

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0424
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Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 3 SP 67337, 3 / 63 - 67 The Corso MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2019/1398 granted for alterations and additions to an existing building to facilitate shop top housing containing 12 apartments including the construction of a pergola and lift overrun to the roof terrace
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Sangrow Pty Ltd
Applicant:	Sangrow Pty Ltd

Application Lodged:	20/12/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	28/12/2022 to 25/01/2023
Advertised:	28/12/2022
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

This modification seeks to modify development consent DA2019/1398 which granted consent for "Alterations and additions to an existing building to facilitate shop top housing containing 12 apartments including the construction of a pergola and lift overrun to the roof terrace" approved by the Northern Beaches Local Planning Panel on 12 August 2020.

The specific change is as follows:

- The proposed application seeks to modify a small section of the fire stair servicing the common roof terrace to rectify an architectural error that inadvertently placed the top 3 steps over an existing duct servicing Lot 1.

The fire stair was approved at RL 19.30 and the maximum height of the fire stair is maintained at RL 19.30. The location has shifted 1.4m to the south-east and does not contributed to additional building height or volume above the maximum building height prescribed by the Manly LEP 2013.

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 - 5.10 Heritage conservation

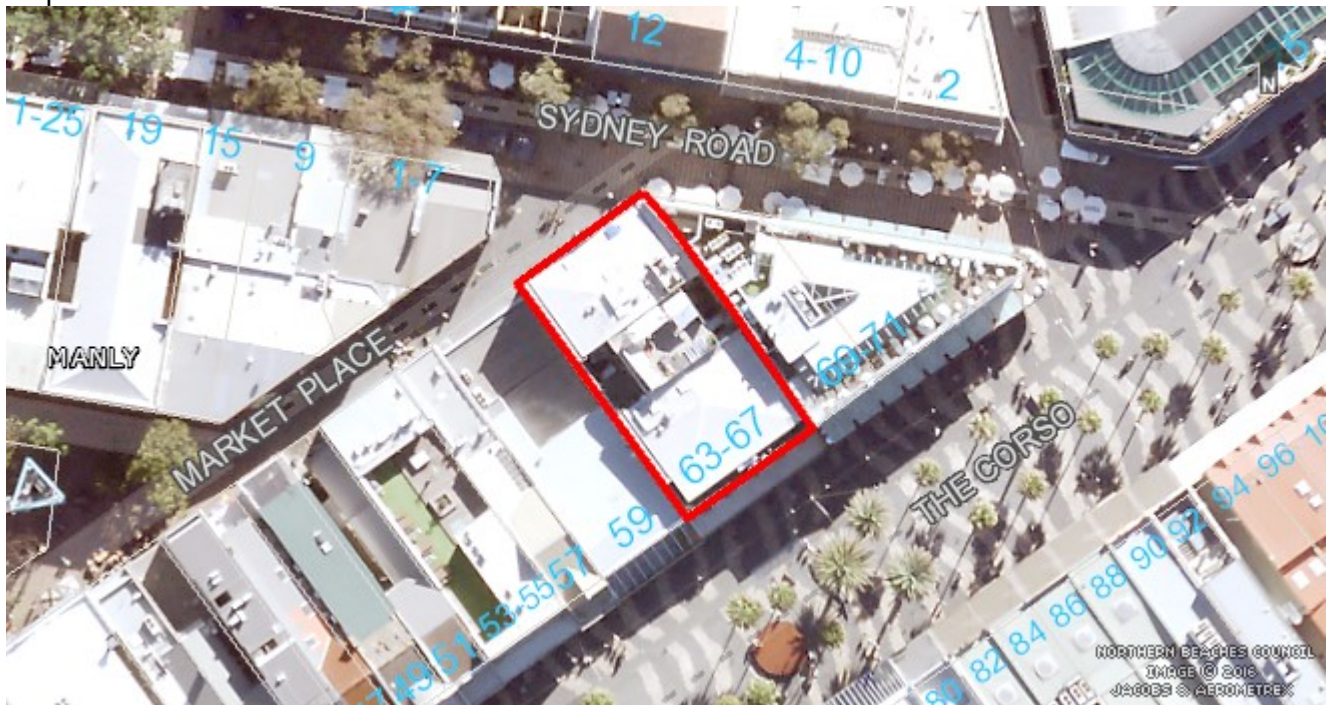
SITE DESCRIPTION

Property Description:	Lot 3 SP 67337 , 3 / 63 - 67 The Corso MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment which is Strata subdivided into three (3) lots (being Part Lots 1, 2 and 3).</p> <p>The site is located at the northern end of The Corso and enjoys frontages to both The Corso and Market Place. Both streets are pedestrianised.</p> <p>The site is generally rectangular in shape with a frontage of 16.385m to the Corso, a frontage of 14.860m to Market Place and an average depth of 27.88m. The site has a surveyed area of 490.3m².</p> <p>The site is located within the B2 Local Centre zone and accommodates a mixed use development comprising retail outlets at the ground and mezzanine floor levels and backpackers' accommodation within the three (3) levels above.</p>

The site has a slight downward slope of 0.34m from The Corso to Market Place although this is not noticeable because the topography has been altered to accommodate the existing building.

Adjoining and surrounding development is characterised by commercial development comprising retail outlets and the neighbouring three (3) storey hotel immediately to the north.

Map:



SITE HISTORY

Council's records reveal that the site was used as a retail premises by Woolworths until 1999 when the site was subject to a development application (DA201/98) for alterations and additions to the existing two storey retail building to create a 3 storey development containing retail and backpacker accommodation.

The following application is relevant to the current proposal:

DA2019/0250

This application was lodged on 13 March 2019 for alterations and additions to the existing building to facilitate shop top housing. The development included fifth floor addition of a contemporary design.

The application was subsequently withdrawn by the applicant on 10 May 2019.

DA2019/1398

This application for "Alterations and additions to an existing building to facilitate shop top housing containing 12 apartments including the construction of a pergola and lift overrun to the roof terrace" approved by the Northern Beaches Local Planning Panel on 12 August 2020.

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 DA2019/1398 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	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> - The maximum height of the building and fire escape structure is not changed, the existing height is maintained however shifted slightly to the south-east by approximately 1.4m (more central to the building).
(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 granted and before that consent as originally granted was modified (if at all), and	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2019/1398 for the following reasons:</p> <ul style="list-style-type: none"> - The minor shift of the fire escape stair on the roof does not change the visual outcome of the development or result in increased building bulk or scale.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>

Section 4.55(1A) - Other Modifications	Comments
(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	
(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 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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted with the original application and the modification makes no changes to internal layout.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>Structures. This matter has been addressed via the original conditions of consent.</p> <p><u>Clauses 62</u> and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via the original conditions of consent</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) 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	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/12/2022 to 25/01/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>The proposal has been referred to heritage as the subject property is a heritage item, being a part of Item I106 - Group of commercial buildings - All numbers, The Corso and sits within C2 - Manly Town Centre Conservation Area and adjoins heritage items and in the vicinity of heritage items:</p> <p>Item I110 - New Brighton Hotel - 69–71 The Corso</p> <p>Item I232 - Commercial and residential building (street facade only) - 4–10 Sydney Road</p> <p>Item I233 - Commercial and residential building - 12 Sydney Road</p> <p>Item I104 - Street trees - The Corso (from Whistler Street to Sydney Road)</p>
	Details of heritage items affected
	<p>Item I106 - Group of commercial buildings</p> <p><u>Statement of significance</u></p> <p>The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort.</p> <p><u>Physical description</u></p> <p>The Corso acts as a low scale horizontal corridor which steps down from the harbour to the ocean. The atmosphere of The Corso is of</p>

Internal Referral Body	Comments
	<p>a 19th century place. Its special qualities include the contrasts of horizontal (low scale architecture) and vertical (planting) dimensions, and urban and natural elements.</p> <p>C2 - Manly Town Centre Conservation Area <u>Statement of significance</u> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today.</p> <p>Item I110 - New Brighton Hotel <u>Statement of significance</u> This building is an example of exotic Egyptian-like motifs and Inter-war Free Classical style. The hotel is of major significance due to its contribution to the streetscape, its visual/textural interest and its association with early 20th century development of the resort. <u>Physical description</u> This is a three storey, rendered brick, wedge shaped building forming the corner of Sydney Road and The Corso. Date 1926 written on parapet. The ground floor elevations are rendered and tiled and remnants of the original door/window joiner survive, although much altered. Several windows, especially in Sydney Road, have the original classically ornamented acid etched and gold leaf highlighted windows intact. Decorative spandrel panels occur beneath the second floor windows, except in the central bay which is crowned by a low pitched gabled pediment. There is a simple masonry parapet.</p> <p>Item I232 - Commercial and residential building (street facade only) <u>Statement of significance</u> Although altered, the building reflects its former use as a picture theatre, a major focus of suburban entertainment in the post WW1 years and now the last indication of the many picture theatres in the precinct. It has a strong presence in the Sydney Road streetscape and the contributions to the overall cultural heritage significance and character of the Town Centre Conservation Area. <u>Physical description</u> Double storey, stucco parapeted, former picture theatre built in the Inter War Free Classical style. Parapet featured heavily moulded entablature, two large circular windows with adjacent awning windows. Main form of facade is intact but entry level detail and interior now demolished.</p> <p>Item I233 - Commercial and residential building <u>Statement of significance</u> The building reflects its former use as a fire station. It has a strong</p>

Internal Referral Body	Comments														
	<p>presence in the Sydney Road streetscape and contributes to the overall cultural heritage significance and character of the Town Centre Conservation Area.</p> <p><u>Physical description</u></p> <p>Two storey, brick rendered building with parapet. The former Fire Station was designed in Federation Free style. The building, although now redeveloped, retains its picturesque facade that features a curved parapet, heavily moulded entablature and group of three arch headed, elongated windows. The words 'Metropolitan Fire Brigade 1897' are embossed on the parapet with 'Manly' below. The windows are timber framed double hung with round headed highlight and multiple small sashes. The facebrickwork is now painted but highly contrasted with render, especially the detail such as voussoirs. The adjoining wing to the south-east appears to have been a later addition of face brickwork with similar style windows and entablature but without a high parapet. The ground floor and interior have been rebuilt.</p> <p>Item I104 - Street trees</p> <p><u>Statement of significance</u></p> <p>Part of earliest planting on The Corso c.1850's by H.G. Smith. Historic and aesthetic importance to the streetscape.</p> <p><u>Physical description</u></p> <p>Centre planting of Ficus Macrophylla (Moreton Bay Fig) Remnant Palm planting (Phoenix Canariensis) of 1928.</p> <table border="1" data-bbox="520 1193 1430 1776"> <thead> <tr> <th colspan="2" data-bbox="520 1193 855 1238">Other relevant heritage listings</th></tr> </thead> <tbody> <tr> <td data-bbox="520 1238 855 1373">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td data-bbox="855 1238 943 1373">No</td></tr> <tr> <td data-bbox="520 1373 855 1451">Australian Heritage Register</td><td data-bbox="855 1373 943 1451">No</td></tr> <tr> <td data-bbox="520 1451 855 1529">NSW State Heritage Register</td><td data-bbox="855 1451 943 1529">No</td></tr> <tr> <td data-bbox="520 1529 855 1597">National Trust of Aust (NSW) Register</td><td data-bbox="855 1529 943 1597">No</td></tr> <tr> <td data-bbox="520 1597 855 1709">RAIA Register of 20th Century Buildings of Significance</td><td data-bbox="855 1597 943 1709">No</td></tr> <tr> <td data-bbox="520 1709 855 1776">Other</td><td data-bbox="855 1709 943 1776">No</td></tr> </tbody> </table> <p>Consideration of Application</p> <p>The proposal seeks consent for modifications to the approved consent - DA2019/1398, including to modify part of the fire stair servicing the common roof terrace. Given that the proposed changes will not be visible from the public domain, it is considered that the proposal will not have an additional impact upon the significance of the heritage items or the conservation area. However, external colour scheme is required to be approved by Heritage prior to the issue of a Construction Certificate.</p>	Other relevant heritage listings		Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	Australian Heritage Register	No	NSW State Heritage Register	No	National Trust of Aust (NSW) Register	No	RAIA Register of 20th Century Buildings of Significance	No	Other	No
Other relevant heritage listings															
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No														
Australian Heritage Register	No														
NSW State Heritage Register	No														
National Trust of Aust (NSW) Register	No														
RAIA Register of 20th Century Buildings of Significance	No														
Other	No														

Internal Referral Body	Comments
	<p>Therefore, no objections are raised on heritage grounds, subject to one condition.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u></p> <p>Is a Conservation Management Plan (CMP) Required? No</p> <p>Has a CMP been provided? No</p> <p>Is a Heritage Impact Statement required? Yes</p> <p>Has a Heritage Impact Statement been provided? Yes</p> <p>Further Comments</p> <p></p> <p><i>*Planner note - A condition for materials and colour schedule prior to CC was included on the original consent, no need to further impose this condition and it will apply to the plans as modified.</i></p>
Strategic and Place Planning (Urban Design)	<p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p> <p>The application seeks consent to modify a small section of the fire stair servicing the common roof terrace to rectify an architectural error. The modifications do not create any additional amenity impacts and the overall bulk, scale and appearance of the development remains as approved.</p> <p>Urban Design raises no objection to the proposed development.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations were included as a condition of consent of the original consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the original development application and forms part of Condition 1. The changes do not affect the BASIX commitments of the development and no further BASIX certificate is required as part of this modification application.

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the original consent.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 1 Coastal Wetlands and littoral rainforest area

2.7 Development on certain land within coastal wetlands and littoral rainforests area

- 1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:
 - a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
 - b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
 - c) the carrying out of any of the following:
 - i) earthworks (including the depositing of material on land),
 - ii) constructing a levee,
 - iii) draining the land,
 - iv) environmental protection works,
 - d) any other development

Comment:

Not within coastal wetlands or littoral rainforest area.

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

Not within proximity to coastal wetlands or littoral rainforest area.

Division 2 Coastal Vulnerability Area

2.9 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- b) the proposed development:
 - i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and
 - ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and
 - iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment:

Not within coastal vulnerability area.

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed

- development on any of the sensitive coastal lakes identified in Schedule 1,
- d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

Not within coastal environment area.

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

Comment:

Not within coastal environment area.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse
 - ii) impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The changes are considered very minor and do not impact the matters listed in a) i) to v) and Council is satisfied that the development has been designed to avoid impact.

Division 5 General

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

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

Comment:

Does not increase risk of coastal hazards.

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

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

Comment:

No coastal management plan applicable.

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

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. The former SEPP 55 Remediation of Contaminated land was considered upon grant of the original consent, where the land was considered suitable for the intended use. No further consideration required under this modification application.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	10m	Terrace wall - 12.6m Fire Escape - 14.37m Lift Shaft - 14.97m	Terrace wall - 12.6m Fire Escape - 14.37m Lift Shaft - 14.97m	26% 43.7% 49.7%	No - However no change under this Mod
Floor Space	FSR: 2.5:1	FSR: 2.6:1	FSR: 2.6:1	1.7%	No - However

Ratio					no change under this Mod
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Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.16 Gross floor area in Zone B2	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

4.3 Height of buildings

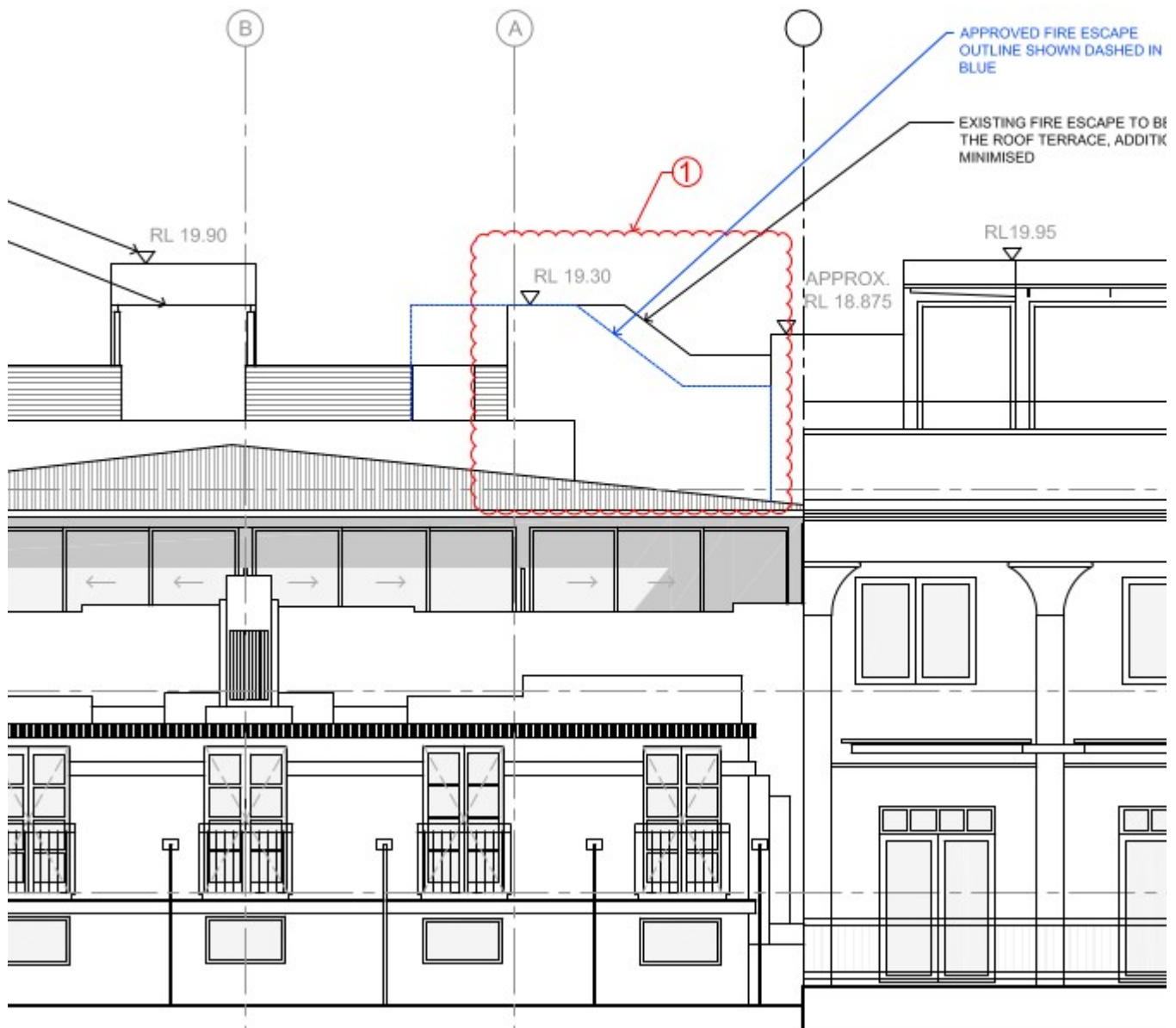
The proposal seeks to change the location of the fire stair which provides access to the roof terrace. The fire stair is shifted 1.4m to the south-east to avoid the mechanical plant area, with the fire stair shifted more central to the building.

The fire stair was approved at RL 19.30 and the maximum height is maintained at RL 19.30. The location does not contribute to additional building height or volume above the maximum building height prescribed by the Manly LEP 2013.

The below figure shows that there is no change other than shifting of the location, with no increase in height or increase in building volume over the height limit. In this regard, the application as modified maintains the existing extent of building height breach and the application may be determined without need to go to the NBLPP.

NO. 63-67 THE CORSO
THE SITE

NO. 69-71 THE COI
'THE NEW BRIGHT



5.10 Heritage conservation

The application is accompanied by an addendum heritage report which states the changes will not result in impact to the heritage item or create further visual impacts as viewed from the street.

Council's heritage officer agrees with this assessment and supports the modification application.

Mainly Development Control Plan

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
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.6 Energy efficiency/conservation requirements for non-residential developments	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	Yes	Yes
4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
Schedule 2 - Townscape Principles	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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. Mod2022/0424 for Modification of Development Consent DA2019/1398 granted for alterations and additions to an existing building to facilitate shop top housing containing 12 apartments including the construction of a pergola and lift overrun to the roof terrace on land at Lot 3 SP 67337,3 / 63 - 67 The Corso, 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
Drawing Number 105 Issue S4.55	09/06/2021	Bridie Gough
Drawing Number 201 Issue S4.55	09/06/2021	Bridie Gough
Drawing Number 202 Issue S4.55	09/06/2021	Bridie Gough
Drawing Number 203 Issue S4.55	09/06/2021	Bridie Gough
Drawing Number 204 Issue S4.55	09/06/2021	Bridie Gough
Drawing Number 301 Issue S4.55	09/06/2021	Bridie Gough
Drawing Number 301A Issue S4.55	09/06/2021	Bridie Gough
Drawing Number 302 Issue S4.55	09/06/2021	Bridie Gough
Drawing Number 303 Issue S4.55	09/06/2021	Bridie Gough
Drawing Number 306 Issue S4.55	09/06/2021	Bridie Gough

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

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

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

Signed



Jordan Davies, Planner

The application is determined on 09/02/2023, under the delegated authority of:



Rodney Piggott, Manager Development Assessments