

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0512
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Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot CP SP 12989, 19 - 23 The Corso MANLY NSW 2095
Proposed Development:	Alterations and Additions to an existing Shop Top Housing Development
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Proprietors of Strata Plan 12989
Applicant:	Hilrok Properties Pty Ltd

Application Lodged:	23/05/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	01/06/2019 to 15/06/2019
Advertised:	01/06/2019
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 48-60% 4.4 Floor space ratio: 7.3%
Recommendation:	Approval

Estimated Cost of Works:	\$ 4,793,973.00
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EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of Development Application DA2019/0512 for alterations and additions to an existing shop top housing development at 19-23 The Corso, Manly. As the proposal is four storeys in height and is subject to the *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* and seeks variations to development standards of greater than 10%, the application is referred to the Northern Beaches Local Planning Panel (NBLPP) for review and determination.

The proposed development is not compliant with the height of building and floor space ratio development standards of the MLEP 2013, with Schedule 3 Parking and Access of the MDCP 2013, and with several clauses of the Apartment Design Guide (ADG), though these elements are directly

resulting from the existing building, which is largely retained. The height of building variation results from an extension of the existing upper storey towards Market Lane. The floor space ratio variation also results from the extension of the existing upper storey to accommodate the new unit. These non-compliances are minor in nature, and are supported on merit. The proposed development is otherwise compliant with applicable planning controls. The proposed development received no submissions.

Based on the detailed assessment contained in this report, it is recommended that the application be **approved**.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the existing shop top housing development, including:

- Reconfiguration of the existing ground floor;
- Alteration to first, second and third floor residential units;
- Construction of one additional third floor residential unit with terrace;
- Reconfiguration of services and circulation (stairs and lift);
- Changes to windows and doors on The Corso and Market Lane frontages; and
- New roof.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.2 Heritage Considerations

Manly Development Control Plan - 4.2.1 FSR (Consideration of Exceptions including Arcades)

Manly Development Control Plan - 4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)

Manly Development Control Plan - 4.2.4 Car parking, Vehicular Access and Loading Controls for all

LEP Business Zones including B6 Enterprise Corridor
Manly Development Control Plan - 4.2.5.4 Car Parking and Access

SITE DESCRIPTION

Property Description:	Lot CP SP 12989 , 19 - 23 The Corso MANLY NSW 2095
Detailed Site Description:	<p>The Assessing Officer carried out a site visit on 17 July 2019.</p> <p>The subject site consists of one (1) allotment located on the north-western side of The Corso, Manly.</p> <p>The site is regular in shape with frontages of 16.835m along The Corso and 16.76m along Market Lane, and a depth of 31.2m. The site has an area of approximately 524m².</p> <p>The site is located within the B2 Local Centre zone and accommodates shop top housing development and a pub. The subject site forms part of heritage-listed Item 106 Group of Commercial Buildings, and is within the Town Centre Conservation Area.</p> <p>The site is level and does not contain vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by mixed use and commercial premises.</p>

Map:



SITE HISTORY

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

- Pre-lodgement Meeting PLM2018/0134 was held on 26 June 2018 to discuss Alterations and Additions to existing building.
- DA2019/0574 for Change of use to a pub, alterations and additions to the premises, fitout and signage was approved on 3 October 2019 under staff delegation.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been</p>

Section 4.15 Matters for Consideration'	Comments
	<p>addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions have been received in relation to this application.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>Significant alterations and additions to the existing building have been assessed acoustically by Acoustic Logic in their report dated 30.4.2019 Project 20190376.1. The main issue being noise from many external sources to occupiers. Design recommendations have been made but mechanical ventilation and other site generated noise needs to be assessed following equipment selection. Noise and vibration from the lift is not mentioned but can be conditioned.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
NECC (Development Engineering)	<p>Development Engineering has no objection to the application subject to the following conditions of consent.</p>
Strategic and Place Planning (Heritage Officer)	<p>It is somewhat unclear what exactly is the proposal, as the submitted plans and elevations are marked "preliminary" and dated "05/09/2019" (sic!).</p> <p>In any case, further to review of the available documents: The subject site is a heritage item, being part of the group of The Corso buildings, collectively listed as one item, and it is in the town Centre conservation area. The site is well visible from:</p> <ul style="list-style-type: none"> - The Corso, not only in direct 90 degree views, but also under various angles, from a distance, - from Market Lane and - from the Market Lane Carpark. <p>Main issues can broadly be divided into heritage design issues, and issues implied by relation to other matters. These are:</p> <p>Heritage design:</p> <ul style="list-style-type: none"> - The design of the proposed addition is in stark contrast with the original building. This contradicts council's objectives for heritage

Internal Referral Body	Comments
	<p>conservation, as it will impact on ability of the item to interpret historical themes, when viewed from both The Corso and the carpark. Due to its visual prominence, it may create a council-wide precedent for an undesirable approach. Advice of Council's urban designer is also agreed with, as it directly accords with heritage advice. The issues are materials, bulk, disposition of masses, forms, to mention but a few. Applicants are referred to applicable DCPs for details.</p> <p>- Structural changes implied by the proposal are numerous. It is noted that this is not engineering concern. However, structural/heritage impact of the proposed new floor and the lift shaft are not addressed in available documents. It is reasonable to assume that additional new weight will require new load bearing elements, that lift shaft will require structural changes, and these will in turn require new penetrations and damage to historical fabric.</p> <p>Implied impacts:</p> <p>- BCA: As per input from Council specialists, "provided BCA report is not adequate". The outstanding matters include (but are not limited to) door width, access/egress, fire protection, disabled access, facilities, etc. Each of these aspects will require changes to heritage fabric. Therefore it should be detailed, and may not be supported.</p> <p>- Geotech: As per submitted report, it is "advisable to assume that continuous underpinning works will be required for the full section of the excavation." Some questions are not resolved in the report, e.g. footing design. It is therefore necessary to provide additional documentation to demonstrate stability and safety of the historical elements of the building and adjacent buildings during the required works.</p> <p>- Noise: noise report also recommends masonry walls, which, in turn, increases weight of the structure. Conclusions of this report are unclear, as they seem to explain the process of assessment, rather than to give recommendations.</p> <p>Please note that these comments are based on available documents only, and thus may not be comprehensive. In case I obtain access to additional documents, I reserve right to alter or revoke my comments.</p> <p><u>Assessing Officer's Comments:</u> The issues raised above are addressed as follows:</p> <ul style="list-style-type: none"> • Site Visibility: The site is in a prominent location, fronting both The Corso and Market Lane. However, the proposed additional bulk (for the purpose of the additional unit) is set back, so as not to be visible from the street level, in accordance with pre-lodgement advice. This ensures that the proposed works do not have an unreasonable visual impact. • Heritage Design: In relation to building colours and materials, the proposal generally maintains and refurbishes the existing palette. The proposal provides greater facade articulation and visual interest, so as to improve the appearance of the existing building. As above, the additional building mass is set back, so

Internal Referral Body	Comments
	<p>as not to be visible from the street level. A more detailed assessment is provided in the section of this report relating to Clause 3.2 Heritage Considerations of the MDCP 2013.</p> <ul style="list-style-type: none"> • BCA Report: The proposed development has been reviewed by Council's Building Assessment Team, who are supportive of the proposal, subject to the preparation of an updated BCA Report prior to the issue of the Construction Certificate. • Geotechnical Concerns: The proposed development does not include earthworks, so is not anticipated to result in high levels of noise and vibration during construction. The proposed development is supported by a geotechnical report, which provides recommendations for safe risk levels associated with the construction required. Conditions of consent are applied to ensure adherence to these recommendations. • Noise Concerns: The proposed development increases the number of units in the building from 10 to 11, which is not considered a significant increase in intensity of use. The proposed development is supported by an acoustic report, which has been reviewed by Council's Environmental Health Officer, who raised no objections to the proposal, subject to conditions of consent. As such, the proposed development (including recommendations of the acoustic report) is acceptable in relation to generation.
Strategic and Place Planning (Urban Design)	<p>The proposal cannot be supported for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposal exceeds the 10m building height control with the proposed additional built form. The addition of a new residential unit on the roof terrace would add substantially to the mass of the existing building which is currently over the 10m height. It will also set a precedent for surrounding developments to breach the building height control in the future. 2. The proposed new bedrooms facing the light wells will not receive any solar access with the south facing windows proposed. The existing light wells will also be reduced in size allowing less solar access to other window openings into the light well. The Apartment Design Guide (page 83) states that light wells should not be used as the primary air source for habitable rooms so the existing situation is already a compromised situation. <p>The amenities provided by the light wells could possibly be further compromised in the future when the next door neighbours are developed so reducing the current sizes would not be advisable.</p> <p><u>Assessing Officer's Comments:</u> The issues raised above are addressed as follows:</p> <ul style="list-style-type: none"> • Building Height: The proposed development is acceptable in relation to height for the reasons detailed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of the MLEP 2013. • Light Wells: The existing development relies on light wells for

Internal Referral Body	Comments
	<p>sunlight to the existing apartments. The proposed development re-orientates the windows to the relevant bedrooms to the south, though provides greater internal amenity by increasing bedroom size, reconfiguring the apartments to provide greater livable space, and providing greater privacy for both the subject site and adjacent sites. This is considered a better outcome than the existing configuration.</p> <ul style="list-style-type: none"> • Future Development: Development of adjoining sites will be assessed at the time of lodgement of a development application, should there be any.
Traffic Engineer	<p>The proposal is for alterations and additions to an existing mixed use building including extension of the existing third floor level to create an additional two bedroom apartment. No offstreet parking or loading facilities are proposed.</p> <p>Traffic generation as a result of the alterations and additions will be minimal the RMS Traffic Generation guidelines for medium density residential development suggesting that the additional 2 bedroom dwelling will result in approximately 0.5 additional trips per hour in the am and pm peak periods. This is acceptable.</p> <p>The existing development on the site provides no offstreet parking and no additional parking is proposed under the development proposal. There is a requirement under the DCP for 1 parking space for the additional dwelling and 0.25 visitor parking space. Although there is a high parking demand near the development site it is considered impractical in this location to require that the developer provided offstreet parking for the one residential space as providing that space would require the construction of a driveway. The provision of offstreet parking would also increase vehicle movements in a location which is dominated by pedestrian movements and may therefore impact negatively on pedestrian safety. The absence of offstreet parking is not therefore opposed in this instance.</p> <p>The development also proposes no offstreet loading facility but relies upon use of the on-street Loading Zones on Market Lane adjacent to the development site. Again, provision of an offstreet loading dock, while desirable is considered impractical given the small scale of the proposed development. The provision of an offstreet Loading Dock would increase vehicle movements across a heavily used footpath area in Market lane which would impact negatively on pedestrian safety. A limitation on the size of vehicle servicing this development is required as there is a 6m length restriction on trucks entering Whistler Street from Sydney Road. The lack of a Loading Dock is not opposed in this instance subject to a condition limiting size of service vehicles.</p> <p>Construction access to the site as outlined in the Construction Traffic</p>

Internal Referral Body	Comments
	<p>Management Plan (CTMP) submitted with the DA suggests that truck movements up to and including vehicles of 8.8m in length will be required. Amendment of the CTMP will be required to demonstrate via swept path plots and amended Traffic Control Plans how entry and exit to and from the site and to/from Whistler Street will be possible.</p> <p><u>Assessing Officer's Comment:</u> It should be noted that the density of the development is increased by on 2-bedroom apartment only, thereby not placing significant extra load on traffic and parking generation in the locality. With the availability of car-share schemes, and bus and ferry services in close proximity, the proposal is acceptable in relation to traffic and parking.</p>
Waste Officer	<p>Proposal does not comply with Council's Waste Management Guidelines - in particular</p> <ul style="list-style-type: none"> • Applicants proposing these types of developments must ensure the commercial and residential Waste Storage Areas are separated. • Storage capacity for the residential component needs to contain 9 x 240 litre bins, with a footprint of 735mm x 580mm each. • Waste storage must comply with other requirements of 4.2, 4.3 and 4.4 of the Northern beaches Council Waste Management Guidelines. <p><u>Assessing Officer's Comment:</u> It is understood that the proposal foresees private daily collection of both residential and retail waste. However, the Waste Officer raised concern that the waste storage area would be inadequate, should waste collection be managed by Council in the future. As such, the proposal must provide waste storage areas of suitable dimensions to allow for potential Council collection. That is, separate bin storage areas of adequate dimensions (as above) for the residential and commercial components of the development. A condition of consent has been applied requiring. This may require minor reconfiguration of the ground floor area.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and

LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential and commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential and commercial land use.

SEPP 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,*
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,*
- (iii) the conversion of an existing building, and*

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

The proposed development is for alterations and additions to an existing four-storey shop top housing development, resulting in 11 self-contained dwellings. As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires:

(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

DESIGN REVIEW PANEL

Northern Beaches Council does not have an appointed Design Review Panel.

DESIGN QUALITY PRINCIPLES

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of

the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose.

Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP 65.

Development Control	Criteria / Guideline	Comments

Part 3 Siting the Development

Site Analysis	Does the development relate well to its context and is it sited appropriately?	Satisfactory. The proposed development adequately addresses the subject site and its context.						
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Satisfactory. The proposed development is consistent with developments in the streetscape and allows for adequate solar access to the subject site and adjacent sites.						
Public Domain Interface	Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced?	Satisfactory. The proposed development clearly delineates public and private land. The amenity of the public domain is retained and enhanced, and the facades provide visual interest along each street frontage.						
Communal and Public Open Space	Appropriate communal open space is to be provided as follows: <ol style="list-style-type: none"> Communal open space has a minimum area equal to 25% of the site Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter) 	Not compliant. The proposed development does not provide any communal open space. However, the existing building being altered also does not include any communal open space, and the extent of alterations do not warrant the provision of communal open space (as the development is not for demolition and rebuilding). Further, the setting of the site provides reasonable access to public open space, with both Manly Beach and Manly Oval within short walking distance of the subject site. The proposed development is acceptable in relation to this clause.						
Deep Soil Zones	Deep soil zones are to meet the following minimum requirements: <table border="1" data-bbox="438 2072 1061 2136"> <thead> <tr> <th>Site area</th><th>Minimum</th><th>Deep soil</th></tr> </thead> <tbody> <tr> <td></td><td></td><td></td></tr> </tbody> </table>	Site area	Minimum	Deep soil				Not compliant. The proposed development does not
Site area	Minimum	Deep soil						



	<table> <tr> <th></th><th>dimensions</th><th>zone (% of site area)</th></tr> <tr> <td>Less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m² – 1,500m²</td><td>3m</td></tr> <tr> <td>Greater than 1,500m²</td><td>6m</td></tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr> </table>		dimensions	zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	<p>provide any deep soil zones. However, no deep soil zones currently exist on the subject site, or on surrounding sites, so the proposal does not worsen the existing scenario. Similar developments in the locality have been approved with nil deep soil zones. The proposed development is acceptable in relation to this clause.</p>
	dimensions	zone (% of site area)												
Less than 650m ²	-	7%												
650m ² – 1,500m ²	3m													
Greater than 1,500m ²	6m													
Greater than 1,500m ² with significant existing tree cover	6m													
Visual Privacy	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <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> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms. Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	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	Over 25m (9+ storeys)	12m	6m	<p>Not compliant. The proposed development retains some existing windows within 6m of the site boundaries. However, these windows are either behind a wall in a light well, or overlook the roof of adjoining properties. In this way, these windows are suitable in relation to visual privacy. The proposed new Unit 11 includes new windows and the terrace space within 6m of the adjoining boundaries. The proposed new windows and terrace are at such a height that they overlook roof spaces only, and do not result in overlooking concerns. The proposal is acceptable in relation to this clause.</p>
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												
Over 25m (9+ storeys)	12m	6m												
Pedestrian Access and entries	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify? Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p>Satisfactory. The proposed development provides clear pedestrian entry to the frontage on both The Corso and Market Lane.</p>												
Vehicle Access	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p>Satisfactory. The proposal provides clear pedestrian access, suitably located and designed so as to provide high quality streetscape presentation. The subject</p>												

		site is located on the pedestrianised area of the Corso and Market Lane, so does not include vehicular access.
Bicycle and Car Parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m 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> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>This clause is not applicable, as the subject site is not located within 80m of a railway station or light rail stop in the Sydney Metropolitan Area and is not on land zoned or within 400m of land zoned, B3 Commercial Core, B4 Mixed Use. In this case, the parking requirement under the MDCP 2013 applies, as follows:</p> <p>Retail: 1 space per 40sqm GFA = 8 spaces required</p> <p>Residential: 0.6 spaces per 1-bed 1 space per 2-bed = 10 spaces required</p> <p>Visitor: 0.25 spaces per dwelling = 3 spaces required.</p> <p>The proposal does not provide any parking.</p> <p>The proposal is acceptable in relation to parking for the reasons detailed in the section of this report relating to Clause 4.2.4 of the MDCP 2013.</p>
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. 	<p>Not compliant.</p> <p>The configuration of the subject site, being built boundary-to-boundary on each elevation restricts the amount of solar access available, while also retaining suitable visual privacy. Given this, and</p>

		considering that the living areas of each existin unit is centralised, direct sunlight to the living areas of 70% of units is not achievable. The proposed development achieves suitable internal amenity by opening up the sunrooms to allow light to be borrowed through to the living areas.The proposed new Unit 11 achieves compliant solar access. The proposal is acceptable in relation to this clause.												
	<ul style="list-style-type: none">A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.	Satisfactory. All apartments achieve at least some direct sunlight.												
Natural Ventilation	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by: <ul style="list-style-type: none">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.	Satisfactory. All apartments are cross-ventilated.												
	<ul style="list-style-type: none">Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.	Not applicable.												
Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	Satisfactory. The proposed development includes floor to ceiling heights of minimum 3m at each residential level.												
	<table><tr><td colspan="2">Minimum ceiling height</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><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 used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>		Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	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 used areas	3.3m for ground and first floor to promote future flexibility of use
	Minimum ceiling height													
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	Attic spaces		1.8m at edge of room with a 30 degree minimum ceiling slope											
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													

Apartment Size and Layout	Apartments are required to have the following minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Satisfactory. The proposed development achieves the minimum areas for both one- and two-bedroom units.
	Apartment type	Minimum internal area										
	Studio	35m ²										
	1 bedroom	50m ²										
	2 bedroom	70m ²										
	3 bedroom	90m ²										
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each.											
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.	Satisfactory. Each habitable room has access to a window of sufficient dimensions.											
Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Satisfactory. Habitable rooms include depths of less than 7.5m, except where in relation to open plan living, dining and kitchen areas.											
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Not compliant. The proposed development includes four apartments with open plan kitchen/dining/living room depths of greater than 8m (Units 1, 2, 5 and 6). However, this is due to the existing configuration of the building. The proposed development provides improved amenity, by opening the sunroom to the living areas, thereby providing greater internal access to light and air than the existing scenario. The proposal is acceptable in relation to this clause.											
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Satisfactory. All bedrooms achieve minimum required areas.											
Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the	Satisfactory. All bedrooms achieve minimum required											

	3.0m minimum dimension.	dimensions.															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments	Satisfactory. All living/dining rooms achieve the minimum dimensions.															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Not applicable. The proposed development does not include any cross-over/cross-through apartments.															
Private Open Space and Balconies	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 apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	Not compliant. The proposed development does not include balconies, with the exception of for proposed Unit 11. This is a result of the existing configuration of the building, which precludes balcony spaces. The proposed terrace for Unit 11 is compliant with the required minimum dimensions and area. The proposal is acceptable in relation to this clause.
	Dwelling Type	Minimum Area	Minimum Depth														
	Studio apartments	4m ²	-														
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
	The minimum balcony depth to be counted as contributing to the balcony area is 1m																
	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.																
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Satisfactory. The maximum number of units accessed via the lift core at any one level is four.															
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Not applicable. The proposed development is four storeys in height, with only three storeys of residential apartments.															
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m²</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td></tr><tr><td>2 bedroom</td><td>8m²</td></tr></table>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom	8m ²	Not compliant. The new Unit 11 is compliant with this requirement. Existing apartments are restricted in the area of storage space available to be provided, given the existing							
	Dwelling Type	Storage size volume															
	Studio apartments	4m ²															
	1 bedroom apartments	6m ²															
2 bedroom	8m ²																

	<table><tr><td>apartments</td><td></td></tr><tr><td>3+ bedroom apartments</td><td>10m²</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	apartments		3+ bedroom apartments	10m ²	dimensions. In order to supplement the existing units, a generous area has been included for residential storage at the ground floor, for storage of bulky items.
apartments						
3+ bedroom apartments	10m ²					
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Satisfactory. The proposal includes seven apartments that contain bedrooms within 3m from circulation areas. However, each apartment is designed to achieve compliance with the relevant acoustic treatment standards.				
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Satisfactory. The proposed development is laid out and designed to mitigate noise disruption from external sources.				
Configuration						
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	Satisfactory. The proposed development retains a mix of one- and two-bedroom apartments.				
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	Not applicable. The proposed development does not include any ground floor apartments.				
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Satisfactory. Each building facade provides visual interest consistent with the existing character of that streetscape.				
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	Satisfactory. The roof contains centralised mechanical plant and a lift overrun. The roof is not used for the purpose of communal open space, given the subject site's close proximity to Manly Oval and Manly Beach.				
Landscape Design	Was a landscape plan submitted and does it	Not applicable.				

	respond well to the existing site conditions and context.	The subject site is wholly built upon.																																			
Planting on Structures	When planting on structures the following are recommended as minimum standards for a range of plant sizes:	Not applicable. The subject site is wholly built upon.																																			
	<table><tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr><tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m³</td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr><tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m³</td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr><tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m³</td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr><tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr><tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr><tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr></table>		Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm	
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Turf			200mm																																		
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features?	Not compliant. The existing units are unable to be made accessible, given the existing configuration of the building. New Unit 11 is capable of being adaptable. The proposed development is acceptable in relation to this clause.																																			
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	Satisfactory. The proposed development incorporates complementary contemporary design for the additional bulk.																																			
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain?	Satisfactory. The subject site is accessible via bus and																																			

	Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.	ferry services. The proposed development upgrades the existing building, thereby positively contributing to the public domain. The proposal retains the retail use at the ground floor.
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.	Satisfactory. The proposed development retains the awning along The Corso frontage, and includes a new awning along the Market Lane frontage, in order to provide shelter to pedestrians.
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Satisfactory. The proposed development is supported by valid BASIX certificate.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Satisfactory. The proposed development is designed to suitably manage water.
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	Satisfactory. The proposed development is supported by a suitable waste management plan.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Satisfactory. The proposed development is designed in such a manner that will ensure the longevity and sustainability of the building.

STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

Clause 30 of SEPP 65 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,*
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,*

(c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Note. *The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.*

Comment:

The car parking proposed for the site exceeds the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide (as per the Guide to Traffic Generating Developments). However, this parking rate does not apply in this case, as the site is not within 800 metres of a railway station or light rail stop and is not zoned or within 400 metres of land zoned B3 Commercial Core, B4 Mixed Use. The parking rate within the MDCP 2013 has been applied. The proposed internal areas for each apartment exceed the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide. The proposed ceiling heights achieve the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide. The application is not being refused in relation to these matters.

(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and*
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.*

(3) To remove doubt:

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and*
- (b) the design criteria specified in subclause (1) are standards to which clause 79C (2) of the Act applies.*

Note. *The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.*

Comment:

The proposal demonstrates that adequate regard has been given to the design quality principles and the objectives of the Apartment Design Guide, as certified by the accompanying Design Verification Statement.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1010747M_04 dated 7 May 2019). The BASIX Certificate indicates that the development will achieve the following:

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

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10m	14.8-16m	48-60%	No
Floor Space Ratio	2.5:1 (1,310sqm)	2.68:1 (1,406.2sqm)	7.3%	No
Gross floor area in Zone B2	Min. 25% GFA as Commercial	37.7% (530.2sqm)	N/A	Yes
	Max. 1,000sqm per premises	530.2sqm	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	No
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.4 Stormwater management	Yes
6.9 Foreshore scenic protection area	Yes

Clause	Compliance with Requirements
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.16 Gross floor area in Zone B2	Yes

Detailed Assessment

4.6 Exceptions to development standards

HEIGHT OF BUILDINGS

Description of Non-Compliance:

Development standard:	Height of Buildings
Requirement:	10m
Proposed:	16m
Percentage variation to requirement:	60%



Above: The 10m height of building line is shown in pink. The third floor extension is shown in yellow.

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular

development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development 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.

Comment:

Clause 4.3 Height of Buildings is not expressly excluded from the operation of this clause.

(3) Development 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.

(4) Development 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 Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) Assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two separate matters for consideration contained within Clause 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard. In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written

request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.’

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The Applicant's written request argues, in part:

- *There is no change in the existing maximum height of the building on the site which already exceeds the height standard.*
- *The proposed height variation is consistent with the existing development on the site in that it either matches or is lower than the existing maximum building height.*
- *The bulk and scale impacts associated with the breach of the height standard are addressed by the proposed development through the siting and design of the proposed additions to minimise their visual prominence from the public domain and to maintain the overall existing streetscape and townscape views of the site from The Corso and Market Place.*
- *The proposed development, including the height variation, is consistent with the townscape objectives and design principles for the Manly Town Centre and The Corso.*
- *The proposed development, including the height variation, is an appropriate response to the heritage significance of the site, as part of The Corso heritage item, and the wider Manly Town Centre Conservation Area as detailed in the submitted HIS (see Appendix 5 to the SEE).*
- *The height variation will not give rise to any significant adverse amenity impacts on surrounding development in terms of overshadowing, loss of solar access or loss of views.*
- *The proposed development results in the upgrade of the existing residential units in the building and improvements in their amenity to achieve the Design Quality principles in SEPP 65.*
- *The additional apartment constructed as a result of the proposed height variation will enjoy a high level of amenity, which in the absence of significant external amenity impacts, confirms that the height variation can be accommodated on the site.*
- *The proposed development, including the height variation, achieves compliance with the relevant underlying objectives of the standard and the objectives of the zone.*

The above justification is agreed with by the Assessing Officer. In this regard, the Applicant's written

request has demonstrated that the proposed development is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying Clause 1.3(g) of the EPA Act. Therefore, the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by Clause 4.6(3)(b). Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the B2 Local Centre zone. An assessment against these objectives is provided below.

Objectives of Development Standard

The underlying objectives of the standard, pursuant to Clause 4.3 Height of Buildings of the MLEP 2013 are addressed 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,

Comment:

The proposed development includes works above the maximum height of building, but below the existing maximum height built on the subject site. The proposed development includes a roof form consistent with and complementary to the existing retained portion of roof. The proposed third floor extension is generally not visible from the street level, so does not unreasonably impact upon the streetscape.

b) to control the bulk and scale of buildings,

Comment:

The proposed development includes a breach to the floor space ratio development standard (which controls bulk and scale). This non-compliance is acceptable for the reasons detailed below. In short, the third floor addition is designed so as not generally not be visible from the street level, thereby mitigating any visual impact from the proposed additional bulk.

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),

Comment:

The proposed development is adequately designed and sited so as to retain view sharing for surrounding sites.

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,

Comment:

The proposed development results in a minor increase to overshadowing, but does not impact upon private open space or 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.

Comment:

Not applicable. The subject site is zoned B2 Local Centre.

Zone Objectives

The underlying objectives of the B2 Local Centre zone are:

- 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.*

Comment:

The proposed development retains the use of the site as shop top housing, so includes retail premises at ground level. This supports the needs of the people who live in, work in, and visit the local area.

- To encourage employment opportunities in accessible locations.*

Comment:

As above, the proposed development retains retail premises at ground level, which will provide employment opportunities. The subject site is accessible in that it is located within short walking distance of regular bus and ferry services.

- To maximise public transport patronage and encourage walking and cycling.*

Comment:

The subject site is located within short walking distance of bus and ferry services, as well as walking and cycling paths.

- To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.*

Comment:

Not applicable. The subject site does not adjoin any other zones.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the B2 Local Centre zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment:

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of Buildings Development Standard is assumed by the Local Planning Panel.

FLOOR SPACE RATIO

Description of Non-Compliance:

Development standard:	Floor Space Ratio

Requirement:	2.5:1 (1,310sqm)
Proposed:	2.68:1 (1,406.2sqm)
Percentage variation to requirement:	7.3%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 Floor Space Ratio development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows:*

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development 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.*

Comment:

Clause 4.4 Floor Space Ratio is not expressly excluded from the operation of this clause.

(3) *Development 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.*

(4) *Development 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 Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) Assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two separate matters for consideration contained within Clause 4.6(3) and these are addressed as follows:

(a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard. In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The Applicant's written request argues, in part:

- *The existing development on the site involves a breach of the FSR standard. The additional breach now proposed is minor at 0.12:1 (59.9 sqm GFA).*
- *The bulk and scale impacts associated with the breach of the FSR standard are addressed by the proposed development through the siting and design of the proposal to minimise its visual prominence from the public domain and to maintain the existing townscape views of the site from The Corso and Market Place.*
- *The bulk and scale of the proposed development, including the proposed FSR variation, are consistent with the existing and desired streetscape character, will not obscure important landscape and townscape features and maintain an appropriate visual relationship between new development and the existing character and landscape of the area.*

- *The proposed development, including the FSR variation, is consistent with the townscape objectives and design principles for the Manly Town Centre.*
- *The proposed development, including the FSR variation, is an appropriate response to the heritage significance of the site, as part of The Corso heritage item, and the wider Manly Town Centre Conservation Area as detailed in the submitted HIS (see Appendix 5 to the SEE).*
- *The FSR variation will not give rise to any significant adverse amenity impacts on surrounding development in terms of overshadowing, loss of solar access, loss of privacy, loss of views or noise.*
- *The proposed development results in the upgrade of the existing residential units and improvements in their amenity to achieve the Design Quality principles in SEPP 65.*
- *The additional apartment constructed as a result of the proposed FSR variation will enjoy a high level of amenity, which in the absence of significant external amenity impacts, confirms that the FSR variation can be accommodated on the site.*
- *The proposed development, including the FSR variation, achieves compliance with the relevant underlying objectives of the standard and the objectives of the zone.*

The above justification is agreed with by the Assessing Officer, although the Assessing Officer has carried out independent calculations of gross floor area. In this regard, the Applicant's written request has demonstrated that the proposed development is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying Clause 1.3(g) of the EPA Act. Therefore, the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by Clause 4.6(3)(b). Council is satisfied that the Applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Floor Space Ratio development standard and the objectives of the B2 Local Centre zone. An assessment against these objectives is provided below.

Objectives of Development Standard

The underlying objectives of the standard, pursuant to Clause 4.3 Floor Space Ratio of the MLEP 2013 are addressed as follows:

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

Comment:

The proposed development is designed and sited in such a way that retains the existing and desired streetscape character of the locality. The proposed additional bulk resulting from the third floor extension is generally not visible from the street level, as it is setback from the property boundaries. As such, the proposed development does not result in any discernible visual impact beyond that of the existing building.

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,

Comment:

The proposed extension of the third floor does not obscure views to or from any important landscape or townscape features.

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

Comment:

The proposed development respected the visual relationship between existing and new development, in that the additional building bulk is largely disguised, with its generous setback from street level. This suitably maintains the existing character of the locality.

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

Comment:

Despite the non-compliance with the floor space ratio development standard, the proposed development does not unreasonably impact upon the use or enjoyment of adjoining land. This is due to the purposeful location of the third floor extension, which is not generally seen from street level, and does not result in any unreasonable amenity impacts.

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.

Comment:

The proposed retention and reconfiguration of retail spaces at the ground floor strengthens the viability of the B2 Local Centre business zone and will contribute to economic growth, retention of local services, and employment opportunities.

Zone Objectives

The underlying objectives of the B2 Local Centre zone are addressed above in the section relating to Height of Buildings.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment:

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Floor Space Ratio Development Standard is assumed by the Local Planning Panel.

Mainly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 524sqm	Requirement	Proposed	% Variation*	Complies
4.2.3 Setbacks Controls in LEP Zone B1 and B2	0m	0m	N/A	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	Min. 3.5m above ground	4.2m	N/A	Yes
Schedule 3 Parking and Access	Retail: 1 space per 40sqm GFA	0 spaces	100%	No

	= 8 spaces			
	Pub: 1 space per 4sqm of licensed floor area = 24 spaces			
	Residential: 0.6 spaces per 1-bed 1 space per 2-bed = 10 spaces			
	Visitor: 0.25 spaces per dwelling = 3 spaces			

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)	No	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	No	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.2.5.3 Security Shutters	Yes	Yes
4.2.5.4 Car Parking and Access	No	Yes
4.4 Other Development (all LEP Zones)	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.1 Manly Town Centre Heritage Conservation Area and The Corso	Yes	Yes
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.2 Heritage Considerations

The subject site forms part of heritage-listed Item 106 Group of Commercial Buildings, and is within the Town Centre Conservation Area. The proposed development is addressed in relation to heritage significance as follows:

Objective 1) To retain and conserve environmental heritage and cultural significance of Manly including:

- *significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- *the foreshore, including its setting and associated views; and*
- *potential archaeological sites, places of Aboriginal significance and places of natural significance.*

Comment:

The proposed development was referred to Council's Heritage Advisor, who raised objection to the proposal in relation to its form and massing, as well as materials and colours. The proposed development retains and conserves the elements of heritage significance in the existing building, as demonstrated in submitted materials and finishes, heritage conservation, and interior heritage plans, as well as the statement of heritage significance. The proposed development sets its additional bulk in such a way that it is not visible from the street level, and incorporates complementary

colours and materials where existing colours and materials are not refurbished. As such, the proposed avoids jarring contrasts in architectural style between the existing and proposed developments. It is readily apparent that the proposed development respects the heritage fabric and setting of the subject site. The proposed development does not impede views to the item or foreshore, and does not impact upon archaeological sites, or places of Aboriginal or natural significance.

Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.

Comment:

As above, the proposed development includes substantial consideration and conservation of the existing heritage significance of the site. The proposed development refurbishes and reinvigorates the existing building, while remaining complementary to and consistent with the architectural style and form of the streetscape. The proposal is demonstrated to be of appropriate design so as not to adversely impact on the significance of the item or locality.

Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/ or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.

Comment:

As above, the proposed development is of suitable form and design so as not to detract from the heritage significance of the site and locality, in that it disguises additional bulk from view, and incorporates complementary colours and materials where existing finishes are not refurbished.

Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.

Comment:

Not applicable. The proposed development does not include infrastructure.

Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.

Comment:

The proposed development refurbishes the elements of heritage significance in the existing building, including in relation to fenestration and colours. As such, it can be seen that the proposed development adequately manages and conserves the heritage significance of the site. The proposed development has been extensively assessed in relation to heritage and it is concluded to be satisfactory in the circumstances of this case.

4.2.1 FSR (Consideration of Exceptions including Arcades)

The floor space ratio variation is discussed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of MLEP 2013.

4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)

The height of buildings variation is discussed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of MLEP 2013.

4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

The proposed development includes alterations and additions to both the commercial and residential components of the existing shop top housing development, thereby altering parking requirements for the site. Retail premises require 1 parking space per 40sqm of gross floor area, equating to 8 parking spaces for the 310.1sqm of retail gross floor area. The proposal includes four one-bedroom units and seven two-bedroom units, requiring 10 residential parking spaces, and 3 visitor parking spaces. The proposed development does not provide any parking spaces on site. However, it should be noted that the existing development does not provide for any vehicular parking on site, as the site is located on The Corso and Market Lane, which are both accessed by pedestrians only. Further, the proposal increases parking demand in relation to the additional residential unit only. That is, the proposal increases parking demand from the existing scenario by one space, being for one new two-bedroom unit.

Objective 1) To ensure there is adequate provisions for car parking access and loading in future development and redevelopment in all business zones.

Comment:

Council's Traffic Engineer has reviewed the application and is supportive of the proposal, despite the lack of vehicular parking. Council's Traffic Engineer has established that the proposed minor increase in intensity is unlikely to result in any appreciable increase in traffic generation when compared to the existing development, and that the existing development provides for no off-street parking or loading facilities. Further, given the existing pedestrianised portion of land the site is located on, the provision of off-street parking or loading facilities would impact negatively on pedestrian amenity in the vicinity.

Objective 2) To minimise conflicts between pedestrian and vehicular movement systems within the business areas.

Comment:

As no vehicular parking is proposed in this instance, the proposed development will not result in any conflict between pedestrian and vehicular movement in the B2 Local Centre Zone.

4.2.5.4 Car Parking and Access

The non-compliance in relation to vehicular parking is addressed in the section of this report relating to Clause 4.2.4 of the MDCP 2013.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$47,940 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,793,973.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is satisfied that:

- 1) The Applicant's written request under Clause 4.6 of the MLEP 2013 seeking to justify a contravention of the development standards contained within Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:
 - a) compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
 - b) there are sufficient environmental planning grounds to justify the contravention.
- 2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

In summary, a detailed assessment has been required for the following specific issues:

Non-compliance with Clause 4.3 Height of Buildings of the MLEP 2013

The proposed development includes a maximum height of 16m, where the development standard allows for maximum 10m. The proposed development achieves the requirements of Clause 4.6 Exceptions to Development Standards, and the non-compliance is supported on merit.

Non-compliance with Clause 4.4 Floor Space Ratio of the MLEP 2013

The proposed development includes a floor space ratio of 2.68:1, where the development standard allows for a maximum of 2.5:1. The proposed development achieves the requirements of Clause 4.6 Exceptions to Development Standards, and the non-compliance is supported on merit.

Non-compliance with the parking requirement of Schedule 3 Parking and Access of the MDCP 2013

The proposed development results in additional parking requirements onsite. The proposed development does not include parking on site. The proposed intensification of use is not considered to

result in significant traffic or parking impacts and the subject site is located in a pedestrianised area without vehicular access. As such, the non-compliance is supported on merit.
It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council as the consent authority vary Clauses 4.3 Height of Building and 4.4 Floor Space Ratio pursuant to Clause 4.6 of the MLEP 2013, as the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3), and the proposed development will be in the public interest, and is consistent with the objectives of the standard and the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2019/0512 for Alterations and Additions to an existing Shop Top Housing Development on land at Lot CP SP 12989, 19 - 23 The Corso, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
17349-A-05 Rev E Ground and First Floor Plan	2 May 2019	NBRS Architecture
17349-A-06 Rev E Second and Third Floor Plan	2 May 2019	NBRS Architecture
17349-A-07 Rev A Proposed Roof Plan	2 May 2019	NBRS Architecture
17349-A-08 Rev E Elevations	2 May 2019	NBRS Architecture
17349-A-09 Rev D Elevations	2 May 2019	NBRS Architecture
17349-A-10 Rev D Elevations	2 May 2019	NBRS Architecture
17349-A-15 Rev D Materials & Finishes	2 May 2019	NBRS Architecture
Market Place Elevation Option 1	Undated	NBRS Architecture
Market Lane Elevation - Proposed Finishes Schedule Page 1 of 2	Undated	NBRS Architecture
Market Lane Elevation - Proposed Finishes Schedule Page 2 of 2	Undated	NBRS Architecture

Engineering Plans		
Drawing No.	Dated	Prepared By

ESM1 Notes, Legend & Details	15 April 2019	Jones Nicholson (JN) Consulting Engineers
ESM2 ESM Plan	15 April 2019	Jones Nicholson (JN) Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Assessment Report	7 May 2019	Jones Nicholson (JN) Consulting Engineers
BASIC Certificate No. 1010747M_04	7 May 2019	Jones Nicholson (JN) Consulting Engineers
Geotechnical Report	30 April 2019	GeoEnviro Consultancy
DA Acoustic Assessment	30 April 2019	Acoustic Logic
BCA - DDA/Access Compliance Review	1 May 2019	NBRS Architecture
Essential Fire Safety Measures	12 April 2019	NBRS Architecture
Heritage Impact Statement	17 April 2019	NBRS Architecture
Traffic and Parking Assessment Report	30 April 2019	Varga Traffic Planning
Construction Traffic Management Plan	30 April 2019	Varga Traffic Planning

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Site Waste Minimization & Management Plan	April 2019	NBRS Architecture

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working

hours, and

- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent

unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$47,939.73 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$4,793,973.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

5. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. Stormwater Disposal

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003.

A certificate is to be provided to the Principal Certifying Authority with the Construction Certificate application by a qualified experienced practicing Civil Engineer that the existing approved system can accommodate the additional flows or provide drainage plans demonstrating compliance with Council's requirements.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

7. **BCA Report**

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Accredited Certifier* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) where appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.

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

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

8. **Construction Management Program**

An application for Traffic Management Plan is to be submitted to Council for approval. The Traffic Management Plan shall be prepared to RMS standard by an appropriately certified person. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community

9. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

10. **Waste Storage**

Separate waste storage areas are to be provided for the residential and commercial components of the development. The waste storage area for the residential component of the development must have the capacity to contain 9 x 240 litre bins (comprising 4 x general waste and 5 x recycling), with suitable access for manoeuvring. The waste storage area for the retail

component of the development must have the capacity for 2 x 240 litre bins. The two waste storage areas must comply with the Northern Beaches Waste Management Guidelines, in particular in relation to Parts 4.2, 4.3 and 4.4. Details demonstrating compliance with this condition are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate waste storage.

11. **Schedule of Colours and Materials**

A detailed schedule of colours and materials consistent with that listed at Condition 1 Approved Plans is to be submitted to Council for approval prior to the issue of the Construction Certificate.

Reason: To ensure consistency with the consent.

12. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, an amended Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the certifying authority prior to issue of any Construction Certificate. Due to heavy traffic congestion throughout the Manly town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/queuing locations in a public roadway/domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the

surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.

- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practicing Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”. All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

13. **Works Zone**

An application for a Works Zone for the frontage of the site shall be submitted to Council for consideration and approval. Application forms for Work Zones are available on Council’s website or at the Customer Service section at Council’s administration building. Applications shall be lodged at least 4 weeks prior to work commencing

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

14. **Waste and Recycling Requirements**

Details demonstrating compliance with Development Control Plan, including the required Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with the Development Control Plan, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

16. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

17. **Noise During Construction**

Noise reduction measures including best practice shall be undertaken to minimise noise to adjoining premises

Reason: To minimise noise to neighbouring residents and business.

18. **Dust Control During Works**

Dust control measures including best practice, and in accordance with NSW Workplace Health and Safety Regulations and the Protection of the Environment Operations Act 1997, shall be implemented to minimise dust to neighbouring residents and businesses and ensure any airborne substance is kept within the boundaries of the site.

Reason: To minimise dust to neighbouring residents and businesses and avoid air pollution.

19. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

20. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled Site Waste Minimisation and Management Plan, dated April 2019, prepared by NBRS Architecture, except as modified by conditions of consent.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

21. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

22. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

23. **Noise Review Prior to Occupation Certificate**

Prior to the issue of the Occupation Certificate, an acoustic review of findings and recommendations contained within the report by Acoustic Logic dated 30.4.2019 Project 20190376.1, including noise reduction measures to avoid nuisance to occupiers of the residential units is to be prepared by a suitably qualified person and supplied to the Certifying Authority, stating compliance. In addition, noise sources from the building (mechanical ventilation/air conditioning, lift noise/vibration, plant, equipment) are to be assessed for compliance with State legislation and guidelines.

Reason: To maintain the acoustic amenity to residents.

24. **Garbage and Recycling Facilities**

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To prevent pollution of the environment and to protect the amenity of the area.

25. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

26. **Positive Covenant for Waste Services**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Council), at the Applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

27. **Size Limitation - Delivery and Service Vehicles**

Delivery and service vehicles accessing the site during any works are to be limited to 6m in length.

Reason: Size limitations in adjacent road network.