

**STATEMENT OF
ENVIRONMENTAL EFFECTS**

Proposed Shop Top Housing
Development

**21 Whistler Street
Manly**



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Statement of Environmental Effects

Proposed Shop Top Housing Development

21 Whistler Street, Manly

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CONTENTS

1.0 INTRODUCTION

2.0 SITE DESCRIPTION, LOCATION AND CONTEXT

3.0 DEVELOPMENT PROPOSAL

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Manly Local Environmental Plan 2013

4.1.1 Zone and Objectives

4.1.2 Height of Buildings – Exceptions to Development Standards

4.1.3 Floor Space Ratio

4.1.4 Heritage Conservation

4.1.5 Acid Sulphate Soils

4.1.6 Foreshore Scenic Protection Area

4.1.7 Active Street Frontages

4.1.8 Essential Services

4.1.9 Design Excellence

4.1.10 Gross Floor Area in Zone B2 – Exceptions to Development Standards

4.2 Manly Development Control Plan 2013

4.2.1 General Principles of Development

4.2.1.1 Townscape (Local and Neighbourhood Centres)

4.2.1.2 Landscaping

4.2.1.3 Amenity (Views, Overshadowing, Overlooking/ Privacy, Noise)

4.2.1.4 Sustainability

4.2.1.5 Accessibility

4.2.1.6 Stormwater Management

4.2.1.7 Waste Management

4.2.1.8 Mechanical Plant Equipment

4.2.2 Development in Business Centres

4.2.2.1 Setback Controls

4.2.2.2 Car Parking , Vehicular Access and Loading Controls

4.3 State Environmental Planning Policy No. 55 – Contaminated Lands

- 4.4 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- 4.5 State Environmental Planning Policy (Infrastructure) 2007
- 4.6 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- 4.7 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended

5.0 CONCLUSION

ANNEXURES

- ANNEXURE 1** Consolidation Attempt Documentation
- ANNEXURE 2** Architect Design Verification/ SEPP 65 Design Principles
- ANNEXURE 3** Apartment Design Guide Compliance Table

1.0 INTRODUCTION

This document has been prepared as a component of a development application proposing the demolition of existing site structures and the construction of a 5 storey shop top housing development incorporating 2 x ground floor retail tenancies, integrated basement car parking for 13 vehicles accessed via a car lift from Whistler Street and 8 x 2 bedroom apartments over on the subject allotment.

The project architect has responded to the client brief to design a contextually responsive building of exceptional quality which takes advantage of the sites superior locational attributes whilst providing high levels of amenity for future occupants. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of this constrained infill site having regard to the height, proximity and orientation of adjoining residential and commercial development.

Particular attention has been given to ensuring that the development not only responds to its immediate built form context, and the form of development anticipated within the Manly Town Centre precinct, but importantly to ensure that appropriate residential amenity is maintained to the immediately adjoining residential apartments.

This submission will demonstrate that such outcomes have been achieved whilst providing for a highly articulated, modulated and visually stimulating building form which will provide diversity in housing choice within a precinct ideally suited to increased residential densities. Further, the complex solar access and privacy modelling undertaken ensures the resultant building form maintains appropriate levels of privacy and solar access to the adjoining residential properties, and between apartments within the development, and achieves acceptable residential amenity, streetscape and broader urban design outcomes.

Consideration has also been given to the minutes arising from formal pre-DA discussions with Council noting that the final detailing represents a highly considered response to the issues raised. In relation to the issue of potential site isolation, the application is accompanied by correspondence from First National Real Estate Manly Prestige and Pavilion Residences No. 3 Pty Limited which confirms that formal approaches were made to the owners of the properties to the north and west of the site No's 35 – 39, 40 and 41 Belgrave Street who have declined offers for purchase or joint venture. This correspondence is at ANNEXURE 1. We note that the planning principle established by the Land and Environment Court of NSW is not reasonably applied to this particular site noting that it does not leave any adjoining site isolated, does not fall foul of any minimum development lot size provision nor does it impact on the development potential of any adjoining site.

In the preparation of this document, consideration has been given to the following statutory planning documents:

- The Environmental Planning and Assessment Act, 1979 as amended;
- Manly Local Environmental Plan 2013;
- Manly Development Control Plan 2013;
- State Environmental Planning Policy No. 55 – Contaminated Lands;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy (Infrastructure) 2007; and
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Architectural drawings including floor plans, sections and elevations have been prepared in relation to the development proposed. The application is also accompanied by a site analysis, survey plan, Architectural Design Verification Statement/ SEPP 65/ ADG reports/ compliance table, Statement of Heritage Impact, Traffic and Parking Assessment, Geotechnical/ Acid Sulphate Soils Report, Accessibility Report, Waste Management Plan, landscape plan, perspectives, concept drainage plans, shadow/ solar modelling diagrams and a schedule of finishes.

The proposal is permissible and in conformity with the intent of the development standards contained within Manly Local Environmental Plan 2013 as they reasonably relate to this form of development on this particular site and the built form guidelines contained within Manly Development Control Plan 2013 as they relate to mixed use development within the Manly Town Centre. The proposal satisfies the design quality principles contained within SEPP 65 and the guidelines and associated objectives contained within the ADG.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

2.0 SITE DESCRIPTION, LOCATION AND CONTEXT

The subject property is legally described as Lot B in DP 368451, No. 21 Whistler Street, Manly. The allotment is rectangular in shape having frontage of 17.755 metres, variable depth of between 15.81 and 15.87 metres and a total site area of 279m². The topography of the site is generally flat. An aerial view is provided below.



Source: SIX Maps

Figure 1 – Aerial Location/ Context photograph

The subject site consists of two co-joining structures. The core, single storey structure appears to have been part of the earlier Roseville cottage located on the site which was demolished sometime between 1917 and the early 1930s. The two separate dwellings are linked together through ground floor doorways with the original cottage featuring a lounge, kitchen, dining room, two bedrooms and a bathroom. A paved terrace area features to the rear, while a small shed is located along the western boundary. A later, two storey combined garage and granny flat is located to the northern boundary and features a ground floor garage with a combined living area/kitchen and laundry.

The first floor features a living area and bedroom with ensuite and a large rear balcony to the west. Both structures have been heavily modified by alterations and additions over time and present an imitation Old English style to the surrounding streetscape as depicted in Figure 2 below.



Figure 2 – Subject site as viewed from Whistler Street

The area is characterised by a diverse mix of multi storey mixed use buildings and smaller scale commercial buildings of various ages and architectural styles indicative of changing development pressures on the area and the evolution of built character. This section of Whistler Street is a narrow one-way street.

The property to the south is occupied by a 3 storey mixed use building with garage accommodation accessed from Whistler Street, residential apartments above and retail/ business uses fronting Belgrave Street. A 4 storey mixed use building is to its south. The property to the North, No. 21A Whistler Street, is occupied by a single storey retail premises with frontage and address to Whistler Street. The property to the west is known as No's 35 – 39 Belgrave Street and is occupied by a 2 storey mixed use building with frontage and address to Belgrave Street. Neither of these adjoining properties have off-street parking.

The properties located on the opposite side of Whistler Street are occupied by the 2 storey heritage listed Manly Substation building and a 4 storey residential flat building with ground level parking at No. 26 Whistler Street. A following photographic palette depicts the surrounding built form circumstance.



Figure 2 – Adjoining development to the south along Whistler Street



Figure 3 – Adjoining development to the north along Whistler Street



Figure 4 – Development located opposite the site along Whistler Street



Figure 5 – Development to the west fronting Belgrave Street

Development consent DA230/2015 has been recently granted for the construction of a 5 storey shop top housing development at No. 21 Belgrave Street, at the southern end of the same street block, with such building currently under construction. This building has an approved parapet height of 17.3 metres with the lift overrun extending to a height of 19.4 metres.

The site is located within the Manly CBD and within immediate proximity of a range of public transport options. These characteristics make the site ideally suited to increased residential densities.

3.0 PROPOSED DEVELOPMENT

This document has been prepared as a component of a development application that proposes the demolition of existing site structures and the construction of a 5 storey shop top housing development incorporating:

- 2 x Ground floor retail spaces;
- 8 x 2 Bedroom apartments;
- Basement carpark for 13 vehicles accessed via a lift from Whistler Street;
- Foyer with access to lift and stairs from Whistler Street; and
- Landscaping

The detail of the proposal is depicted on plans DA00 to DA15 prepared by Wolski Coppin Architects.

There are 2 apartments at each level and they mirror each other in terms of their layout. The 8 apartments have primarily the same layout. Each apartment includes an open plan kitchen/dining and living area, bathroom, ensuite to bedroom 1 and laundry. A balcony area can be access from the living area. The level 1 apartments are proposed as adaptable.

The basement level will accommodate car stackers which will allow for 13 spaces including an accessible space. Garbage storage and services will be located in the basement level.

The application is accompanied by a montage and schedule of finishes which collectively depict the architectural facade design and treatments incorporated to ensure an appropriate building presentation in the round. The site is to be landscaped in accordance with the landscape plan prepared by Wallman Partners Pty Ltd.

Stormwater Plans have been prepared by Burgess Arnott & Grava and depict the on-site stormwater detention system designed to Council specifications.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Manly Local Environmental Plan 2013

4.1.1 Zone and Objectives

The subject property is zoned B2 Local Centre pursuant to Manly Local Environmental Plan 2013 (“MLEP 2013”) with commercial premises and shop top housing permissible in the zone with consent. The stated objectives of the B2 zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses in the zone and adjoining zones and ensure amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*

Shop top housing is defined as one or more dwellings located above ground floor retail premises or business premises.

The development incorporates dwellings located above ground floor retail premises with all residential apartments located within a single building form at a level wholly above the ground floor retail space below. Accordingly, the development is appropriately defined as shop top housing and permissible with consent in the zone.

The proposed development meets the relevant zone objectives given the proposed retail use of the ground floor and the appropriate concentration of residential densities within an established Business zone. The height and scale of the development is responsive to context, compatible with that of adjoining development and will not result in unacceptable or jarring residential amenity, streetscape or heritage conservation impacts.

Accordingly, there are no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

4.1.2 Height of Buildings – Exceptions to Development Standards

Pursuant to Clause 4.3 of MLEP 2013 the height of a building on the subject land is not to exceed 15 metres in height. The objectives of this control are as follows:

- (a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- (b) *to control the bulk and scale of buildings,*
- (c) *to minimise disruption to the following:*
 - (i) *views to nearby residential development from public spaces (including the harbour and foreshores),*
 - (ii) *views from nearby residential development to public spaces (including the harbour and foreshores),*
 - (iii) *views between public spaces (including the harbour and foreshores),*
- (d) *to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*
- (e) *to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

Building height is defined as follows:

building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

The development has a maximum building height of 16.6 metres measured to the roof parapet with a height of 17.2m measured to the lift overrun.

Such building heights exceed the 15 metre height standard by 1.6 and 2.2 metres respectively or between 10.6 and 14.6%. The extent of building height non-compliance is depicted in Figure 6 below.



Figure 6 – Extent of building height non-compliance.

Clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

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

Pursuant to clause 4.6(2) consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

This clause applies to the clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) states that consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

Clause 4.6(4) states consent must not be granted for development that contravenes a development standard unless:

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

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Claim for Variation

Zone and Zone Objectives

The proposals permissibility and consistency with the zoning of the land and associated zone objectives have been detailed at section 4.1.1 of this statement. There is no statutory impediment to the granting of the building height variation in this regard.

Height of Buildings Standard and Objectives

The development standard and associated objectives have been previously identified.

Having regard to the stated objectives it is considered that strict compliance is both unreasonable and unnecessary for the following reasons:

This standard and the associated objectives have been previously identified. Having regard to the stated objectives it is considered that strict compliance is both unreasonable and unnecessary for the following reasons:

- The areas of non-compliance are limited to the upper portion of the 5th floor element, roof form and lift overrun. In the context of the established/ approved height of development to the south of the site, and within the same street block, the variation is appropriately described as minor. The area/ extent of variation is depicted in Figures 6 of this of report.
- The height, bulk and scale of the development are entirely consistent with the built form characteristics established by the recently approved and currently under construction shop top housing development to the south of the site at No. 21 Belgrave Street as depicted in Figure 8 below. The non-compliant architectural roof elements contribute positively to the design quality of the building ensuring that it will be a landmark development within its context.



Figure 8 – Comparative/ contextual height diagram

- Excavation is limited to that reasonably required to accommodate the basement parking, storage and waste storage areas.
- It has been determined that the shadowing impacts to the southern adjoining property are caused by the portion of the building that is fully compliant with the height standard. As such, it can be reasonably concluded that the building height non-compliance does not exacerbate the shadowing impact on this property.

- In relation to privacy we confirm that the building height non-compliance does not itself result in any unacceptable privacy impacts in relation to direct overlooking of adjoining properties.
- Having inspected the site and its surrounds and viewed the development site from various elevated vantage points to the west of the property, we have formed the considered opinion that the portion of the building exceeding the height standard will not give rise to any adverse public or private view affectation.
- Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development by virtue of its height offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the sites visual catchment.
- Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings when viewed from the harbour, foreshore areas, public domain and surrounding residential properties.
- Having regard to the matter of Veloshin v Randwick City Council [2007] NSWLEC 428 this is not a case where the difference between compliance and non-compliance is the difference between good and bad design.

We have also formed the considered opinion that sufficient environmental planning grounds exist to justify the variation including the compatibility of the proposed building height with the height and form of surrounding development, including the recently approved shop top housing development at No. 21 Belgrave Street, the development's compliance with the objectives of the height standard and the general paucity of adverse environmental impact.

A better environmental planning and urban design outcome is achieved through the facilitation of the building height variation proposed.

Conclusions

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

- (a) that the contextually responsive development is consistent with the zone objectives, and

- (b) that the contextually responsive development is consistent with the objectives of the height of buildings standard, and
- (c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- (d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and
- (e) that given the developments ability to comply with the zone and height of buildings standard objectives that approval would not be antipathetic to the public interest, and
- (f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

As such, we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.

4.1.3 Floor Space Ratio

Pursuant to Clause 4.4 MLEP 2013 the maximum FSR for development on the site is 3:1. The stated objectives of this clause are:

- (a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
- (b) *to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*
- (c) *to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*
- (d) *to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*
- (e) *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.*

It has been determined that the proposal has a gross floor area of 813m² representing a floor space ratio of 2.91:1 and as such is compliant with the development standard. Pursuant to section 4.15(2)(a) of the Act as compliance with the numerical standard has been achieved the consent authority is not entitled to take those standards into further consideration in determining the development application

4.1.4 Heritage Conservation

Pursuant to clause 5.10 MLEP 2013 development consent is required for any of the following:

- (a) *demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (i) *a heritage item,*
 - (ii) *an Aboriginal object,*
 - (iii) *a building, work, relic or tree within a heritage conservation area,*

The stated objectives of this clause are as follows:

- (a) *to conserve the environmental heritage of Manly,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The accompanying Statement of Heritage Impact prepared by Heritage 21 confirms that the site is not heritage listed or located within a conservation area however there are a number of heritage items and heritage conservation areas within the site's visual catchment. In this regard the Statement of Heritage Impact contains the following conclusions:

Taking into consideration the numerous aspects of the proposal which respect the heritage items in the vicinity and the subject site's locality, Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and would have a neutral impact on the heritage significance of the subject site and heritage items in the vicinity. We therefore recommend that Northern Beaches Council view the application favourably on heritage grounds.

4.1.5 Acid Sulphate Soils

Pursuant to clause 6.1 MLEP 2013 the site is mapped as Class 4 on the Acid Sulfate soils map and accordingly a preliminary assessment report must be provided given that excavation in excess of 2 metres in depth is proposed.

This regard the application is accompanied by a Preliminary Geotechnical Assessment report. The report identifies that as the existing buildings present an obstacle to detailed geotechnical investigation a staged construction certificate may be required to allow demolition of the existing structures prior to the geotechnical investigation. Further, provided the recommendations of this report are adhered to the development may be achieved with negligible risk to neighbouring structures or persons.

In this regard, borehole testing for acid sulphate soils will also need to be undertaken following demolition of the site structures.

Such outcome is not unreasonable given the built form characteristics of the existing site and the need for the structures to be demolished to undertake the required geotechnical and acid sulphate soil analysis. No objection is raised to such requirements forming a condition of development consent.

4.1.6 Foreshore Scenic Protection Area

Pursuant to clause 6.9(2) the land is identified on the Foreshore Scenic Protection Area Map. Pursuant to clause 6.9(3) development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) measures to protect and improve scenic qualities of the coastline,*
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Having regard to these provisions we have formed the considered opinion that the proposed development will not result in any actual or perceivable impact on the Foreshore Scenic Protection Area in that:

- Due to the location of the site and juxtaposition of adjoining development the proposed development will not be readily discernible when viewed from Manly Beach, Manly Cove, Sydney Harbour and its immediate environs.
- Clearly the height, scale and architectural presentation of the development are contextually appropriate having regard to the built form characteristics established by adjoining development.
- Having regards to the Land and Environment Court of NSW planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed building offensive, jarring or unsympathetic to its context or surrounds.

For these reasons Council can be satisfied that the development will not give rise to any actual or perceived impact on the Foreshore Scenic Protection Area having regard to the Clause 6.9 considerations.

4.1.7 Active Street Frontages

Pursuant to clause 6.11 the objectives of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre.

The proposed development provides 2 retail spaces at ground level and will allow for activation of this section of Whistler Street. These spaces appropriately activate the street in strict accordance with the standard.

4.1.8 Essential Services

Pursuant to clause 6.12 development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

We confirm that essential services and access are available to the proposed development without the need for augmentation.

4.1.9 Design Excellence

Pursuant to clause 6.13 development consent must not be granted for development on land in Zone B2 Local Centre unless the consent authority considers that the development exhibits design excellence. In considering whether development exhibits design excellence, the consent authority must give consideration to whether the development:

- (a) *contains buildings that consist of a form, bulk, massing and modulation that are likely to overshadow public open spaces, and*

Comment: The accompanying shadow diagrams confirm that the form bulk massing and modulation of the development will not give rise to any unacceptable overshadowing impact on any public open spaces.

- (b) *is likely to protect and enhance the streetscape and quality of the public realm, and*

Comment: This report clearly demonstrates that the height, bulk, scale and form of development proposed is contextually appropriate and will contribute positively to the streetscape and the built form quality of development generally within the sites visual catchment. In this regard, the streetscape and quality of the public realm will be significantly enhanced as a consequence of the development proposed.

- (c) *clearly defines the edge of public places, streets, lanes and plazas through separation, setbacks, amenity, and boundary treatments, and*

Comment: The development appropriately defines the street edge and introduces active retail uses at Street level in recognition of the zoning of the land.

- (d) *minimises street clutter and provides ease of movement and circulation of pedestrian, cycle, vehicular and service access, and*

Comment: The pedestrian access and ease of movement will be maintained. A new vehicle cross over will be needed and will have the required mechanisms in place to ensure safe vehicular access to the basement.

- (e) *encourages casual surveillance and social activity in public places, streets, laneways and plazas, and*

Comment: The development incorporates residential uses orientated to the Whistler Street frontage with the adjacent living areas and associated balconies providing excellent levels of casual surveillance to the street and surrounding public domain.

- (f) *is sympathetic to its setting, including neighbouring sites and existing or proposed buildings, and*

Comment: The height, form and massing of the development provides a suitable fit to the context of Whistler Street.

- (g) *protects and enhances the natural topography and vegetation including trees, escarpments or other significant natural features, and*

Comment: There is no significant vegetation or natural features on the subject site. Existing site landscaping will be significantly enhanced as a consequence of the integrated landscaping regime proposed.

- (h) *promotes vistas from public places to prominent natural and built landmarks, and*

Comment: the development has been designed through details site and view line analysis to ensure that the existing views and vistas from both the public and private domains are not unreasonably compromised as a consequence of the development proposed.

- (i) *uses high standards of architectural design, materials and detailing appropriate to the building type and location, and*

Comment: As previously indicated the development has been highly articulated in both the horizontal and vertical planes with the building providing an appropriate transitional form to surrounding development. The use of compatible small scaled design elements and appropriate use of colours and materials integrate in the existing streetscape and is consistent with recent development in the locality.

- (j) *responds to environmental factors such as wind, reflectivity and permeability of surfaces, and*

Comment: The proposed development has been designed and orientated in response to the constraints imposed by the design and orientation of adjoining development. We have formed the considered opinion that the development responds to environmental factors.

- (k) *coordinates shared utility infrastructure to minimise disruption at street level in public spaces.*

Comment: The development will not create any unusual or unacceptable demand for utility infrastructure such as to cause disruption at Street level.

Having regard to the developments performance when assessed against the clause 6.13 design excellence provisions we have formed the considered opinion that the development exhibits design excellence and therefore satisfies the LEP provision.

4.1.10 Gross Floor Area in Zone B2

Pursuant to clause 6.16 development consent must not be granted to the erection of a building on land in Zone B2 Local Centre unless the consent authority is satisfied that at least 25% of the gross floor area of the building will be used as commercial premises. The objective of this clause is to provide for the viability of Zone B2 Local Centre and encourage the development, expansion and diversity of business activities, that will contribute to economic growth, retention of local services and employment opportunities in local centres

The proposal has a total commercial floor space of 182m² representing 22.4% of the total gross floor area of the building and a non-compliance of 22.125 metres or 10.8%.

Clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

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

Pursuant to clause 4.6(2) consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

This clause applies to the clause 6.16 Development Standard as unlike clause 6.15 this development standard is not expressly excluded from the operation of this clause.

Clause 4.6(3) states that consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

Clause 4.6(4) states consent must not be granted for development that contravenes a development standard unless:

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

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Claim for Variation

Zone and Zone Objectives

The proposals permissibility and consistency with the zoning of the land and associated zone objectives have been detailed at section 4.1.1 of this statement. There is no statutory impediment to the granting of the building height variation in this regard.

Gross Floor Area in Zone B2 Standard and Objectives

The development standard and associated objectives have been previously identified. Having regard to the stated objectives it is considered that strict compliance is both unreasonable and unnecessary for the following reason:

- The ground floor retail offers 2 commercial spaces which provide activation of the street frontage;
- The retail uses occupy all available ground floor space not required to accommodate residential and vehicular access to the site and required vertical circulation;
- The small block size constrains the ability for strict compliance at ground level with little demand for first floor commercial space along this section of Whistler Street; and
- The variation will not impact the viability of the B2 Local Centre zone nor compromise the expansion and diversity of business activities that will contribute to economic growth, retention of local services and employment opportunities in the centre.

The constraints imposed by site geometry provide sufficient environmental planning grounds to justify the variation sought on this particular site.

Conclusions

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

- (a) that the contextually responsive development is consistent with the zone objectives, and
- (b) that the contextually responsive development is consistent with the objectives of the commercial floor space standard, and
- (c) that there are sufficient environmental planning grounds to justify contravening the development standard, and

- (d) that having regard to (a), (b) and (c) above that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (e) that given the developments ability to comply with the zone and commercial floor space objectives that approval would not be antipathetic to the public interest, and
- (g) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

As such we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a commercial floor space variation in this instance.

4.2 Manly Development Control Plan 2013

4.2.1 General Principles of Development

4.2.1.1 Townscape (Local and Neighbourhood Centres)

We have formed the considered opinion that the development appropriately responds to the design principles contained at clause 3.1.3.1 of the Manly DCP as follows:

- The development has been designed through detailed site context analysis to provide through a contextually responsive building form maintaining appropriate amenity to adjoining properties and a high level of amenity to future occupants.
- The design has taken into consideration nearby heritage items, notably Whistler Street Substation. Pre-lodgement comments from Council Heritage Officer outline that the impact on the nearby heritage items is acceptable in this instance.
- The development has regard to the scale, proportion and line of visible facades with the highly articulated building form utilising a range of materials and colours to soften the built form.
- The floor levels proposed are consistent with those established by adjoining properties providing an appropriate built form relationship.
- The materials, textures and colours proposed will ensure a contextually appropriate presentation having regard to the sites immediate built form context and no significant impact on nearby heritage items.
- The scale and footprint of the development are entirely consistent with that established by adjoining development and mixed use development generally within the B2 Local Centre zone.
- The development will not give rise to any unacceptable shadowing impact on any adjacent open space areas and will not give rise to any adverse wind effects.
- The ground floor level of the premises is at footpath level.

- The retail frontage of the development occupies approximately 50% of the frontage of the site and provides for an appropriate streetscape presentation and street level activation.

Council can be satisfied that the development responds appropriately to the Design Principles contained that clause 3.1.3.1 of the Manly DCP

4.2.1.2 Landscaping

In accordance with the provisions of clause 3.3 of Manly DCP the application is accompanied by a landscape plan prepared by Wallman Partners Pty Limited. The landscape plan incorporates appropriate landscape plantings given the zoning of the land and constrained nature of the subject site with such plantings appropriately softening the edges of the development and enhancing the landscape quality of the site generally.

4.2.1.3 Amenity (Views, Overshadowing, Overlooking/ Privacy, Noise)

The development has been designed through detailed site analysis to ensure that appropriate privacy is maintained between adjoining development through building design and orientation, the appropriate use and placement of fenestration and the inclusion of fixed privacy screen treatments where necessary. The orientation of apartments to the front and rear of the site and use of integrated privacy attenuation measures ensure that no direct overlooking opportunities will exist within a 9 metre radius of adjacent living and/ or private open space areas. In this regard appropriate privacy and security will be maintained between adjoining development.

It has been determined that the proposed development will maintain at least two hours of solar access to the principal living rooms and adjacent private open space areas of the immediately adjoining southern residential apartment. Further, it has been determined that 100% of proposed apartments will receive a minimum of two hours of solar access between 8am and 4pm on 21st of June.

Further, Having inspected the site and its surrounds and viewed the development site from various elevated vantage points to the west of the property, we have formed the considered opinion that the portion of the building exceeding the height standard will not give rise to any adverse public or private view affectation.

4.2.1.4 Sustainability

The design provides for sustainable development, utilising passive solar design principles, thermal massing and achieves cross ventilation to a complying number of dwellings within the development.

A BASIX Certificate accompanies this application which confirms that the residential component of the development will exceed the NSW Government's requirements for sustainability.

4.2.1.5 Accessibility

Having regard to those provisions of the application is accompanied by an accessibility assessment report prepared by Accessibility Building Solutions. The report confirms that the applicable accessibility provisions have been achieved.

4.2.1.6 Stormwater Management

All stormwater will be collected and disposed of to the existing Council drainage infrastructure in Whistler Street as depicted on the concept drainage plan prepared by Burgess, Arnott & Grava Pty Limited.

4.2.1.7 Waste Management

The application is accompanied by a Waste Management Plan prepared by Senica Consulting Group. In this regard a waste storage room has been provided in the basement with a temporary collection holding bay located at street level adjacent to the car lift. The garbage storage facilities are conveniently accessed from the individual apartments and retail tenancy via the internalised lift and stairs.

4.2.1.8 Mechanical Plant Equipment

In accordance with these provisions all mechanical plant will be located within the basement area of the development. All mechanical plant will comply with the applicable environmental noise legislation with no objection raised to such requirement forming an appropriate condition of development consent.

4.2.2 Development in Business Centres

4.2.2.1 Setback Controls

Pursuant to clause 4.2.3 all buildings must be constructed to the public road and side boundaries of the allotment except where:

- a. An alternative setback is identified on the townscape and opportunities maps or having regard to establish building lines and whether they contribute positively to the streetscape; or*
- b. the applicant can demonstrate to the satisfaction of the Council that an alternative setback will not conflict with overall townscape objectives, reduced the general availability of retail frontage or remove whether protection for pedestrians; or*
- c. the stipulated setback would be undesirable in terms of the amenity of any residential uses existing on adjoining land or proposed for inclusion in the development. In such cases the planning principles on this plan for residential development at paragraph 3.1.1 will also apply.*

The stated objectives of this control are as follows;

- To ensure unobstructed access between the private and public domain;*
- to maintain the existing streetscape of building to the boundary.*

We confirm that the side and rear boundary setbacks have been designed through detailed site and contextual analysis and having regard to the spatial separation provisions of the Residential Flat Design Code (“RFDC”).

These issues are discussed in detail later in this report and as contained within the accompanying SEPP 65/ ADG design statement. The setbacks proposed do not adversely impact on the reasonable development potential of any adjoining property. It is important to note that all apartments and associated private open space areas have been orientated to the front and rear of the site to prevent direct overlooking opportunities between adjoining development.

The building is appropriately articulated and modulated with the architectural detailing and finishes proposed contributing to a visually stimulating, unique yet compatible urban design outcome. The development has been constructed to the street alignment to maintain the rhythm of development in the streetscape.

The consent authority can be satisfied that the setbacks proposed will not give rise to any inappropriate or jarring streetscape, urban design or residential amenity outcomes.

4.2.2.2 Car Parking , Vehicular Access and Loading Controls

The design, layout and quantum of parking proposed has been assessed in the traffic and parking report prepared by Transport and Traffic Planning Associates. The report contains the following conclusion:

Assessment of the proposed mixed use development at Manly has concluded that:

- *There will not be any adverse traffic / safety implications*
- *The proposed parking provision will be adequate and compliant with Council's code*
- *The proposed vehicle access, internal circulation and servicing arrangements will be suitable and appropriate.*

4.7 State Environmental Planning Policy No.55 – Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 7 of SEPP 55 requires Council to consider whether land is contaminated prior to granting consent to carrying out of any development on that land. In this regard, the likelihood of encountering contaminated soils on the subject site is extremely low given the following:

- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.

- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

Given the above factors no further investigation of land contamination is warranted at this time. The site is suitable in its present state for the proposed mixed use development. Therefore, pursuant to the provisions of SEPP 55, Council can consent to the carrying out of development on the land.

4.8 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of residential flat developments to provide sustainable housing in social and environmental terms that is a long-term asset to the community and presents a better built form within the streetscape.

It also aims to better provide for a range of residents, provide safety, amenity and satisfy ecologically sustainable development principles. In order to satisfy these aims the plan sets design principles in relation to context, scale, built form, density, resources, energy and water efficiency, landscaping, amenity, safety and security, social dimensions and aesthetics to improve the design quality of residential flat building in the State.

SEPP 65 applies to new residential flat buildings, the substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

Clause 3 of SEPP 65 defines a residential flat building as follows:

“Residential flat building means a building that comprises or includes:

- a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.”*

The proposed development involves the construction of a new residential flat building which will be 5 storeys in height and contain 8 residential apartments. As per the definition of a 'Residential Flat Building' and the provisions of Clause 4 outlining the application of the Policy, the provisions of SEPP 65 are applicable to the proposed development.

Clause 28(2)(b) SEPP 65 requires any development application for residential flat development to be assessed against the 9 design quality principles contained in Schedule 1. The proposal's compliance with the design quality principles is detailed in the SEPP 65 Architectural Design/ Verification Statement at ANNEXURE 2.

Pursuant to clause 28(2)(c) of SEPP 65 in determining a development application for consent to carry out residential flat development the consent authority is required to take into consideration the Apartment Design Guide. In this regard an Apartment Design Guide compliance table is attached at ANNEXURE 3.

4.9 State Environmental Planning Policy (Infrastructure) 2007

Clause 102 of the policy applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers it likely to be adversely affected by road noise or vibration:

- (a) a building for residential use,
- (b) place of public worship,
- (c) a hospital,
- (d) an educational establishment or child care centre.

If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building — 35 dBA at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) — 40 dBA at any time.

In this regard, the application is accompanied by an Acoustic Report prepared by Acoustic Logic which concludes:

This report presents an acoustic assessment of noise impacts associated with the development to be located at 21 Whistler Street, Manly.

Provided that the recommendations presented in Section 5.4 are adopted, internal noise levels for residential apartments & retail spaces of the proposed development will comply with the acoustic requirements of the following documents:

- Northern Beaches Council – Manly Development Control Plan 2013;
- Australian Standard AS 2107:2016 '*Recommended design sound levels and reverberation times for building interiors*'

External noise emissions criteria have been established in this report to satisfy the requirements from the following documents;

- Northern Beaches Council – Manly Development Control Plan 2013;
- NSW Department of Environment and Heritage, Environmental Protection Agency document – *Noise Policy for Industry* (NPI) 2017]

4.10 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (the SREP) is a deemed State Environmental Planning Policy that aims to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour is recognised, protected, enhanced and maintained.

The site is located within the Sydney Harbour Catchment area but it is not identified:

- (a) within the Foreshores and Waterways Area;
- (b) as a strategic foreshore site;
- (c) as a heritage item under the SREP;
- (d) within the wetlands protection area;

In this regard only Part 1 of the SREP is applicable to the proposed development. Part 1 identifies aims of the plan from (a) to (h). The aims set out in Part 1 of the SEPP have been considered and the application is consistent with such aims.

4.11 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15(1) of the Environmental Planning and Assessment Act 1979(as amended). Guidelines (*in italics*) to help identify the issues to be considered have been prepared by the Department of Urban Affairs and Planning. The relevant issues are:

The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations.

This report clearly and comprehensively addresses all relevant planning provisions of MLEP 2013 and the relevant provisions of the subordinate DCP. The development has also been found to be consistent with the design quality principles of SEPP 65 and the design guidelines of the Apartment Design Guide.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economical impacts in the locality.

Context and Setting

i) What is the relationship to the region and local context in terms of:

- ***the scenic qualities and features of the landscape?***
- ***the character and amenity of the locality and streetscape?***
- ***the scale, bulk, height, mass, form, character, density and design of development in the locality?***
- ***the previous and existing land uses and activities in the locality?***

The relationship of the development with its context and setting has been addressed in detail under 'State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development' in this report. In summary the proposed development is of a high architectural quality and will significantly improve the streetscape. The development provides an appropriate response to the form and character of the Manly Town Centre whilst ensuring that the development does not result in any significant impacts on the adjoining residential development in terms of loss of solar access, acoustic or visual privacy impacts. Further, this report demonstrates that the development will not give rise to any adverse impacts on the adjacent heritage items or their setting.

ii) What are the potential impacts on adjacent properties in terms of:

- ***relationship and compatibility of adjacent land uses?***

- ***sunlight access (overshadowing)?***
- ***visual and acoustic privacy?***
- ***views and vistas?***
- ***edge conditions such as boundary treatments and fencing?***

These matters have been discussed in detail throughout this report. In summary, the development will not result in any unreasonable loss of solar access to the adjoining residential properties nor will it result in any acoustic, privacy or visual privacy impacts that are beyond that which can reasonably be expected within a high density urban environment.

Access, transport and traffic

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- ***travel demand?***
- ***dependency on motor vehicles?***
- ***traffic generation and the capacity of the local and arterial road network?***
- ***public transport availability and use (including freight rail where relevant)?***
- ***conflicts within and between transport modes?***
- ***traffic management schemes?***
- ***vehicular parking spaces?***

The building is conveniently located within the Manly Town Centre and within short walking distance of the Manly Wharf bus terminus and ferry services. The immediate proximity to public transport will assist in minimising traffic generation and dependency on motor vehicles.

The development provides appropriately for car parking as detailed within section 4.2.4 of this report.

Public domain

The development will contribute positively to the public domain. The provision of a retail uses with frontage to Whistler Street will significantly improve the public domain interface of development on the site.

Utilities

Existing utility services will adequately service the development.

Flora and fauna

The site does not contain any significant flora or fauna.

Waste

Commercial and residential waste collection is required for the proposed development. In this regard appropriate provision has been made for the waste storage and collection.

Natural hazards

The site is not affected by any known hazards. The application is accompanied by a Geotechnical/ Acid Sulphate Soils Analysis report. This issue has been discussed in detail previously in this report.

Economic impact in the locality

The proposed development will generate temporary employment during construction. On-going employment will be provided by the business that occupies the non-residential tenancy and through the employment of building and strata managers for the building.

Site design and internal design***i) Is the development design sensitive to environmental conditions and site attributes including:***

- ***size, shape and design of allotments?***
- ***the proportion of site covered by buildings?***
- ***the position of buildings?***
- ***the size (bulk, height, mass), form, appearance and design of buildings?***
- ***the amount, location, design, use and management of private and communal open space?***
- ***landscaping?***

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the policy controls.

ii) How would the development affect the health and safety of the occupants in terms of:

- ***lighting, ventilation and insulation?***
- ***building fire risk – prevention and suppression/***
- ***building materials and finishes?***

- ***a common wall structure and design?***
- ***access and facilities for the disabled?***
- ***likely compliance with the Building Code of Australia?***

The building will comply with the provisions of the Building Code of Australia. The proposal complies with the relevant standards pertaining to health and safety.

Construction

i) What would be the impacts of construction activities in terms of:

- ***the environmental planning issues listed above?***
- ***site safety?***

Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

The suitability of the site for the development.

Does the proposal fit in the locality?

- ***are the constraints posed by adjacent developments prohibitive?***
- ***would development lead to unmanageable transport demands and are there adequate transport facilities in the area?***
- ***are utilities and services available to the site adequate for the development?***

The adjoining development does not impose any unusual or impossible development constraints. The site is well located with regard to public transport and utility services. The development will not cause excessive or unmanageable levels of transport demand.

Are the site attributes conducive to development?

The site being of moderate grade, adequate area, and having no special physical or engineering constraints is suitable for the proposed development.

Any submissions received in accordance with this Act or the regulations.

It is envisaged that council will take into consideration any submissions made in relation to the proposed development.

The public interest.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes contained within the adopted legislative framework. In this regard, the development is consistent with the objectives of the relevant planning provisions, despite variations to the numeric controls, and therefore the development is considered to be in the public interest.

The development is of a high quality architectural design that provides a positive contribution to the streetscape and is compatible with the form and character established by development within the centre. The development significantly improves the public domain interface of the site providing for active ground level uses. These outcomes are achieved without compromised the amenity of surrounding development for the heritage significance of the adjacent item. For these reasons the development is considered to be in the public interest.

5.0 CONCLUSION

The proposal is permissible and in conformity with the intent of the development standards contained within Manly Local Environmental Plan 2013 as they reasonably relate to this form of development on this particular site and the built form guidelines contained within Manly Development Control Plan 2013 as they relate to mixed use development within the Manly Town Centre. The proposal satisfies the design quality principles contained within SEPP 65 and the guidelines and associated objectives contained within the ADG.

The project architect has responded to the client brief to design a contextually responsive building of exceptional quality which takes advantage of the sites superior locational attributes whilst providing high levels of amenity for future occupants. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of this constrained infill site having regard to the height, proximity and orientation of adjoining residential and commercial development.

Particular attention has been given to ensuring that the development not only responds to its immediate built form context, and the form of development anticipated within the Manly Town Centre precinct, but importantly to ensure that appropriate residential amenity is maintained to the immediately adjoining residential apartments.

This submission will demonstrate that such outcomes have been achieved whilst providing for a highly articulated, modulated and visually stimulating building form which will provide diversity in housing choice within a precinct ideally suited to increased residential densities. Further, the complex solar access and privacy modelling undertaken ensures the resultant building form maintains appropriate levels of privacy and solar access to the adjoining residential properties, and between apartments within the development, and achieves acceptable residential amenity, streetscape and broader urban design outcomes.

Whilst the proposal requires the consent authority to give favourable consideration to variations to the building height and commercial floor space standards strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the attainment of an appropriate contextual fit and general paucity of streetscape, heritage and residential amenity impacts.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Environmental Planning and Assessment Act, 1979 as amended. It is my opinion that the application should be granted development consent subject to conditions.

Boston Blyth Fleming Pty Limited

A handwritten signature in black ink, appearing to read 'Greg Boston', is positioned above the printed name.

Greg Boston

B Urb & Reg Plan (UNE) MPIA

Director

ANNEXURE 1

Consolidation Attempt Documentation

Pavilion Residences No 3 Pty Ltd
Suite 202 349 Pacific Highway
North Sydney NSW 2060

Att: Greg Boston
Boston Blyth Fleming
1/9 Narabang Way, Belrose NSW 2085

20 September 2018

Dear Greg

RE: 21 Whistler Street Manly

Further to our telephone call and our meeting with Northern Beaches Council, I have set out below the details in relation to the work and time invested in trying to purchase adjoining properties. My comment at this meeting with Council that trying to buy any of the properties was like herding cats was to the point and reflected the reality of what occurred.

I have also attached a letter from the selling agent who put a lot of time in to try and help to buy adjoining properties as well.

I have had various phone calls and meetings with Mr Pat Pedulla who owns the properties behind and to the north.

My phone records show that, separate from meetings with him and the agent trying, I rang and texted Mr Pedulla on over 6 times.

On 11 April 2018, I rang Mr Pedulla and left a message for him.

I then rang again on 12 April and left a message again.

We then met for a coffee in Manly in the beginning of May and I advised him that we were interested in buying his property and would offer a premium to him to buy it. He said that he was not interested in selling and that he had informed the agent accordingly.

Mr Pedulla said that he had dual street access with the properties he owned and that he did not need to be involved with any other owners going forward for access or any other reason. I explained that we were experienced and respected developers and, amongst others, had carried out three previous projects in Manly and would also look to doing a joint venture. He made it very clear that he did not want to sell or joint venture.

I still wanted to try and purchase his property if possible and did not give up.

In the beginning of May, I met Andrew Parkinson from Ponton Valuation Services to determine a premium value for our offer to Mr Pedulla. Mr Parkinson specialises in site valuations, lives in Manly, specialises in the Northern and Beach suburbs and Pontons are on the approved panel of Valuers for sites and residential properties for all the major banks. Mr Parkinson advised me that we would be offering a premium price if we offered the same rate per square metre as paid for 21 Whistler Street. He advised that he could not value the property any higher and that it represented a premium price that Mr Pedulla would not better for a fair period into the future as he envisaged strong headwinds on prices, and reduced valuations going forward.

I then rang Mr Pedulla again on 23 May and asked him if he had reconsidered. He said no and that he would submit his own DA if he ever wanted to.

We met again at the beginning of June at our architects where I showed him our draft plans and said that his property behind would be mirror reverse and that we had designed our building to respect either purchasing his property or if he ever developed in the future. He again said he did not want to sell or joint venture and wanted to control his own life.

On 19 June, I rang Mr Pedulla and left a message to contact me in relation to an offer.

Pavilion Residences No 3 Pty Ltd
Suite 202 349 Pacific Highway
North Sydney NSW 2060

On 20 June I texted Mr Pedulla about catching up to discuss selling as I said it would be worthwhile to him.

On 25 June Mr Pedulla texted me and said he cannot meet me and told me to send him a message as to what I want to discuss with him.

Below is my last message to him.

26 June 2018

Hi Pat

After the architect and town planner advised us that there was little opportunity to get much extra fsr, I thought it was opportune for us to discuss our offer of the same rate per square metre as we paid for 21 plus a bonus for any extra FSR obtained.

The consensus with valuers and banks is that the present market is, at best, flat and most probably has a bit of downward pressure and there is little upward movement in prices for sites and finished product expected over the next couple of years with the possibility of downward pressure on prices. We believe it will stay flat in good areas.

It is interesting that we had one apartment left at Cammeray that we put on the market two months ago thru Ray White at a premium of 5%. We backed it with decent marketing and have not received an offer. The project will be completed in 9 months.

You said to me that you did not want to develop it yourself or have a joint venture that we are also interested in. Our track record and excellent, long standing reputation will help considerably if you are considering this.

Let me know what would be a good time to discuss over a coffee as I do not believe you will achieve a better offer than ours if you get a DA.

Regards

Ted

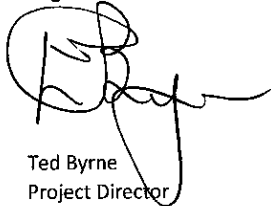
I have not received any reply from Mr Pedulla to this message or any response to my following phone call.

Mr Pedulla stated he had no interest in selling to us and it appeared to me that the contact with me by him was only based on finding out what we were doing. He was eager to discuss wanting extra FSR and we advised that we believed that there was little chance of achieving this. Our advice from you made this very clear and the advice at the meeting with Council also spelled this out.

We have carried out our due diligence and used best endeavours to try and purchase any adjoining properties and there has been zero interest in selling to us. We have offered a premium price for Mr Pedulla's property and he has not bothered to even respond. The owners to the south cannot be contacted, and will not respond, on any level.

Please contact me on 0488 880017 if you have any questions.

Regards



Ted Byrne
Project Director



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national**
REAL ESTATE | Manly Prestige

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E reception@manlyprestige.com.au
W manlyprestige.com.au

7th August 2018

Ted Byrne
Pavillion Residences No.3 Pty Ltd
Level 13- 100 Miller St
NORTH SYDNEY NSW 2060

Dear Mr Byrne

RE: 21 WHISTLER STREET PROPOSED DEVELOPMENT AND SURROUNDING PROPERTIES

Further to your request for us to make contact with the owners who are neighbours to your above mentioned property, I would like to inform you of our progress thus far, or lack of to be more precise. Listed here is an outline/timeline of our attempts to contact the owners and also the meetings that we did manage to have with one of them.

I was the agent in charge of the sale of 21 Whistler Street Manly. I have been an agent in Manly for over 30 years and my father before me and consequently know many of the owners of the properties.

We had two meetings with Mr Pat Pedulla, whom is the owner to both the rear and North of your property at 21 Whistler Street Manly. He attended our office both prior to you purchasing the property as a possible purchaser and also just after you purchased the property. He said he was not an interested party in relation to buying 21 Whistler Street. I also then met with him on the Plaza and had two other telephone conversations with him over a period of approximately 4 months.

Pat made it very clear to me that he was not interested in selling his property and had no interest to collaborate with the buyer of 21 Whistler but was open to meet with the new buyer as a neighbour. On our second meeting he said he would talk to you and it was then that I arranged for you to make contact with Pat directly to set up a meeting, given approval to pass his number on to you directly. Pat did not want me to attend and was then quite abrupt at that point in relation to any further discussions with me.

After that I left all communication between yourself and Pat, so as not to upset him as he said he wanted no more communications from me. I understand you consequently met him and offered to buy his property at a premium price and that he again said he had no interest in selling and that he has not replied to your last message you sent him.

In relation to the property that directly abuts 21 Whistler to the South; the address is actually known as 33 Belgrave street, Manly. We have been attempting to contact the owners through the company that is listed as owning the property, however to no avail. We have knocked on doors to ask tenants, we have emailed and called the company in question "Betalpha Pty Ltd" which is a subsidiary of White Haven Coal Limited and Creek Resources Pty Ltd. I left messages at reception and we have only been met with no returned calls or emails and we are yet to make contact with the owners or Directors of the companies as they will not respond to our messages. They obviously have no interest in selling.

1

Roy Ross Pty Ltd trading as First National Manly Prestige
ABN 78 000 536 292



**first
national**
REAL ESTATE

| Manly Prestige

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Manly, NSW 2095
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W manlyprestige.com.au

It is understandable as it seems that their property has been built out to its boundaries and renovated somewhat and I would doubt they would gain any financial benefit in selling to you even if we were to make contact with them. It is fully leased with businesses and in excellent condition. We will continue to try and make contact however, on your behalf.

Should you require any further assistance, please do not hesitate to contact me.

Kind Regards

A handwritten signature in black ink, appearing to read 'Alicia Ryan'.

Alicia Ryan

PRINCIPAL

Licensee-in-charge

FIRST NATIONAL REAL ESTATE MANLY PRESTIGE

ANNEXURE 2

Architect Design Verification Statement

WOLSKI ■ COPPIN
A R C H I T E C T U R E

David P Wolski B Arch (Hons) MUDD (UNSW)
ARAILA NSW ARB No. 5297
Greg Coppin B Arch (Hons)

DESIGN VERIFICATION STATEMENT

SHOP TOP HOUSING DEVELOPMENT

Project Address:

21 Whistler Street
Manly NSW 2095

25th September, 2018

That I David Wolski, registered Architect No. 5297, Director of Wolski Coppin Architecture verify that I have directed the design of the above project and that the design principles set out in the Apartment Design Guide, State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development and the design principles as set out in Schedule 1 are achieved for the residential flat building at the above address.



David Wolski
Wolski Coppin Architecture

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Trading as Wolski Coppin Architecture

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David P Wolski B Arch (Hons) MUDD (UNSW)
ARAIA NSW ARB No. 5297
Greg Coppin B Arch (Hons)

Project No. 21806
21 Whistler St Manly

ARCHITECTURAL DESIGN STATEMENT

PRINCIPLES

The proposed building forms have been dictated by:

- Siting the proposed building to reinforce the active street frontage of Whistler St.
- The location of the development within a mixed use zone and the narrow thoroughfare of Whistler St.
- The position of North relative to the boundaries.
- Increased setbacks give deliberate consideration to the adjacent residential developments at the rear boundary.
- The siting of neighbouring dwellings and their open spaces.
- The isolation of site access to Whistler St along with the shallow nature of the site, and the resultant car lift proposal to accommodate council parking requirements.
- The obvious positions for the vehicular and pedestrian entries to minimise traffic congestion
- The relatively flat character of the site.

CONTEXT

- The site falls within the Manly Town Centre, identified as a vigorous and pedestrian friendly shopping area with a high level of amenity and street level activity.
- The building has been positioned in context to likely high density future development for adjoining sites to the North, South and West.
- The building is designed around the premise of a mixed use development with active street frontage to the Whistler St thoroughfare and residential at the upper levels.

SCALE

- The building is aligned with the street wall along Whistler St to complement the existing street condition and further enhance the active street frontage.
- The proposed design aims to maintain definition of the Whistler St corridor and further enhance activation of the area.
- Due to the zero setback nature of the site, vertical design elements are incorporated to reduce visual bulk and create an appearance similar to traditional shops. Parapet heights at level 4 and upper level setbacks reduces the visual impact along the Whistler St frontage.

BUILT FORM

- Articulation of the facades and the breaks between the buildings give the scale a much more sympathetic character, adding to the desired finer grain aesthetics.

- 2 -
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- The building defines the public domain with a zero setback active street frontage and apparent smaller bulk at the rear due to increased setback and separation between adjoining residential neighbours.
- The entry is expressed as a recess in the façade to break up its length and accentuate the entry position.
- Vehicular entry has been provided off Whistler St, and a waiting bay area has been incorporated into the existing vehicle crossover areas adjacent to the proposed site, alleviating congestion through this narrow corridor.

DENSITY

- The proposed density and FSR is appropriate to future development projections as outlined in the land zoning class for the area.
- This transition is expressed by increasing existing single dwelling houses into high density residential developments.
- With employment opportunities at the retail component and being located within an urban town centre, the proposed development will benefit from good access to services, transport and roads - and convenient access to the city.

RESOURCE, ENERGY & WATER EFFICIENCY

- The building unit layouts are driven by providing as many as possible with good access to sunlight facing East, and voids introduced to maximise sunlight available to the western facade.
- The landscaped areas at the rear of the development provides opportunity for passive recreational activities as well as water re-use.

LANDSCAPE

The landscape design principles increase neighbour and occupant amenity by:

- The increased opportunities for screen planting along the rear Western boundary.
- Planter boxes along the level 1 foyer boundary and their augmentation with additional species, acting as a buffer to adjoining neighbours for added privacy.
- Provision of courtyards for the recreational leisure of the occupants at first floor.
- Rear garden settings form a common open space for dwelling residents & commercial tenants whilst providing a landscape buffer zone between the proposed building and the adjoining neighbours at the rear of the property.

AMENITY

- Units are flat plate ensuring as many people, infirm or handicapped have access to as many unit types as possible.
- With one central lift core and open-ended corridors natural ventilation and light has been enhanced, creating improved amenity for the development.
- Due to the narrow east-west site orientation and mixed use zoning of the area with allowance for zero setbacks, only 2 units per level are provided to allow for comfortable unit layout sizes and required solar penetration.
- Natural ventilation is maximised as the units are front to back.
- Overlooking is controlled through recessed balconies, privacy screens and planting
- Storage is designed into both the units and the car park spaces.
- Indoor and outdoor spaces are connected and provide a variety of recreation and living opportunities.

- 3 -
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- Lift and stairs and their access to each dwelling have been minimised to reduce waste and ensure building energy efficiencies.

SAFETY & SECURITY

- Access to the development is clear with a focal entry and a hierarchy of access points to other foyers.
- Access to private and public entries is clearly defined with vertical separation and creates a seamless transition to the public interface.
- Access to the residential portion of the site is minimised through the use of secure, separate entries.
- All apartments have secure parking - 1 lift core enables direct access from private vehicles to all apartment entry lobbies through the use of a security access card.
- Public toilets will be provided at ground level with confirmation of shop fitouts. Fire escapes exit to the street frontage of the site, with minimal recesses to provide security for pedestrians.

SOCIAL DIMENSION

- Variety of lifestyles, affordability and access to social facilities are addressed by
 - Efficient design of car park and lift and stair access help to facilitate ease of manoeuvrability through the development.
 - Provision of useable indoor and outdoor private and communal open spaces provide for social interaction.
 - Proximity to a myriad of public open spaces, cafes, bars, restaurants etc.

AESTHETICS

- The colour of external cladding, rendered masonry, fenestration of windows and privacy screening have all been carefully considered to complement the existing character of the area and the existing heritage item, while also providing long lasting protection against the elements.
- Building elements are modulated and in plan expressed vertically to break the building into smaller elements that can be further separated by planting to reduce the apparent bulk and scale.
- Balconies have been integrated into the architectural form and detail of the proposed design, using operable louvre screens for sun, noise and privacy control. Downpipes and drainage are placed out of view, internal of the building facade.
- The architectural composition has a language that identifies dwelling location and the function of each part whilst locating masses and elements to reduce the apparent bulk and ensure a transition to neighbouring buildings. The street wall forms a unique focal element within the development. An awning along Whistler St is provided to follow the established streetscape pattern.
- Service rooms such as substations, pump rooms and garbage storage have been located out of view in the basement car park.

ANNEXURE 3

Apartment Design Guide Compliance Table

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21 WHISTLER ST MANLY – MIXED USE DEVELOPMENT

DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
Part 4 – Siting the Development				
Site Analysis	Objective 3A-1 Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.		The site survey included with this submission, and the site analysis contained within the architectural plans addresses the potential opportunities and constraints of the site. The Statement of Environmental Effects (SoEE) also documents the site location and local context in relation to surrounding development.	YES
Orientation	Objective 3B-1 Building types and layouts respond to the streetscape and site while optimising solar access within the development.		The building layout has been designed to face Whistler St and potential water views to the northeast. The site's eastern orientation limits the extent of building achieving a good northern aspect while responding consistently with the existing street scape. Careful façade modulation which includes having both the living rooms to the easterly street façade enable solar access compliance to be achieved	YES
	Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid winter.		Creation of the rear courtyards allows a shaft of sun to move over the sites to the south. Shadow diagrams contained within the architectural plans demonstrate that there are no unreasonable shadow impacts on neighbouring properties.	YES
Public Domain Interface	Objective 3C-1 Transition between private and public domain is achieved without compromising safety and security.		Ground floor retail and commercial use facilitates activate frontages to Whistler St. Living areas and balconies have been orientated towards the public domain to facilitate a safe and secure transition between the private and public spaces. The glass awning allows visibility from apartments above to the entry to the residential lobby contributing to	YES

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
			passive surveillance.	
	Objective 3C-2 Amenity of the public domain is retained and enhanced.		A new street awning is proposed with varying materials to accentuate the access points of the site and provide weather protection to passing pedestrians and patrons of the proposed retail / commercial spaces.	YES
Communal and Public Open Space	Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.	1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3 of ADG).	There are two small communal courtyards at the rear of the site. The site within 200metres of Manly Beach ,150metres to Manly Oval, 200metres to Belgrave St Park ,90 metres to the Sydney Rd Plaza and 60metres to Short St Plaza The area has manly cafes , bars and restaurants within easy walking distance of the site.	VARIATION +
		2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid winter).	The northern courtyard achieves compliance with the solar access requirements	VARIATION
	Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.		The landscape Architect's scheme provides a landscaped environment	YES
	Objective 3D-3 Communal open space is designed to maximise safety.		The proposed areas of communal open space are on the first floor.	YES
	Objective 3D-4 Public open space, where provided, is response to the		Public open space is not included as part of the proposed	N/A

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE																							
	existing pattern and uses of the neighbourhood.		development.																								
Deep Soil Zones	Objective 3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.	Deep soil zones are to meet the following minimum requirements: <table><tr><th>SITE AREA</th><th>MINIMUM DIMENSIONS</th><th>DEEP SOIL ZONE (% OF SITE AREA)</th></tr><tr><td>Less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m²– 1500m²</td><td>3m</td></tr><tr><td>Greater than 1500m²</td><td>6m</td></tr><tr><td>Greater than 1500m² with significant tree cover</td><td>6m</td></tr></table>	SITE AREA	MINIMUM DIMENSIONS	DEEP SOIL ZONE (% OF SITE AREA)	Less than 650m ²	-	7%	650m ² – 1500m ²	3m	Greater than 1500m ²	6m	Greater than 1500m ² with significant tree cover	6m	.	N/A											
SITE AREA	MINIMUM DIMENSIONS	DEEP SOIL ZONE (% OF SITE AREA)																									
Less than 650m ²	-	7%																									
650m ² – 1500m ²	3m																										
Greater than 1500m ²	6m																										
Greater than 1500m ² with significant tree cover	6m																										
Visual Privacy	Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table><tr><th>BUILDING HEIGHT</th><th>HABITABLE ROOMS AND BALCONIES</th><th>NON-HABITABLE ROOMS</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr></table>	BUILDING HEIGHT	HABITABLE ROOMS AND BALCONIES	NON-HABITABLE ROOMS	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	The separation distances from the rear boundary is summarised as follows: <table><tr><th rowspan="2">BUILDING HEIGHT</th><th colspan="2">HABITABLE ROOMS AND BALCONIES</th></tr><tr><th>West (Side)</th><th>North/South (Side)</th></tr><tr><td>Ground</td><td>Zero</td><td>Zero</td></tr><tr><td>1-4 Storeys</td><td>5.9 m</td><td>Zero</td></tr><tr><td></td><td></td><td></td></tr></table> The existing non-compliant rear setback of the neighbouring	BUILDING HEIGHT	HABITABLE ROOMS AND BALCONIES		West (Side)	North/South (Side)	Ground	Zero	Zero	1-4 Storeys	5.9 m	Zero				YES
BUILDING HEIGHT	HABITABLE ROOMS AND BALCONIES	NON-HABITABLE ROOMS																									
Up to 12m (4 storeys)	6m	3m																									
Up to 25m (5-8 storeys)	9m	4.5m																									
BUILDING HEIGHT	HABITABLE ROOMS AND BALCONIES																										
	West (Side)	North/South (Side)																									
Ground	Zero	Zero																									
1-4 Storeys	5.9 m	Zero																									

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21 WHISTLER ST MANLY – MIXED USE DEVELOPMENT

DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
		<div>Over 25m (9+ storeys) 12m 6m</div> <p>Note: Separation distances between buildings on the same site should combine required building separations depending in the type of room.</p>	<p>buildings create a challenge for building separation</p> <p>Levels 1 to Level 4 of the proposed development have a 5.9 m setback to the window line. Privacy screen have been incorporated at windows to mitigate the impact of the non-compliance of the neighbouring building. Substantial planters have also been incorporated in the Level 1 setback zone to address the adjacent building's setback non-compliance.</p>	
	Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air, and balance outlook and views from habitable rooms and private open space.		Privacy screens have been incorporated to the Whistler St Facade have been incorporated in order to maintain daylight and air to the rooms while ensuring privacy between neighbours.	YES
Pedestrian Access and Entries	Objective 3G-1 Building entries and pedestrian access connects to and addresses the public domain.		The residential building entry and pedestrian access is provided from Whistler St. The residential entry is accentuated by alternative awning levels and materials.	YES
	Objective 3G-2 Access, entries and pathways are accessible and easy to identify.		Building access areas, entries are clearly visible from the public domain. The ground floor has been designed to minimise level changes along pathways and entries and circulation are in accord with the Access Consultants requirements.	YES
	Objective 3G-3 Large sites provide pedestrian links to access to streets and connection to destinations.			NA
Vehicle Access	Objective 3H-1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high		TTPA have prepared a traffic impact assessment which indicates how vehicle and pedestrian conflict is minimised.	YES

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
	quality streetscapes.		<p>The preferred vehicle access to the site is to be located adjacent to 33 Belgrave St which runs through to Whistler St</p> <p>A single vehicle access point is proposed at this location to achieve safety and to minimise conflicts between vehicles entering the site and patrons /residents on the footpath.</p>	
Bicycle and Car Parking	Objective 3J-1 Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan area; or On land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> 	Car parking has been provided as per the requirements of the Manly DCP.	YES
	Objective 3J-2 Parking and facilities are provided for other modes of transport.		Undercover bicycle parking has been provided on site.	YES
	Objective 3J-3 Car park design and access is safe and secure.		The carpark design is in accord with relevant standards.	YES

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	Objective 3J-4 Visual and environmental impacts of underground car parking are minimised.		Access to storage for the adaptable apartments has been considered and provided in a level area away from the aisle of traffic / adjacent to a 'shared area'.	
	Objective 3J-5 Visual and environmental impacts of on-grade car parking are minimised.		On-grade parking and above ground parking are not included as part of the proposed development.	
	Objective 3J-6 Visual and environmental impacts of above ground enclosed car parking are minimised.			
Part 4 – Designing the Building				
Solar and Daylight Access	Objective 4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.	1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum 2 hours direct sunlight between 9am and 3pm at mid- winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.	All open plan living / dining rooms of apartments receive a minimum of 2 hours solar access between 9am and 3pm on 21 June (at mid - winter). This equates to a total of 100% of apartments which achieves solar access compliance. Refer to Solar Access Report	YES
		3. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.	All Apartments receive sunlight	YES
	Objective 4A-2 Daylight access is maximised where sunlight is limited.			N/A
	Objective 4A-3 Design incorporates shading and glare control, particular for warmer months.		A BASIX Certificate included with this submission identifies that the proposed development achieves the required thermal comfort levels for a development of this scale. Proposed materials and finishes which incorporate shading and glare control measures are included within the	YES

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			architectural documentation. These include external louvres and awnings, for example.							
Natural Ventilation	Objective 4B-1 All habitable rooms are naturally ventilated.		The site analysis contained within the architectural plans illustrates that prevailing winds originate from the north east. All habitable rooms have access to natural ventilation.	YES						
	Objective 4B-2 The layout and design of single aspect apartments maximises natural ventilation.		All apartments are cross ventilated	YES						
	Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	All apartments are cross ventilated	YES						
		2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.		NA						
Ceiling Heights	Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access.	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th colspan="2">MINIMUM CEILING HEIGHT FOR APARTMENT AND MIXED USE BUILDINGS</th></tr><tr><td>Habitable Rooms</td><td>2.7m</td></tr><tr><td>Non-Habitable</td><td>2.4m</td></tr></table>	MINIMUM CEILING HEIGHT FOR APARTMENT AND MIXED USE BUILDINGS		Habitable Rooms	2.7m	Non-Habitable	2.4m	Measured from finished floor level to finished ceiling level, the proposed floor to ceiling heights are summarised below: <ul style="list-style-type: none">Ground (Military Road): 3.3 -3.6mTypical residential levels: 2.4 - 2.7mLevel 4 (fifth floor): 2.4 - 2.7m	
MINIMUM CEILING HEIGHT FOR APARTMENT AND MIXED USE BUILDINGS										
Habitable Rooms	2.7m									
Non-Habitable	2.4m									

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE										
		<table><tr><td>For 2 Storey Apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic Spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed use areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table> <p>These minimums do not preclude higher ceilings if desired.</p>	For 2 Storey Apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic Spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use	Given the extent of commercial uses proposed, it is considered unnecessary to require Level 1 to be provided with floor to ceiling heights of 3.3m, particularly as it is highly unlikely that Level 1 would be converted to commercial uses following strata titling of the building as the site is located away from the core business strips of Manly					
For 2 Storey Apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic Spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use													
	Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well proportioned rooms.		All residential apartments have a minimum ceiling height of 2.7m in habitable rooms and apartment layouts have been designed to provide spacious, well-proportioned rooms.	YES										
	Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building.		Ground floor ceiling heights of min. 3.3m allow for future flexibility of use of the Whistler St retail tenancy.	YES										
Apartment Size and Layout	Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.	<p>1. Apartments are required to have the following minimum internal areas:</p> <table><tr><th>APARTMENT TYPES</th><th>MINIMUM INTERNAL AREA</th></tr><tr><td>Studio</td><td>35m³</td></tr><tr><td>1 bedroom</td><td>50m³</td></tr><tr><td>2 bedroom</td><td>70m³</td></tr><tr><td>3 bedroom</td><td>90m³</td></tr></table> <p>The minimum internal areas include only one</p>	APARTMENT TYPES	MINIMUM INTERNAL AREA	Studio	35m³	1 bedroom	50m³	2 bedroom	70m³	3 bedroom	90m³	Apartment areas are noted on the floor plans. All apartments comply with minimum area requirements	YES
APARTMENT TYPES	MINIMUM INTERNAL AREA													
Studio	35m³													
1 bedroom	50m³													
2 bedroom	70m³													
3 bedroom	90m³													

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		<p>bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>		
		2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have a window to an external wall with a total minimum glass area greater than 10% of the floor area of the room	YES
	Objective 4D-2 Environmental performance of the apartment is maximised.	1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 6.75m. The scheme proposes single aspect apartments that are 6.75m or less to the rear of the kitchen from the nearest external opening.	YES
		2.		
		3. In open plan layouts (where the living, dining and kitchen are combined), the maximum habitable room depth is 8m from a window.	All units comply with this design criterion.	YES
	Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs.	1. Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	All units comply with this design criterion.	YES
		2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All units comply with this design criterion.	YES
		3. Living rooms or combined living/dining rooms have a minimum width of:	All units comply with this design criterion.	YES

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		<ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments.																	
		4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.		NA															
Private Open Space and Balconies	Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity.	1. All apartments are required to have primary balconies as follows: <table><tr><th>DWELLING TYPE</th><th>MINIMUM AREA</th><th>MINIMUM DEPTH</th></tr><tr><td>Studio</td><td>4m³</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m³</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m³</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m³</td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	DWELLING TYPE	MINIMUM AREA	MINIMUM DEPTH	Studio	4m ³	-	1 bedroom	8m ³	2m	2 bedroom	10m ³	2m	3+ bedroom	12m ³	2.4m	All apartments comply with the minimum numeric requirements, with Level 1 apartments exceeding the minimum.	YES
		DWELLING TYPE	MINIMUM AREA	MINIMUM DEPTH															
	Studio	4m ³	-																
1 bedroom	8m ³	2m																	
2 bedroom	10m ³	2m																	
3+ bedroom	12m ³	2.4m																	
2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	No ground floor apartments are proposed.	YES																	
	Objective 4E-2 Primary private open space and balconies are appropriately		Private open space is directly accessible from the living	YES															

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE	
	located to enhance liveability for residents.		area of each dwelling.		
	Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.		The balconies are integrated into the overall design development and form part of the detail of the building.	YES	
	Objective 4E-4 Private open space and balcony design maximises safety.		All balconies comprise balustrades of 1.0m in height to ensure safety is maintained and have sun-shading elements to protect from summer sun where required		
Common Circulation and Spaces	Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments.	1. The maximum number of apartments off a circulation core on a single level is 8.	The lobbies are naturally ventilated and lit. Proposed development complies with this design criterion.	YES	
		2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.			
		Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between residents.		The proposal incorporates a single foyer on the ground floor. This provides opportunities for residents to interact. This is a separate entry from the proposed retails spaces. Retail patrons and staff do not need to enter the residential foyer.	YES
Storage	Objective 4G-1 Adequate, well designed storage is provided in each apartment.	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:		The proposal provides for storage within the apartments and the basement levels. In most instances, the storage area exceeds the minimum design criteria. Storage is indicated with an 's' on the plans and is a flexible space that can be used as a study area or as a cupboard.	YES
		DWELLING TYPE	STORAGE SIZE VOLUME		
		Studio	4m³		
		1 bedroom	6m³		

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21 WHISTLER ST MANLY – MIXED USE DEVELOPMENT

DESCRIPTION	OBJECTIVE	DESIGN CRITERIA		PROPOSED	COMPLIANCE
		2 bedroom	8m ³		
		3+ bedroom	10m ³		
	Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments.			Storage is primarily provided within each apartment. Additional storage for some units is provided within the basement.	YES
Acoustic Privacy	Objective 4H-1 Noise transfer is minimised through the siting of buildings and building layout.			An Acoustic Impact Report included with the submitted documentation considers the acoustic amenity of the proposed development and impact on surrounding development. Particularly with regard to apartments fronting Military Road, acoustic impacts from traffic noise have been addressed through balcony design and the provision of window glazing treatments.	YES
	Objective 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments.				
Noise and Pollution	Objective 4J-1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.				
	Objective 4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.			The proposal will comply with all relevant Australian Standards relating noise transmission and the recommendations in the Acoustic Impact Report.	YES
Apartment Mix	Objective 4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future.			The proposed development includes a range of apartment types and sizes to strengthen the diversity of residential accommodation in this local context. The development has also considered housing affordability given the site's location and close proximity to public transport. The built-up, urban locality is a less desirable address for typical family households and this has been considered in the types and sizes of apartments provided. The development proposes the following apartment mix:	YES
	Objective 4K-2 The apartment mix is distributed to suitable locations within the building.				

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
			<ul style="list-style-type: none"> 1 bedroom x 0 – 0% 2 bedroom x 8 – 100% 3 bedroom x 0 – 0% <p>A total of 8apartments are provided, of which 2 are nominated as adaptable</p>	
Ground Floor Apartments	Objective 4L-1 Street frontage activity is maximised where ground floor apartments are located.		The ground floor comprises 2 commercial/retail tenancies. Residential apartments are not proposed on the ground levels. Therefore, this objective is not relevant to the proposed development.	N/A
	Objective 4L-2 Design of ground floor apartments delivers amenity and safety for residents.			
Facades	Objective 4M-1 Building facades provide visual interest along the street while respecting the character of the local area.		<p>Proposed building façades are articulated and modulated through the use of balconies, varying windows, horizontal glass louvres, sliding screens, awnings and recessed elements.</p> <p>The building is within the visual curtilage of a Heritage item and the choose of materials and fenestration compliments the Item Refer Heritage architects Report</p>	YES
	Objective 4M-2 Building functions are expressed by the façade.			
Roof Design	Objective 4N-1 Roof treatments are integrated into the building design and positively respond to the street.		As demonstrated in the elevation drawings and photomontage a flat roof treatment is proposed, which assists in mitigating building bulk and overshadowing.	YES

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	Objective 4N-2 Opportunities to use roof space for residential accommodation and open space are maximised.		Roof space is not accessible as Communal Open Space due to the numerous opportunities surrounding the site for active and passive activities.	N/A
	Objective 4N-3 Roof design incorporates sustainability features.		The proposal complies with requirements of BASIX and will include the required thermal insulation techniques. The roof space is used as a Detention Tank	YES
Landscape Design	Objective 4O-1 Landscape design is viable and sustainable.		The Landscaping at Level 1 affords screening and visual delight to residents and neighbours	YES
	Objective 4O-2 Landscape design contributes to the streetscape and amenity.			
Planting on Structures	Objective 4P-1 Appropriate soil profiles are provided.			
	Objective 4P-2 Plant growth is optimised with appropriate selection and maintenance.			
	Objective 4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces.			
Universal	Objective 4Q-1 Universal design features are included in apartment design		Two apartments are adaptable, A Disability Access Report	YES

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21 WHISTLER ST MANLY – MIXED USE DEVELOPMENT

DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
Design		to promote flexible housing for all community members.	is included with the submitted documentation.	
	Objective 4Q-2	A variety of apartments with adaptable designs are provided.	The Disability Access Report demonstrates compliance.	YES
	Objective 4Q-3	Apartment layouts are flexible and accommodate a range of lifestyle needs.	All apartments are generously sized to maximise amenity and allow future flexibility for reconfiguration or adaptability.	YES
Adaptive Reuse	Objective 4R-1	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	The development does not propose new additions or adaptations to an existing building. Therefore, this objective is not relevant to the proposed development.	N/A
	Objective 4R-2	Adapted buildings provide residential amenity while not precluding future adaptive reuse.		
Mixed Use	Objective 4S-1	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.	The site is considered suitable for the proposed mixed use development due to its prominent location on Whistler St and close proximity to public transport, ferries and regular bus routes. The proposed development aims to positively contribute to the public domain by providing an active retail tenancies on the ground level at the Whistler St frontage .	YES
	Objective 4S-2	Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.	Residential entry and circulation areas are clearly defined and directly accessible from Whistler St. Residential apartments have been integrated into the development.	YES
Awnings and Signage	Objective 4T-1	Awnings are well located and complement and integrate with the building design.	Steel and glass pedestrian weather canopies with lights are proposed along the entries to both the Whistler St. This is designed to address the amenity of the public domain and ensure pedestrian safety. Signage has been integrated into the building design and addresses the primary street frontage of . Whistler St	YES
	Objective 4T-2	Signage responds to the context and desired streetscape character.		

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Energy Efficiency	Objective 4U-1 Development incorporates passive environmental design.		The BASIX Certificate included with the submitted documentation identifies that the proposed development achieves the required levels of thermal comfort for a development of this scale. The site's orientation and location on Whistler St. incorporates aspects of passive environmental and energy efficient design.	YES
	Objective 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.		Refer to the included BASIX Certificate, which addresses the provision of heating and cooling infrastructure within the proposed development. Awnings and adjustable screens are also proposed as passive solar design solutions.	YES
	Objective 4U-3 Adequate natural ventilation minimises the need for mechanical ventilation.		A total of 100% of apartments achieve cross ventilation. All apartments have access to natural ventilation, given operable windows and doors are provided to external elevations.	YES
Water Management and Conservation	Objective 4V-1 Potable water use is minimised.		Potable water use will be minimised where possible. The included BASIX Certificate identifies that the proposed development achieves compliance with water efficiency requirements.	YES
	Objective 4V-2 Urban stormwater is treated on site before being discharged to receiving waters.		A Stormwater Management Plan included with the submitted documentation illustrates that an on-site detention tank will be provided on the roof and will discharge to an existing stormwater connection.	YES
	Objective 4V-3 Flood management systems are integrated into site design.			
Waste Management	Objective 4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.		A Site Waste Management Plan is included with the submitted documentation and outlines waste avoidance,	YES

16

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			<p>minimisation and management strategies intended to be implemented as part of the mixed use development.</p> <p>The included architectural plans illustrate that waste storage areas have been separated from retail/commercial storage areas on the ground floor, in locations that are convenient and easily accessible.</p>	
	Objective 4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling.			
Building Maintenance	Objective 4X-1 Building design detail provides protection from weathering.		The design incorporates recessed balconies, eave overhang, expressed window heads and skillion roofs. Features which direct water away from the building proper minimising the risk of weather damage over time.	YES
	Objective 4X-2 Systems and access enable ease of maintenance.		All plant equipment is accessible, being located in the basement levels. Meters are provided on each level, which are readily accessible.	YES
	Objective 4X-3 Material selection reduces ongoing maintenance costs.		Materials selected are robust and long lasting with a preference for an applied external finish and or cladding onto a masonry structure. Windows and screens are powder coated aluminium.	YES