. Whilst some landscaping will be maintained, the removal of the 17.8sqm of landscaped area will further reduce the non-compliant landscaped area significantly. The modification will remove the existing planting along the eastern side of the existing wall which assists in softening the built form.

The proposal therefore does not meet the objectives of this control. A condition is imposed to ensure the retention of the existing ground floor courtyard of Unit 2 and Unit 3 which in turn will retain the existing landscaped area for the site.

4.1.4 Setbacks (front, side and rear) and Building Separation

Description of non-compliance

The control requires development to be setback at least 1/3 of the adjacent maximum wall height from side boundaries. In applying this principle, the following side setbacks are required:

- Northern boundary: 4.5m

The terrace at level 4 servicing Unit 17 and Unit 22 along the northern elevation will be extended 2.6m - 2.8m towards the northern boundary creating a 2.1m - 2.5m setback. The northern wall of level 4 will maintain the approved setback of 6.0m.

The terrace at level 3 along the northern elevation will be further extended in a northerly direction by 800mm. The terrace will maintain a nil setback to the northern boundary. The existing planter box measuring 0.6m along the northern side of the terrace will be removed and proposed as part of terrace area. New privacy louvres are proposed along the northern side of the extended terrace.

The ground floor terrace servicing Unit 2 and Unit 3 will be extended towards the eastern boundary fronting North Steyne by 2.8m. The terrace extension for Unit 3 will include an in-ground spa located along the eastern edge of the terrace. The proposed extension to the ground floor terrace will further decrease the substantial non-compliant landscaped area along the eastern boundary. Council therefore cannot support the extension to the ground floor terrace. A condition is imposed to ensure the extension to the ground floor terrace does not form part of the consent.

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment: The works are not readily visible from the street and will therefore maintain the existing streetscape.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment: Whilst the fourth level terrace will be extended a further 2.6 - 2.8m towards the northern boundary, there will be no additional overlooking towards the southern elevation of the adjoining residential apartment building. A visit to the site revealed the proposed additions to the existing RFB are designed and sited so as to respond well to the privacy of the subject site and adjacent sites. The

extension of the terrace at level 3 to the northern boundary is not anticipated to result in any additional amenity impacts to the adjoining building at 98 North Steyne. The proposal will remove an existing planter to increase the size of the terrace and will incorporate privacy louvres to ensure maintain adequate privacy. The proposed works do not unreasonably impact upon access to light, sunshine and air movement for the subject site or adjacent sites, nor obstruct views to or from public or private places. The proposed development is acceptable in the streetscape as above at Objective 1. The proposed works do not impact upon traffic conditions.

Objective 3) To promote flexibility in the siting of buildings.

Comment: The proposed development allows for flexibility in the siting of works on the site, without resulting in any unreasonable amenity impacts to the subject site or adjacent sites.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment: The extension of the third level terrace and fourth level terrace to the northern boundary will not impact on any natural features. The extension of the ground floor terrace, whilst marginally decreasing the setback to the eastern boundary will remove approximately 20sqm of landscaped area. Whilst it is acknowledged that tree are to be removed as a result of the development, an Arboricultural Assessment is provided which recommends appropriate conditions and is supported by Council's Landscape Officer. Conditions have been imposed to soften the built form.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment: The site is not bushfire prone.

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

The control requires at least 25% (293.87sqm) of the total open space to comprise landscaping. The modified proposal results in 12.6% (37.25sqm) of the total open space being landscaped, which represents a 87.4% variation from the prescribed requirement. It should be noted that the modified proposal removes 17.8sqm of landscaping from the original approval (DA272/2017).

The plans propose a reduction in the landscaped area for the site as a result of the extension to the ground floor terrace along the eastern elevation fronting North Steyne servicing both Unit 2 and Unit 3. The development as approved fell short of the required minimum landscaped open space area, however the original proposal did not alter the existing landscaped area for the site. The extension of the ground floor terrace, will result in a further reduction to the significantly non-compliant landscaped area along the eastern elevation fronting North Steyne. The proposed modification proposes to relocate and remove palm trees and to modify the front landscaped area. An Arboricultural Assessment Report

was submitted with the application which identified eleven trees as being identified as part of the proposal. Four (4) trees are identified for removal whilst seven (7) trees are proposed for retention.

Whilst the modified application does retain some planting and proposes coastal species in keeping with the character of the surrounding site, a reduction to the landscaped area is considered a significant reduction to the required numeric control and will not retain the landscaped character of the site when viewed from the public domain. A further reduction to the landscaped area will fail to assist in softening the built form of the development when viewed from both North Steyne and Pine Street.

Based on the above, the proposed development is inconsistent with the objectives of this clause. To ensure the expected outcomes of the original assessment and consistency with the control objectives are maintained a condition is imposed to delete the extension of the ground floor terrace for Unit 2 and Unit 3, hence maintaining the existing landscaped area for the site as approved under DA272/2017.

4.1.9 Swimming Pools, Spas and Water Features

Under Part 4.1.9.2 of Manly DCP 2013 the requirements for the location and Under Part 4.1.9.2 of Manly DCP 2013 the requirements for the location and setbacks of swimming pools is as follows:

- Pool curtilage: 1m.
- Water line: 1.5m

The control states that spas must be built on or in the ground and not elevated more than 1m above natural ground level. The modification application proposes three (3) spas. The spa for Unit 1 will be in ground and will front North Steyne. Two (2) spas are proposed at Level 4 on the terrace for both Unit 18 and Unit 19 and are located 10.8m above natural ground level. The spa for Unit 18 is located 5.1m from the northern boundary and setback 900mm from the northern side edge of the balcony. The spa for unit 19 is located 5.3m from the southern boundary (Pine Street) and is 900mm from the balconies edge. A louvered screen is proposed between Unit 18 and Unit 19 to ensure compliance with pool safety standards.

As discussed throughout the report, Council does not support the extension of the ground floor terrace towards the eastern boundary given the further reduction to the non-compliant landscaped area along North Steyne. The in ground spa would form part of the extended terrace area for Unit 3 and is therefore not supported.

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

Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties.

Comment: The proposed spas on the level 4 terraces for Unit 18 and Unit 19 will be appropriately setback from the eastern boundary (North Steyne) and from the southern and northern boundaries which will maintain the visual privacy for surrounding occupants. The in-ground spa located at ground level will be located to the eastern (front) boundary and will not be visible from North Steyne. Whilst the spas at Level 4 are located 10.8m above natural ground level they will not be visible from the public domain and a condition is imposed to ensure noise levels from the spas do not exceed 5dBA above the background noise when measured from the nearest property boundary. The location of the spas is therefore considered to maintain the privacy of the neighbouring properties.

Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the

established character of the locality.

Comment: The proposed spas located at Level 4 are located to the northern and southern boundaries of the site and given the height above ground level and generous setbacks, will not be visible when viewed from both Pine Street and North Steyne. The location and small size of the spas are not anticipated to adversely impact on the established character of the locality.

Objective 3) To integrate landscaping.

Comment: Although the proposed development does not integrate landscaping in the immediate vicinity of the spas located on level 4, the elevated nature and location of the spaces being sufficiently set back from the eastern, western and northern boundaries eliminates overlooking opportunities and the visibility from the public domain. The spa proposed at ground level for Unit 1 is not supported given the location will result in a reduction of the non-compliant landscaped area along the eastern boundary.

Objective 4) To become an emergency water resource in bush fire prone areas.

Comment: The subject land is not classified as bush fire prone land, therefore, this objective is not applicable.

With regard to the above and noting that the objectives of the control are satisfied, the proposed variation is considered to be acceptable and supportable on merit.

4.1.10 Fencing

The modification proposes to demolish the existing wall along the eastern boundary (North Steyne) and replace with new wall and stone cladding. A new glazed pool fence is located inside the wall and will be visible from the public domain. The new wall will measure extend 1.4m to the east and will be flush with the eastern (front) boundary. The wall will measure a maximum height of 2.0m (RL7.52) above natural ground level and therefore will exceed the maximum allowable height for fences under clause 4.1.10. This control prescribes a 1m maximum height limit for solid fences along the front boundary.

This clause relies upon the objectives of clause 3.1 under Manly DCP 2013. An assessment of the proposal against the objectives under clause 3.1 has been provided within this report. An assessment of the proposal against the objectives under clause 3.1 has been provided within this report. The assessment found the proposal to be consistent with the objectives of clause 3.1, subject to conditions.

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 2021

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 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

The application seeks consent for alterations and additions to an existing residential flat building. The key planning issues considered within the assessment are the proposed variations to the Floor Space Ratio development standard and Height development standard.

Notwithstanding the proposed floor space ratio variation of 57%, and the proposed height of buildings variation of 26.5% the development is not considered to result in any unreasonable impacts to adjoining properties or the public domain. Conditions are recommended to ensure that a detailed acoustic review be undertaken at construction certificate stage to ensure any noise emissions is managed to reduce any amenity impacts towards the adjoining residential properties.

No submissions were received in relation to the proposed development

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. Mod2021/0647 for Modification of Development Consent DA 272/2017 for Alterations and additions to an existing Residential Flat Building on land at Lot 101 DP 1110110,96 - 97 North Steyne, MANLY, subject to the conditions printed below:

A. Add Condition No.1AA - "Modification of Consent - Approved Plans and supporting Documentation" to the 'General Conditions' section of the consent 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
Dwg No. DA1003 Issue C - Demolition - Proposed Ground Floor Plan	12 January 2022	Squillace Architects
Dwg No. DA1004 Issue C - Demolition - Proposed Levels 1 & 2 Floor Plans	12 January 2022	Squillace Architects
Dwg No. DA1005 Issue C - Demolition - Proposed Level 3 Floor Plan	12 January 2022	Squillace Architects
Dwg No. DA1006 Issue C - Demolition - Proposed Level 4 Floor Plan	12 January 2022	Squillace Architects
Dwg No. DA1007 Issue B - Demolition - Proposed Roof Plan	11 August 2021	Squillace Architects
Dwg No. DA3000 Issue B - Proposed Building Section AA	11 August 2021	Squillace Architects
Dwg No. DA2000 Issue C - Demolition - Proposed West Elevation (Pine Lane) / Proposed North Elevation	12 January 2022	Squillace Architects
Dwg No. DA2001 Issue C - Demolition - Proposed East Elevation (North Steyne) / Proposed South Elevation (Pine Street)	12 January 2022	Squillace Architects
Dwg No. DA3005 Issue A - Detail Section	17 January 2022	Squillace Architects
Dwg No. DA3006 Issue A - Proposed Section through Ground Spa	18 January 2022	Squillace Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 880579M_02	19 August 2021	EPS
Condenser Unit Noise Review	5 May 2021	Acoustic Logic

Arboricultural Impact Assessment	13 July 2021	All Arbour Solutions
----------------------------------	--------------	----------------------

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Dwg No.000 - Landscape Coversheet (Issue B)	20 July 2021	Site Image Landscape Architects
Dwg No. 101 - Landscape Plan - Ground Floor (Issue C)	20 July 2021	Site Image Landscape Architects
Dwg No. 102 - Landscape Character (Issue A)	12 July 2021	Site Image Landscape Architects
Dwg No. 501 - Landscape Details (issue A)	12 July 2021	Site Image Landscape Architects

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

B. Add Condition No. 7A "Amendments to Approved Plans" prior to the 'Conditions to be satisfied prior to the issue of the Construction Certificate' section of the consent to read as follows:

The following amendments are to be made to the approved plans:

- The mechanical plant louvred screening is limited to a maximum of 1.55m in height above the approved top of the roof (RL20.79) and is not to exceed an overall height greater than RL22.34.
- Delete the extension to the ground floor terrace for Unit 2 and Unit 3.
- Delete the proposed wall along the eastern boundary.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

C. Add Condition No. 7B "Noise - Design of Mechanical Plant" prior to the 'Conditions to be satisfied prior to the issue of the Construction Certificate' section of the consent to read as follows:

Prior to the issue of a Construction Certificate the specifications of the condenser units are to be provided to the Principal Certifying Authority. An acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine acoustic treatments to control noise emissions from the condenser units in accordance with the recommendations within the Condenser Unit Noise Review by Acoustic Logic Consultancy Pty Ltd dated 5 May 2021 (ref: 20180678.2/2707A/R3/HC).

Any design recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To maintain amenity of the surrounding area.

D. Add Condition No. 7C "Structural Certification" prior to the 'Conditions to be satisfied prior to the issue of the Construction Certificate' section of the consent to read as follows:

The terraces at level 4 for Unit 18 and Unit 19 shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. This is to ensure the spas will not impact the structural integrity of the building.

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

Reason: Public and private safety.

E. Add Condition No. 11A "Project Arborist" prior to the 'Conditions to be satisfied prior to any commencement' section of the consent to read as follows:

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites and the recommendations of the Arboricultural Impact Assessment. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

i) section 4.3 - trunk protection battens to existing trees, 4, 6, 7, 9, 10 and 11.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Reason: Tree protection.

F. Add Condition No. 11B "Project Arborist" prior to the 'Conditions to be satisfied prior to any

commencement' section of the consent to read as follows:

Tree Removal Within the Property This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- trees 2, 3, 5, 6 and 8 - Cabbage Tree Palms

Note: Exempt species as listed in the development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal

Reason: To enable authorised building works.

G. Add Condition No. 19B "Acoustic Certification" prior to the 'Conditions to be satisfied prior to the issue of the Occupation Certificate' section of the consent to read as follows:

An acoustic review by an Acoustic Engineer, shall be undertaken prior to occupation to determine that acoustic treatments/plant and equipment are compliant with the measures to control noise emissions as required by Acoustic Logic (ref: 20180678.2/2707A/R3/HC 5/05/2021) and comply with legislation to prevent offensive noise.

Reason: To prevent noise nuisance.

H. Add Condition No. 19B "Landscape Completion" prior to the 'Conditions to be satisfied prior to the issue of the Occupation Certificate' section of the consent to read as follows:

Landscaping is to be implemented in accordance with the approved Landscape Plans, inclusive of the following conditions:

- i) two (2) *Livistona australis* (Cabbage Tree Palm) shall be installed within the existing landscape area at the corner of Pine Street and Pine Lane not impacted by the development works, at a minimum 75 litre or larger pot container size,
- ii) one (1) *Livistona australis* (Cabbage Tree Palm) shall be installed within the existing landscape area between existing Cabbage Trees identified as tree 4 and tree 7, at a minimum 75 litre or larger pot container size.

Prior to the issue of any Occupation Certificate details (from a landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

I. Add Condition No. 20A "Swimming Pool/Spa Motor Noise" to the 'Ongoing Conditions relating to the ongoing operation of the premises or development' section of the consent to read as follows:

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

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

J. Delete Condition ANS04A.