

12 March 2025



34-35 South Steyne Pty. Limited
Level 5 30-36 Bay Street
DOUBLE BAY NSW 2028

Dear Sir/Madam

Application Number: Mod2024/0419
Address: Lot B DP 102407 , 34 - 35 South Steyne, MANLY NSW 2095
Lot 2 DP 861591 , 34 - 35 South Steyne, MANLY NSW 2095
Proposed Development: Modification of Development Consent DA2022/1164 granted for
Demolition and construction of a commercial building

Please find attached the Notice of Determination for the above mentioned Application.

You should thoroughly read the Notice of Determination and be aware of any conditions imposed that affect the development and guide the next steps in the process before you can commence works and/or the use.

A copy of the Assessment Report associated with this application is available to view in the Planning and Development > Application Search section of Council's website at www.northernbeaches.nsw.gov.au

If you have any questions regarding the decision or the conditions, please contact Council to speak to the assessment officer or the undersigned on 1300 434 434 or via email quoting the Application number, property address and the description of works to council@northernbeaches.nsw.gov.au

Regards,



Rodney Piggott
Manager Development Assessments

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application Number:	Mod2024/0419 PAN-458359
Applicant:	34-35 South Steyne Pty. Limited Level 5 30-36 Bay Street DOUBLE BAY NSW 2028
Property:	Lot B DP 102407 34 - 35 South Steyne MANLY NSW 2095 Lot 2 DP 861591 34 - 35 South Steyne MANLY NSW 2095
Description of Development:	Modification of Development Consent DA2022/1164 granted for Demolition and construction of a commercial building
Determination:	Approved Consent Authority: Northern Beaches Local Planning Panel
Date of Determination:	05/03/2025
Date from which the consent operates:	05/03/2025

Under Section 4.55 (2) Environmental Impact of the EP&A Act, notice is given that the above application to modify the original application has been approved, subject to the conditions specified in this notice and as described in the Modification Summary.

Reasons for approval

The development proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the aforementioned Act. Consequently, the development is considered to be in the public interest, subject to conditions.

Community views

The application was notified in accordance with Council's Community Participation Plan and the Environmental Planning and Assessment Regulation 2021. Any submissions received representing community views were considered as part of the assessment of the application. Conditions of consent included within this Notice of Determination have been applied to ensure that the development satisfies the Objects of the Environmental Planning and Assessment Act and will not result in unacceptable environmental impacts.

Request a review of the determination

If you are dissatisfied with this determination, you may request a review of the determination:

- You do not have the right to request a review of the determination under section 8.3 of the EP&A Act if you are excluded from those developments listed under Section 8.2(2) of the EP&A Act.
- You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 28 days from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

Objector's right of appeal against the determination

An objector who is dissatisfied with the consent authority's determination to grant consent, in relation to Designated Development only has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Signed On behalf of the Consent Authority



Name Rodney Piggott, Manager Development Assessments

Date 05/03/2025

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-458359 Mod2024/0419	The date of this notice of determination	<p>Internal and external modifications, including infilling the approved lightwell, and addition of solar panels.</p> <p>Additional Conditions:</p> <ul style="list-style-type: none"> Condition 1B Modification of Consent - Approved Plans and Supporting Documentation Condition 29B Condition 60B Fire Safety Matters <p>Modified Conditions:</p> <ul style="list-style-type: none"> Condition 2 Compliance with Other Department, Authority or Service Requirements Condition 19 Building Code of Australia Fire Safety Requirements Condition 20 Building Code of Australia Access Condition 25 Acoustic Report Recommendations Condition 56 Acoustic Report Certification Condition 63 Roof areas, Terraces and Roof Planting <p>Deleted Conditions:</p> <ul style="list-style-type: none"> Condition 28 Amendments to the Approved Plans - Rialto Lane Elevation
PAN-430975 Mod2024/0225	7 August 2024	<p>Minor internal and rooftop modifications.</p> <p>Additional Conditions:</p> <ul style="list-style-type: none"> Condition 1A Modification of Consent - Approved Plans and Supporting Documentation Condition 29A Mechanical Plant Acoustic Treatment Condition 60A Acoustic Treatment

Modified Conditions

A. Add Condition 1B Modification of Consent - Approved Plans and Supporting Documentation, to read as follows:

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A-DA-110-000	DA-L	Basement 2 Plan	Durbach Block Jaggers	11 February 2025
A-DA-110-001	DA-L	Basement 1 Plan	Durbach Block Jaggers	11 February 2025
A-DA-110-003	DA-L	Ground Plan	Durbach Block Jaggers	11 February 2025
A-DA-110-004	DA-L	Level 1 Plan	Durbach Block Jaggers	11 February 2025
A-DA-110-005	DA-L	Level 2 Plan	Durbach Block Jaggers	11 February 2025
A-DA-110-006	DA-L	Level 3 Plan	Durbach Block Jaggers	11 February 2025
A-DA-110-007	DA-L	Roof Plan	Durbach Block Jaggers	11 February 2025
A-DA-210-001	DA-L	North & South Elevations	Durbach Block Jaggers	11 February 2025
A-DA-210-002	DA-L	East & West Elevation	Durbach Block Jaggers	11 February 2025
A-DA-310-001	DA-L	Section AA, BB & EE	Durbach Block Jaggers	11 February 2025
A-DA-310-002	DA-L	Section CC	Durbach Block Jaggers	11 February 2025
A-DA-310-003	DA-L	Section DD	Durbach Block Jaggers	11 February 2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Acoustic Statement P01152	-	E-LAB Consulting	5 July 2024
BCA Compliance Statement	-	BM+G	1 August 2024
Fire Statement 222007_DA(MOD-2)_01	-	Affinity Fire Engineering	19 July 2024
Flood Impact and Risk Management Report	4	Integrated Group Services	25 July 2024

Geotechnical Letter P2472_09	-	Morrow Geotechnics	22 July 2024
Statement of Heritage Impact J5623_03	-	Weir Phillips	23 July 2024

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

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B. Modify Condition 2 Compliance with Other Department, Authority or Service Requirements to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	30 August 2024

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

C. Modify Condition 19 Building Code of Australia Fire Safety Requirements to read as follows:

The Building Code of Australia fire safety measures for the building as detailed and recommended in the BCA Compliance Statement Report by Blackett, Maguire Goldsmith dated 30/6/2022 and BCA Compliance Statement, dated 01/08/2024, including any Performance Solutions are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

D. Modify Condition 20 Building Code of Australia Access to read as follows:

Access and facilities to and within the building are to be provided for Persons with a Disability. In this regard the recommendations contained in the Access Report dated June 2022, Ref. 22223-R1.2, and Access Compliance Capability Statement dated 18/07/2024, prepared by Code Performance, is to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

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

E. Modify Condition 25 Acoustic Report Recommendations to read as follows:

Prior to the issuing of any Construction Certificate, documentation is to be submitted to the satisfaction of the Principal Certifying Authority that recommendations within the acoustic report by IGS referenced as VE-N22_017 and dated 29 June 2022, and including any modifications contained within E-LAB Consulting acoustic letter dated 5 July 2024 have been implemented/incorporated into the design of the premises.

Reason: To protect acoustic amenity of building occupants and surrounding premises.

F. Delete Condition 28 Amendments to the Approved Plans - Rialto Lane Elevation as follows:

DELETED

G. Add Condition 29B to read as follows:

That the mechanical plant be surrounded by a visual screen, located as close as possible to the plant commensurate with the functionality of the plant, to a height of RL 19.50.

Reason: To preserve the visual amenity of the units overlooking the site.

H. Modify Condition 56 Acoustic Report Certification to read as follows:

Prior to any occupation certificate being issued, a further acoustic assessment is to be undertaken by a qualified and experienced person(s) to confirm compliance with the acoustic assessment by IGS referenced as VE-N22_017 and dated 29 June 2022, and including any modifications contained within E-LAB Consulting acoustic letter dated 5 July 2024.

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

Reason: To verify acoustic compliance.

I. Add Condition 60B Fire Safety (under the heading BEFORE ISSUE OF THE OCCUPATION CERTIFICATE), to read as follows:

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

J. Modify Condition 63 Roof areas, Terraces and Roof Planting to read as follows:

The following provisions apply:

i) DELETED

ii) The Level 3 front roof terrace is not to be used for commercial food and beverage purposes.

iii) Solar voltaic cells on the Level 3 roof top must not exceed a height of RL 19.200.

iv) The main upper roof surface of Level 3 is to minimise reflectivity to overlooking apartments. (White, light grey or similar colours are not to be used for finished roof treatment)

Reason: To ensure that the development remains consistent with Manly DCP townscape.

Important Information

This letter should therefore be read in conjunction with DA2022/1164 dated 18 December 2023 and Mod2024/0225 dated 7 August 2024.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Council means Northern Beaches Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2021.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means Northern Beaches Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to: the collection of stormwater, the reuse of stormwater, the detention of stormwater, the controlled release of stormwater, and connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the Conveyancing Act 1919.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Sydney North Planning Panel.