

<b>DATE OF DETERMINATION</b>	11 August 2023
<b>DATE OF PANEL DECISION</b>	11 August 2023
<b>DATE OF PANEL MEETING</b>	09 August 2023
<b>PANEL MEMBERS</b>	Brian Kirk (Chair), Nicole Gurrán, Sue Francis, Annelise Tuor, Marcus Sainsbury
<b>APOLOGIES</b>	Peter Debnam
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by teleconference on 09 August 2023, opened at 11.07am and closed at 12.23pm.

**MATTER DETERMINED**

PPSSNH-395 - DA2022/1910 - Northern Beaches, Lot CP SP 2492, 61 North Steyne, Manly. Demolition work and construction of a residential flat building including basement car parking (as described in Schedule 1)

**PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings listed at item 8 in Schedule 1.

**Application to vary a development standard**

Following consideration of two written requests from the applicant, made under cl 4.6(3) of the Manly Local Environmental Plan 2013 (MLEP), that have demonstrated that:

- a) compliance with cl. 4.3 Height of Buildings and cl. 4.4 Floor Space Ratio is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

The Panel is satisfied that:

- a) the Applicant’s written requests adequately address the matters required to be addressed under cl 4.6(3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of clauses 4.6, and 4.3 and 4.4 of the LEP, and the objectives for development in the R3 Medium Density Residential Zone; and
- c) the concurrence of the Secretary has been assumed.

**Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The Panel’s decision was unanimous.

**REASONS FOR THE DECISION**

The Panel unanimously resolved to approve the development application for the reasons set out below and in the Council’s Assessment Report.

The Applicant submitted written requests for contravening the Height of Buildings and Floor Space Ratio development standards under clauses 4.3 and 4.4 of the MLEP. Variations of 25% in the case of the building height development standard and 19% in the case of the FSR development standard are proposed. The requests are based on the development, despite the contraventions, being consistent with the established character of development within the locality. The Panel agrees with the Council’s assessment

that the bulk and scale of the development are generally consistent with other buildings in the area along North Steyne and is significantly less than the residential building immediately to the north of the site at 65 North Steyne, Manly. The Panel considers the Applicant's written requests have demonstrated the proposed development is an orderly and economic use and development of the land. The Panel is satisfied that the proposed development achieves the objectives of cl. 4.3 and cl. 4.4 of WLEP and there are sufficient environmental planning grounds to justify the contraventions of the development standards. Accordingly, the Panel supports the cl. 4.6 requests. In relation to FSR, the Panel notes that the road reserve has not been included for the purpose of calculating FSR, however, once this is transferred to the applicant's ownership, greater compliance with this standard will be achieved.

Fundamental to its decision on the merits of the proposal, the Panel notes that the potential impacts of view loss and overshadowing have been considered in the design through the floorplate of the proposal, the landscaping of the road reserve (which is no longer required and forms part of the site), setbacks, including on Level 4, which reduces the bulk of this level to not appear as an additional storey. The proposal is of a good design that, subject to conditions, will protect and improve the amenity of the surrounding built environment.

During the public meeting, the Panel heard a number of verbal submissions from surrounding neighbours. Included in the matters raised were those concerning streetscape, adverse overshadowing and privacy impacts upon neighbours, and compliance with the Manly DCP. After carefully considering the application, the Panel determined to impose conditions requiring design amendment and clarifications to address these matters.

In summary, the Panel believes the application has been properly assessed against relevant planning controls and is suitable for the site. The development will be consistent with the objectives for development within the zone in which the development is proposed to be carried out. Accordingly, the Panel believes approval of the development application is in the community interest.

## **CONDITIONS**

The Development Application was approved by the Panel subject to the revised conditions in Council's email of 9th August 2023, as amended by the Panel. The final and complete version of conditions was provided to the Panel by Council email of 15 August 2023.

In considering this application, the Panel determined to approve the application only on the basis of additional conditions being imposed relating to: -

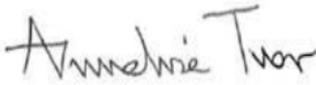
- Amending the design to increase the setback of the built form of level 3 of the development, off the southern boundary to further minimise impacts upon the residential development at No. 59 North Steyne, Manly (Condition 15).
- Enclosing all services (Gas meter, water meter & fire hydrant and sprinkler booster valves and the like) to maintain streetscape character (Condition 26).
- Prohibiting the location of services, stair, plant, or air-conditioning units external or on the roof of the building, except as nominated on the approved plans and within specified height limits (Conditions 31 and 72).
- Ensuring the roof at levels 3 and 4 is non-trafficable except for maintenance purposes (Condition 71).

The Development Application was approved by the Panel subject to the revised conditions in Council's email of 9<sup>th</sup> August 2023, as amended by the Panel.

## **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered 22 written submissions made during public exhibition and heard from members of the public addressed the Panel at the public meeting. Issues of concern included Building Height and Floor Space Ratio non-compliances, View Loss, Privacy, Solar Access, Site Isolation, Neighbourhood Character, Housing Affordability, Traffic and Safety, and Construction Impacts. The Panel

considers that concerns raised by the community have been adequately addressed in Council's Assessment Report, by responses from the Applicant during the public meeting and in the revised conditions.

PANEL MEMBERS	
 Brian Kirk (Chair)	 Marcus Sainsbury
 Nicole Gurrán	 Annelise Tuor
 Sue Francis	

SCHEDULE 1		
1	<b>PANEL REF – LGA – DA NO.</b>	PPSSNH-395 - DA2022/1910 - Northern Beaches
2	<b>PROPOSED DEVELOPMENT</b>	Demolition work and construction of a residential flat building including basement car parking
3	<b>STREET ADDRESS</b>	Lot CP SP 2492, 61 North Steyne, Manly
4	<b>APPLICANT/OWNER</b>	Manly Property Developments Pty Ltd Proprietors of Strata Plan 2492
5	<b>TYPE OF REGIONAL DEVELOPMENT</b>	CIV > \$5M – Council interest
6	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments:</li> <li>• Environmental Planning and Assessment Regulations 2021</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development)</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Infrastructure) 2021</li> <li>• Manly Local Environmental Plan 2013</li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans:               <ul style="list-style-type: none"> <li>○ Manly Development Control Plan 2013</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Relevant provisions of the Environmental Planning and Assessment</li> </ul>

		<p>Regulation 2021</p> <ul style="list-style-type: none"> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council Assessment Report dated 26 July 2023</li> <li>• Supplementary memo dated 8 August 2023</li> <li>• Amended conditions in email dated 9<sup>th</sup> August 2023</li> <li>• Final and complete version of conditions provided to Panel by Council email of 15 August 2023</li> <li>• Architectural Plans</li> <li>• Statement of Environmental Effects</li> <li>• Clause 4.6 - Height of Buildings</li> <li>• Clause 4.6 - Floor Space Ratio</li> <li>• Design Statement</li> <li>• Visual Impact Assessment</li> <li>• Survey Plan</li> <li>• Written submissions during public exhibition: 22</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>• Members of the community – Ettienne Reinecke, Simon Kidd, Patricia Taylor, Sally Schokman, Geoffrey Brown, Chad Lieberman, Chris Mortimer, Bev Murray, Richard Spurrett</li> <li>• Council Assessment Officers – Maxwell Duncan</li> <li>• On behalf of the applicant – Leigh Manser, Tom Goode</li> </ul> </li> </ul>
8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• 12 July 2023 - Briefing</li> <li>• 09 August 2023 - Final briefing to discuss council's recommendation: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Brian Kirk, Sue Francis, Nicole Gurran, Marcus Sainsbury, Annelise Tuor</li> <li>○ <u>Council assessment staff</u>: Maxwell Duncan</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the Council Assessment Report, as amended by conditions in email dated 9 August 2023 and the Panel.