

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0643
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 2 DP 877793, 25 The Corso MANLY NSW 2095 Lot 1 DP 877793, 27 The Corso MANLY NSW 2095 Lot CP SP 12989, 19 - 23 The Corso MANLY NSW 2095
Proposed Development:	Alterations and additions to the existing building to allow for shop-top housing and a pub
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:	Hamptons Property Services Pty Ltd

Application Lodged:	19/05/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	30/05/2022 to 13/06/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 44.7% - 86.7%
Recommendation:	Approval

Estimated Cost of Works:	\$ 7,215,169.00
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EXECUTIVE SUMMARY

The application seeks consent for alterations and additions to the existing shop-top housing development and strata subdivision.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as the building is up to four-storeys and is subject to the provisions of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65), and because the proposal breaches the building height development standard of 10.0m by more than 10%.

The existing building is four storeys fronting The Corso and the proposal includes partial demotion of

this top most storey and a continuation of the storey to the rear fronting Market Lane. The height of the proposal is maintained in the top most storey fronting The Corso. The additions behind this area fronting The Corso are generally below the existing storey with the exception of the lift shaft. The variations proposed are up to 15.47m to the roof and 18.67m to the lift shaft. This represents a variation up to 54.7% to the roof and 86.7% to the lift shaft. The existing building is 15.47m representing a 54.7% variation.

Council's Design and Sustainability Advisory Panel (DSAP) reviewed the proposal and generally supported the proposal, subject to minor design changes. Council's Heritage advisor also reviewed the proposal and recommended built form changes to allow for greater building articulation.

In response to these factors, the Applicant amended the proposal to directly address the matters raised by DSAP and Heritage.

The application breaches the 10m height control for the site and a clause 4.6 request was submitted with the application. The assessment revealed that there are sufficient environmental planning grounds to warrant the variation requested.

No submissions were received as part of public exhibition of the application.

On the balance of all factors, this report finds that the proposal is appropriate for the site and concludes with a recommendation that the NBLPP, as the consent authority, grants **approval** to the development application.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for alterations and additions to the existing shop top housing development.

The proposal seeks consent for the following works specifically:

- Reconfiguration and alteration of existing 10 apartments to allow for 12 apartments ranging in size from 68sqm to 114sqm:
 - 9 x two bedroom apartments.
 - 3 x one bedroom apartments.
- Reconfiguration of the existing ground floor retail premise to allow for 2 separate retail premises.
- Third floor extension (19-21 The Corso)
- Second and third floor addition (23 The Corso)
- Communal open space (Roof terrace).
- Demolition works.
- New internal access.
- Stratum subdivision of 19 - 27 The Corso, to create three separate stratum.
 - The Ivanhoe Hotel;
 - Retail premises; and
 - Residential premises.

The existing pub (Ivanhoe Hotel) forms part of the stratum subdivision. There are no physical works or operational changes to the existing pub.

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

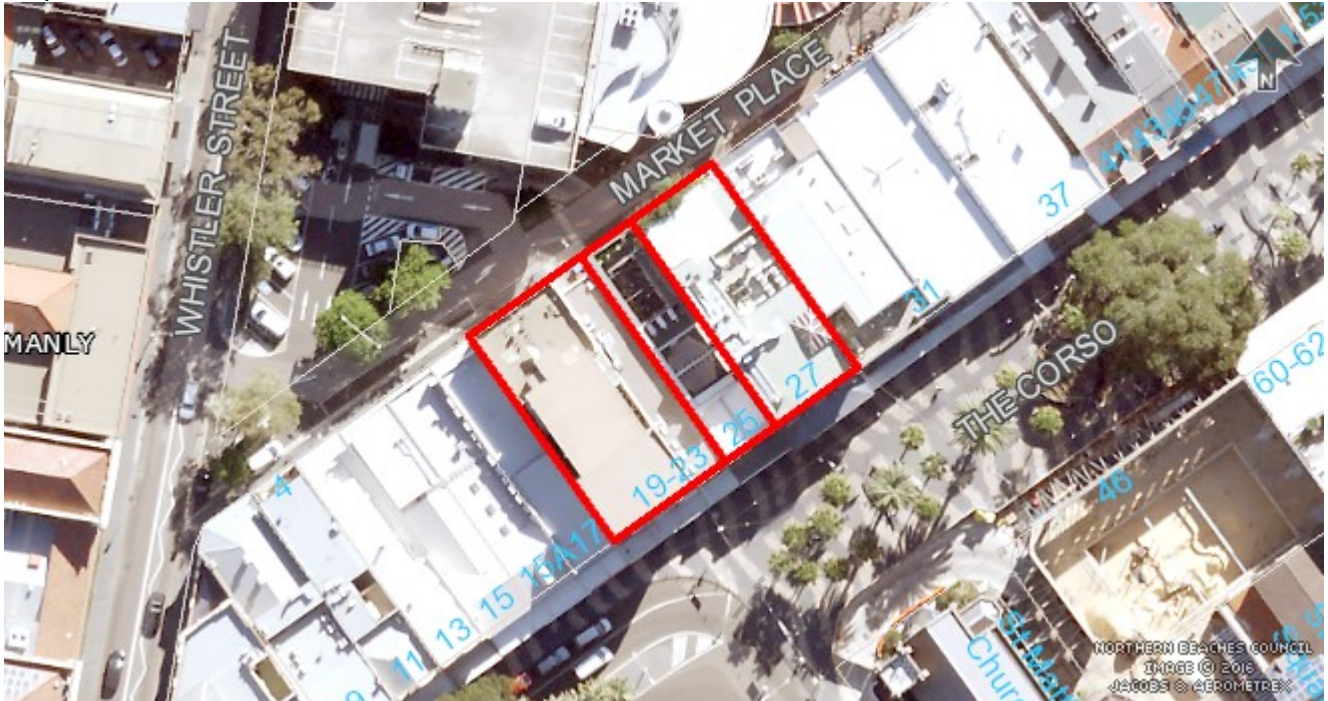
Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Development Control Plan - 4.2.1 FSR (Consideration of Exceptions including Arcades)
 Manly Development Control Plan - 4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 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 2 DP 877793 , 25 The Corso MANLY NSW 2095 Lot 1 DP 877793 , 27 The Corso MANLY NSW 2095 Lot CP SP 12989 , 19 - 23 The Corso MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of three allotments located on the north-western side of The Corso, Manly, comprising Nos. 19-23, 25 and 27.</p> <p>The site is regular in shape with frontages of 36.885 metres along The Corso and 36.69 metres along Market Place, and a depth of 31.215 metres. The site has a surveyed area of 1,143.7m².</p> <p>The site is located within the B2 Local Centre zone and accommodates a shop top housing development and two- to four-storey pub known as the Ivanhoe Hotel.</p> <p>The site is level and contains no vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by mixed use and commercial premises.

Map:



SITE HISTORY

The land has been used for residential and commercial 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.
- DA2019/0512 for alterations and additions to an existing shop top housing development was refused by the Northern Beaches Local Planning Panel on 1 April 2020.
- DA2019/0574 for change of use to a pub, alterations and additions to the premises, fit out and signage was approved by Council on 3 October 2019.
- Mod2019/0558 for Modification of Development Consent DA2019/0574 was approved by Council on 20 December 2019.
- DA2020/1711 for alterations and additions to an existing shop top housing development was approved by the Northern Beaches Local Planning Panel on 7 April 2021.
- DA2021/0019 for termination of the existing strata plans and subdivision of one lot into two was approved by the Northern Beaches Local Planning Panel on 19 May 2021.
- Pre-lodgement Meeting PLM2021/0112 was held on 3 June 2021 to discuss alterations and additions shop top housing development
- Pre-lodgement Meeting PLM2021/0234 was held on 22 October 2021 to discuss alterations and additions and change of use of an existing commercial/retail building

DA2022/1526 for alterations and additions to an existing pub was approved on 16 November 2022. This application approved the works to the pub including the extension into No. 23 The Corso as shown on the floor plans of this application.

Design and Sustainability Advisory Panel (DSAP)

Following the lodgment of the development application was referred to DSAP, who provided the

following comment:

"Strategic context, urban context: surrounding area character

Site has frontage to The Corso and Market Lane and the proposal has cleverly untangled the ground floor to provide activation to both frontages whilst also accommodating servicing and engineering requirements and a clear, safe residential entry.

Notwithstanding the challenges relating to the active service laneway of Market Lane, the Panel views activation of this frontage with a retail tenancy as a positive gesture towards the long-term viability of Market Lane and the associated plaza further to the east.

It is clear that the original service lanes of the Manly Town centre are being transformed into active retail frontages and the improvements to the amenity and quality of these rear frontages, that may require substantial modification to achieve their potential should be welcomed, and as proposed in the revised design is strongly supported by the Panel.

Recommendations

1. Retain retail frontage to Market Lane

Planner Comment:

1) A retail premise has been proposed to Market Lane at ground floor level.

Scale, built form and articulation

The proposal, whilst principally concerned with the interwar building at 19-21 The Corso, proposes additional built form to benefit internal amenity of apartments as follows:

- *Additional set back massing above approved development at 23 The Corso*
- *Additional massing to the northern portion of Level 3 of 19-21 The Corso*
- *Lift access to rooftop communal open space atop 19-21 The Corso*

This additional massing has been configured to retain legibility of important aspects of existing structures and so that impacts of overshadowing are minimised.

The Panel considers the zero setback to the second floor of no 23 (Apt 2.02) an appropriate urban design response to the Market Lane frontage and preferred to a setback for the following reasons:

- 1) *Installing the setback has the effect of increasing the horizontality of the form, hence increasing the sense of bulk compared to the non-setback iteration.*
- 2) *The non-setback iteration more clearly articulates the subdivision pattern, consideration could be given to emphasising this through a subtle change in material, texture or fenestration.*

The Panel supports the setback 'mansard' roof form to the Corso frontage, but this should be setback by a small amount to more clearly articulate the 2-storey form fronting the Corso and allow the re-instated pediment to more clearly distinguished.

Recommendations

2. *Setback the living and dining area of apartment 2.03 to create a greater articulation and separation from the proposed re-instated pediment at No 23. A small balcony space or 1-1.5m would be sufficient to achieve this while still being clearly distinguished from the next level (3) and greater setback of Apt A3.03*

3. *Revert to non-setback northern facade fronting Market Lane but aim for a vertical expression that distinguishes the two properties*
4. *Consider minor changes to material, texture or fenestration on the rear elevation of No23 facing Market Lane to reflect the original subdivision pattern.*

Planner Comment:

2. The 1.8m setback to dining/living of apartment 2.03, allows a suitable compromise between the desired design and heritage requirements.
3. In relation to Market Lane a 0.84m setback has remained for heritage purposes. Despite the setback a suitable vertical expression will be retained.
4. A condition of consent has been imposed by Heritage to ensure the materials match the desired characteristic of the area.

Access, services and storage

Residential address has been greatly improved and rationalised.

No parking is provided. The Panel support this on the basis of how well the location is serviced by public transport, walking and cycling options and car share provisions. However no provision for bicycle storage is evident on the ground floor.

It is the Panel's understanding that the applicant is the owner of the adjoining Ivanhoe Hotel. As such the proposal presents a unique opportunity to improve waste management practices of the hotel as a part of this proposal. It is the view of the Panel that the retail viability and overall public amenity of Market Lane may be improved. The Panel appreciates that the Manly laneways have a 'gritty' urban character and continue to provide service access, but it is hard to see how garbage bins are an attractive or necessary element.

The proposal already considers the needs of the Hotel by the provision of additional toilets for the gaming room and the use of the 'bulk waste store' was not questioned or explained during the Panel session; is this for the hotel operation?

The waste storage area appears to vent to the western light well. While the Panel generally supports maximisation of natural light and ventilation (in this case to the 'retail office') it may be more desirable to close off the ground floor section of the light well.

The Panel notes Council's Waste referral response that identifies similar and additional concerns. The Waste management report does not explain how the waste management will work or its relationship to the Ivanhoe Hotel if any.

Recommendations

5. *The ground floor requires further design resolution. Re-prioritise the allocation of spaces on the ground level to include storage for bicycles and bulky items such as surfboards noting that no other storage is provided for the residential units.*
6. *Investigate opportunities for the subject site to enhance waste management/delivery operations of the Ivanhoe Hotel.*
7. *Review and explain how the waste handling will not adversely impact the amenity of the residential units particularly in relation to odour control.*

Planner Comment:

5. A store room at ground floor level has been allocated for residential storage of bulky goods.
6. Council's waste officer reviewed the plans and raised no concern with the proposed waste

management of both the shop top housing and the Ivanhoe Hotel.

7. As above, Council's waste officer reviewed the plans and raised no concern with the proposed waste management of both the shop top housing and the Ivanhoe Hotel.

Landscape

Planters on the roof will not provide the best growth conditions and may limit the landscapes' ability to add amenity.

Functionality of the rooftop is not clear – lounge located next to the BBQ while table is under a separate shade structure. Why not bring the structure and table together with access and BBQ and provide lounge space where table is now.

Species selection is an odd mix and should be amended to a native palette. No need for exotics here.

Recommendations

8. Amend the rooftop common open space to include built in planters, reconsider the planting pallet.

9. Reconsider the layout and functionality of the rooftop common open space.

Planner Comment:

8. A Landscape plan has been submitted with the application, demonstrating suitable planting within the communal open space. Council's landscape officer has reviewed the amended landscape plans and supports the development as proposed, subject to conditions.

9. Layout of communal open space at roof top level remains unchanged on the architectural plans. However, the landscape plan provides detail into the functionality of the proposed rooftop.

Amenity

Apartment amenity has been improved, however some issues need further resolution:

- The opportunity for overlooking exists between apartments facing new lightwell above 23 The Corso. With care, this may be improved.*
- Acoustic privacy between apartments and rooftop beer garden associated with Ivanhoe Hotel operations is unclear.*
- Visual and acoustic privacy between level 3 eastern balconies and rooftop beer garden is poor due to immediacy and balustrade treatment.*

The Panel strongly supports the modification to fenestration of the Market Lane façade that will significantly improve the internal amenity of the apartments and as importantly, will improve passive surveillance and allow for greater activation and engagement with this quirky public space.

Recommendations

10. Ensure privacy between apartments facing eastern lightwell by controlling overlooking

11. Ensure acoustic privacy to apartments potentially impacted from Ivanhoe rooftop beer garden

12. Ensure privacy to level 3 terraces directly adjacent to Ivanhoe rooftop beer garden, alternatively, provide as non habitable, planted roof

13. Include car park and library structures on view from sun analysis to verify solar access

14. Ideally, indicate how and where kitchen exhaust might be located should the retail become a food premises in the future

15. Give further consideration to how the design of windows and railings (Juliet balconies?) might encourage activation and engagement with market lane by the residents.

Planner Comment:

10. A privacy screen and screen planting is proposed at first floor level to offset direct overlooking between Apt 1.03 and Apt1.02. In response to potential overlooking between the adjoining properties at level 2 and 3 opaque windows or privacy screening to 1.6m above floor level has been conditioned.

11. The existing boundary wall between the subject site and adjoining Ivanhoe hotel will provide a adequate noise protection level of the residential units along the eastern side of the development.

12. The proposed wall along the eastern side of the development will offset direct overlooking between the subject site and adjoining Ivanhoe Hotel.

13. Additional view from the sun diagrams where lodged, including the carpark and library structures on plan. The proposed development complies with the solar access provisions of the ADG and Manly DCP 2013.

14. Any food and drink premise with the Manly Town Centre will require a use development application, which would consider kitchen facilities.

15. Juliet balconies are generally not encouraged along Market Lane. The proposed windows and minor setback to the apartments at along the Market Lane frontage are a suitable compromise.

Façade treatment/Aesthetics

Overall treatment of northern facade supported, particularly, the fine, articulated window and balcony apertures. Whilst the whimsy of the coloured awnings is appreciated and appropriate, shading treatment to northern facade may benefit from being more robust/adjustable and have the potential to enhance privacy of north facing living rooms.

Recommendations

16. Explore options for shading, privacy, details of north facing windows adjacent to Market Lane.

17. Consider dual banks of louvres above and below handrail height to control privacy from below while admitting sunlight from above.

Planner Comment:

16. Increased setback from the northern elevation will ensure will further mitigate privacy between dwelling and adjoining properties.

17. External blinds have been incorporated into the design for both privacy and the control of solar heat gain.

Sustainability

Recommendations

18. Rainwater recycling could be included and reticulated to some of the toilets.

19. Full electrification and no gas in anticipation of decarbonisation of the grid

20. Investigate material choices with low embodied carbon; low carbon concrete mixes with 70% less cement are readily available. Fly ash concrete should be investigated for the structure of the building, as well as other low carbon materials

21. Select roofing materials with high albedo roof to reduce urban heat and install high insulation levels

Planner Comment:

19 -24. The BASIX Certificate and conditions dictating colours and materials have been incorporated into the recommendations to ensure sustainability and a suitable colour scheme and

finish for the development.

PANEL CONCLUSION

The Panel is generally supportive of the proposal, and considers the revised design significantly better than that presented to the Panel previously. However, the ground floor requires redesign to better manage waste and to provide storage for residential units. Some minor changes to the design and documentation are required in accordance with the above recommendations.

PLANNER CONCLUSION: The comments made by DSAP globally have been satisfactorily addressed by the applicant, and as such supported in this instance.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to built form amendments.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a</p>

Section 4.15 Matters for Consideration	Comments
	<p>condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 30/05/2022 to 13/06/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported, subject to conditions</p> <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>Supported, subject to conditions</p> <p>General Comments</p> <p>Application is for alterations and additions to the existing building to allow for shop-top housing and a pub.</p> <p>The applicant has provided an acoustic report by Renzo Tonin & Associates dated 6 April 2022 (TM424-01D02 Acoustic Report for DA Apartments (r3)).</p> <p>Environmental Health have no objections subject to conditions regarding further acoustic assessment of mechanical plant for the building at the detailed design phase of the development and acoustic certification prior to OC.</p> <p>A potential concern with shop top housing is that retail tenancies often end up being food premises. During the building design stage there tends to be little thought given to any future mechanical ventilation that might need to be installed, subsequently creating potential future noise and odour issues. Despite food premises usually being assessed via individual DAs, the planning for mechanical ventilation generally needs to be addressed at the building approval stage.</p> <p>As such, Environmental Health recommend that the buildings design allows for adequate provisions for mechanical ventilation to be installed for any future food premises that may require mechanical ventilation.</p> <p>Recommendation</p> <p>Supported - subject to conditions</p>
Landscape Officer	<p>Supported, subject to conditions</p> <p>The development application includes proposed landscape works as documented in the Landscape Plans including the provision of a roof top communal open space area to enhance the amenity for residents living in the development, as well as landscaped planters to the first floor balconies.</p> <p>Landscape Referral raise no concerns with the proposed landscape works.</p>
NECC (Development Engineering)	<p>Supported, subject to conditions</p> <p>Application is for alterations and additions to the existing building to allow for shop-top housing and a pub.</p> <p>No objections to approval subject to conditions as recommended.</p>

Internal Referral Body	Comments					
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported, no conditions</p> <p>The proposed development is for internal alterations and will maintain the footprint and usage of the ground floors for commercial purposes.</p> <p>The northwest part of the property is located within the medium flood risk precinct, however it is not affected by the 1% AEP flood event.</p> <p>The proposed development generally complies with the flood controls in the Council's DCP.</p>					
Strategic and Place Planning (Heritage Officer)	<table border="1"> <thead> <tr> <th data-bbox="440 573 1437 607">HERITAGE COMMENTS</th> </tr> <tr> <th data-bbox="440 607 1437 640">Discussion of reason for referral</th> </tr> </thead> <tbody> <tr> <td data-bbox="440 640 1437 1106"> <p>Supported, subject to conditions</p> <p>The proposal has been referred to Heritage as the site is part of a group listed heritage item, being Item I106 - Group of commercial buildings - All numbers, The Corso. The site is also located within the C2 - Town Centre Conservation Area and in the vicinity of a number of heritage items:</p> <p>Item I113 - St Matthews Church and church hall - 44 The Corso (corner The Corso and Darley Road)</p> <p>Item I104 - Street trees - The Corso (from Whistler Street to Sydney Road)</p> </td> </tr> <tr> <th data-bbox="440 1106 1437 1140">Details of heritage items affected</th> </tr> <tr> <td data-bbox="440 1140 1437 2139"> <p>Details of the heritage items as contained within the Manly Heritage inventory are:</p> <p>Item I106 - Group of commercial buildings <u>Statement of significance:</u> The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort.</p> <p>C2 - Town Centre Heritage Conservation Area <u>Statement of significance:</u> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.</p> <p>Item I113 - St Matthews Church and church hall <u>Statement of Significance:</u></p> </td> </tr> </tbody> </table>	HERITAGE COMMENTS	Discussion of reason for referral	<p>Supported, subject to conditions</p> <p>The proposal has been referred to Heritage as the site is part of a group listed heritage item, being Item I106 - Group of commercial buildings - All numbers, The Corso. The site is also located within the C2 - Town Centre Conservation Area and in the vicinity of a number of heritage items:</p> <p>Item I113 - St Matthews Church and church hall - 44 The Corso (corner The Corso and Darley Road)</p> <p>Item I104 - Street trees - The Corso (from Whistler Street to Sydney Road)</p>	Details of heritage items affected	<p>Details of the heritage items as contained within the Manly Heritage inventory are:</p> <p>Item I106 - Group of commercial buildings <u>Statement of significance:</u> The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort.</p> <p>C2 - Town Centre Heritage Conservation Area <u>Statement of significance:</u> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.</p> <p>Item I113 - St Matthews Church and church hall <u>Statement of Significance:</u></p>
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Internal Referral Body	Comments	
	<p>The church is a well consistently detailed but sombre example of Interwar Gothic style. The interior detailing and fittings are of a high quality of design, exhibiting a contrasting lightness to the exterior. As this building is seen in the round, the spatial effect on the north eastern side is of significance and it makes an important landmark and identifies the junction of the Corso with Darley Road. It makes a major contribution to the Corso.</p> <p>Item I104 - Street trees <u>Statement of significance:</u> Part of earliest planting on The Corso c.1850's by H.G. Smith. Historic and aesthetic importance to the streetscape.</p>	
	<p>Other relevant heritage listings</p>	
	<p>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</p>	<p>No</p>
	<p>Australian Heritage Register</p>	<p>No</p>
	<p>NSW State Heritage Register</p>	<p>No</p>
	<p>National Trust of Aust (NSW) Register</p>	<p>No</p>
	<p>RAIA Register of 20th Century Buildings of Significance</p>	<p>No</p>
	<p>Other</p>	<p>N/A</p>
	<p>Consideration of Application</p>	
	<p>The proposal seeks consent for alterations and additions to an existing heritage listed flat building with a retail at the ground level and the adjacent retail building. The subject site is in a very prominent location and is visible from various angles and distances, including The Corso, Market Place and Whistler Street. It is noted that an approved development application on the site DA2020/1711 which provides a good heritage outcome through utilising the existing building and layout.</p>	
	<p>The proposed works for 19-21 The Corso, "Exeter Flats" - built in 1922, involve a new lift and enhancement of the existing light wells to increase amenity and natural light into the existing residential apartments and the use of the roof terrace for communal open space, including like-for-like replacement of the timber windows along the main (south-eastern) façade. The proposed works to the existing infill building at building at 23 The Corso include additional two storeys above, with no changes to the previously approved scheme for façade reinstatement. The additional levels are proposed to be recessed from the building line, however the recess for the second floor unit A2.03 is not sufficient to maintain the existing two storey presentation - bulk and scale to The Corso. It is recommended to increase this recess by pushing the living and dining area to the north and having the balcony facing The Corso. The setback</p>	

Internal Referral Body	Comments
	<p>of the upper level - Unit A3.03 is considered to be sufficient (approximately 5.5m from the street alignment) to maintain the existing low scale appearance of the existing streetscape.</p> <p>The proposed changes are primarily to the existing fenestration of the Market Place facade of the heritage listed building. It is considered that the bulk and scale of the existing building - "Exeter Flats" should remain unchanged on both facades. The existing recessed fourth storey could be extended to a degree to accommodate the required amenities but should maintain the existing bulk and be not visible from the street level. This will also allow the interpretation of the original flat building from a number of view points.</p> <p>Amended Comments</p> <p>Amended drawings received on 23 September 2022, with an increased setback to the proposed 2ND FLOOR PLAN of the building at 23 The Corso - facing The Corso. Initially, Heritage had required a greater setback for this extension, but following a meeting, held on 01 September 2022, both parties agreed on the 1800mm setback from The Corso boundary.</p> <p>Heritage also had required the the third floor plan to be recessed from the Market Lane boundary, to maintain the existing bulk and scale of the heritage building. In accordance with the Article 22 of Burra Charter: <i>"New work should respect the context, strength, scale and character of the original, and should not overpower it. The key to success is carefully considered design that respects and supports the significance of the place. Well-designed new work can have a positive role in the interpretation of a place."</i> It is considered that the balcony parapet wall (above A1.02) of the unit A3.02 could be recessed from the boundary with a change of material (could be transparent) in order to reduce the mass and scale of the building at 23 The Corso, on the Market Place streetscape. This will allow the proposal respect the existing mass, scale and the original subdivision pattern.</p> <p>Further amendments by the applicant, received on 07 October 2022, provided a setback of 840mm for 19-21 The Corso, from the Market Place facade, allowing the interpretation of the existing mass and scale. The proposed change in material and texture, and allowing a 4m balcony to the third level, from the Market Place facade for 23 The Corso is considered to have a manageable impact upon the significance of the heritage item/s and the conservation area.</p> <p>Therefore, no objections are raised on heritage grounds subject to two conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>

Internal Referral Body	Comments
	<p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 27 June 2022, Amended 13 October 2022</p>
Traffic Engineer	<p>Supported, subject to conditions</p> <p>Proposal description: The proposal is for alterations and additions to part of the existing mixed-use buildings, including the extension of the existing third-floor level to create an additional two apartments. No off-street parking or loading facilities are proposed.</p> <p>Traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> • Plans (Master Set, Amended) – Revision DA - A, designed by Durbach block jagers, dated 28/06/2022, • Traffic and Parking Assessment report prepared by VARGA TRAFFIC PLANNING Pty Ltd dated 6 May 2022, • Statement of Environmental Effects prepared by HAMPTONS PROPERTY SERVICES Pty Ltd dated 12 April 2022, and • Pre Lodgement Advice (PLM2021/0234) dated 15/10/2021. <p>Notes:</p> <p>There were a number of minor traffic concerns raised in the PLM referral comments dated 15/10/2021 that were requested to be addressed in the DA traffic report</p> <p><u>Parking</u></p> <p>There is a requirement under the DCP for additional parking at the rate of 1 parking space for additional 2-bed units and 0.6 spaces for additional single-bed units plus some additional visitor parking at 0.25 spaces per unit. The existing development on the site provides no off-street parking, and no additional parking is proposed under the development proposal. It is reported in the traffic report that the overall development would result in a less intensive use of the site, given the substantial reduction in the commercial floor area proposed on the site (by 50%) and recommends support for the absence of parking on this basis. It is also noted that the development site</p> <ul style="list-style-type: none"> • is within close proximity to good Bus and Ferry transport and within walking distance of services and facilities. • is in a location with a high parking demand on the development frontage and providing a small number of additional offstreet parking spaces for the development would be impractical as it would require the construction of a driveway which itself would remove parking from on-street. • would negatively impact upon pedestrian safety if it provided offstreet parking as the increase in vehicle movements to and

Internal Referral Body	Comments
	<p>from the site across a highly pedestrianized area would be undesirable and potentially unsafe.</p> <p>On the basis of the above comments the absence of parking to support the</p> <p><u>Traffic Generation</u></p> <p>The traffic and parking impact report has concluded that as the development will significantly reduce commercial floor space area it will result in less traffic generation than the existing development on the site. The absence of offstreet parking will also act to increase reliance upon public transport, walking and cycling and the development is not opposed in terms of traffic generation.</p> <p><u>Loading</u></p> <p>The development proposes no off-street loading facility but relies upon the use of the on-street Loading Zones on Market Lane adjacent to the development site. As per the PLM comments, the lack of a Loading Dock is not opposed noting that the Loading Zone on Market Lane in front of the development will be retained and available for deliveries. 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. This will be conditioned.</p> <p><u>Construction Traffic Management</u></p> <p>As outlined at the PLM Construction Traffic Management will be a critical issue in this location and a Construction Traffic Management Plan (CTMP) will need to be submitted prior to construction certificate to demonstrate how the works will be safely managed and constructed. A limitation on the size of any construction vehicles accessing the site will be imposed given the 6m length restriction on access to Whistler Street. Subject to turning path assessment vehicles up to 8.8m in length may be permitted if they can safely access and maneuver to and from the site via Whistler St and the trafficable portion of Market Lane with all available parking spaces occupied. Traffic Control Plans to manage entry and exit to and from the site and to/from Whistler Street will be required.</p>
Waste Officer	<p>Supported, subject to conditions Waste Management Assessment - Amended Plans (submitted 18/10/2022) Recommendation -Supported, subject to conditions.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported, subject to conditions The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the</p>

External Referral Body	Comments
	relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 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.

As previously outlined the proposed development is for the erection of a four storey shop top 'housing' development for the provisions of 12 self-contained dwellings and 2 retail premises.

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.

As previously outlined within this report 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 has an appointed Design and Sustainability Advisory Panel (DSAP).

The application was referred to DSAP on 28 July 2022. The Panel at its meeting concluded that the development is generally supportable. Minor changes in relation to the facade, materials and landscaping were recommended to ensure the bulk and scale of the development is minimised and to ensure continuity of design with the character of The Corso. Full comments from DSAP are provided earlier in this report.

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 subject site is located within an established town centre in Manly. Development located within the town centre is predominantly characterised by a mix of commercial and shop top housing developments varying between 3 to 5 storeys in height.

The proposed building, a four storey shop top housing building, appropriately responds to, and fits comfortably within, this context. The design of the building will enhance the qualities of the area and is reflective of a modern shop top housing development which is a high quality design.

The development satisfies this Principle.

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 proposed building achieves a scale, bulk and height that is appropriate to the existing and desired future character of the street and surrounding buildings. The development provides a built form and scale that is reflective of its important location within the Corso and is contextually appropriate when viewed in the context of other recently constructed developments within the town centre.

The building responds to the heritage significance of the site retaining the existing facade of the building fronting both the Corso and Market Lane.

The development satisfies this Principle.

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 design of the building affords future residents a high level of amenity. The resultant density is therefore appropriate to the site and its context given its location to existing infrastructure, services, public transport, location within the Manly town Centre and ease of access to community facilities and the surrounding environment.

The development satisfies this Principle.

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 design of the building allows for adequate natural cross ventilation and sunlight for the amenity and liveability of future residents and provides passive thermal design for ventilation, heating and cooling which will reduce the reliance on technology and operation costs.

The application is supported by a Waste Management Plan which includes suitable details for the disposal and recycling of demolition and excavation materials should the application be approved.

In addition, a BASIX certificate has been submitted with the application. The certificate confirms that the development is capable of achieving the water and energy targets and has obtained a pass for thermal comfort.

The development satisfies this Principle.

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:

There is no minimum landscaped open space provision required for such development within this zone. This is due to the dense urban environment and envisaged character of development in the Corso.

The development satisfies this Principle.

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 design of the building provides sufficient amenity for future residents and residents in neighbouring properties. A sufficient level of sunlight, natural ventilation, views, privacy and private open space is afforded to future dwelling occupants and maintained for occupants of surrounding residential properties. Further, as detailed below, the development satisfies the Apartment Design Guidelines that relate to internal and external amenity.

The development satisfies this Principle.

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:

Generally, the development provides well designed and secure access to vehicular and pedestrian access points to both the retail and residential components of the development. All apartments provide

balconies and windows which provides passive surveillance to both The Corso and Market Lane.

The development satisfies this Principle.

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 provision of a mix of two and three bedroom apartments in this location is considered reasonable due to the site’s close proximity to public transport, commercial facilities and opportunities within the Manly Town Centre.

The development satisfies this Principle.

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 building provides a modern and contemporary form with a well-considered use of physical and material articulation and modulation to provide a front facade that will contribute to the Manly Townscape.

The development satisfies this Principle.

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?	Consistent The development responds to and relates favourably to its context and location

		within the Manly Town Centre. The height, bulk and scale is consistent with that of surrounding and recently constructed development within the town centre and represents a design excellence envisaged for the town centre.						
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Consistent The design maximises the opportunity for natural light by orientating living room to the northern side of the building and introducing a large lightwell through the centre of the site for solar access for apartments to the southern side of the building.						
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?	Consistent The development provides an appropriate transition between the public and private domain without compromising safety and security. The development provides further and enhanced street level activation through the introduction of activation on both street frontages thereby enhancing the amenity of the public domain.						
Communal and Public Open Space	Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25% of the site 2. 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)	Consistent						
Deep Soil Zones	Deep soil zones are to meet the following minimum requirements: <table border="1" data-bbox="438 2060 1061 2139"> <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				Inconsistent The proposed development does not provide any deep soil zones. However, no deep
Site area	Minimum	Deep soil						

	<table border="1"> <thead> <tr> <th></th> <th>dimensions</th> <th>zone (% of site area)</th> </tr> </thead> <tbody> <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> </tbody> </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	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.
	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 border="1"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p><i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i></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	Inconsistent See comments below
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?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	Consistent Retail premises from both the Corso and Market Lane frontage provide pedestrian access to the site.												
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>	N/A No vehicular access is proposed in this application.												
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 	N/A No vehicular access is proposed in this												

	<p>station or light rail stop in the Sydney Metropolitan Area; or</p> <ul style="list-style-type: none"> 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>	application.
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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. 	Consistent
	<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. 	Consistent
Natural Ventilation	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <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. 	Consistent
	<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. 	Consistent
Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p>	Inconsistent

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 areas

Third level floor to ceiling height - 2.6m

See further comments below

Apartment Size and Layout

Apartments are required to have the following minimum internal areas:

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 5m² each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

Consistent

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.

Consistent

Habitable room depths are limited to a maximum of 2.5 x the ceiling height.

Inconsistent
See comments below

In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.

Inconsistent
See comments below

Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).

Consistent

Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space

Consistent

	for freestanding wardrobes, in addition to the 3.0m minimum dimension.																
	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 apartments • 4m for 2 and 3 bedroom apartments 	Consistent															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Consistent															
Private Open Space and Balconies	All apartments are required to have primary balconies as follows: <table border="1" data-bbox="438 757 1062 1016"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	Inconsistent See comments below
	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															
	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.	N/A - Retail at ground floor															
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Consistent															
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A - Four storey building															
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table border="1" data-bbox="438 1585 1062 1917"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m²</td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m²</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m²</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	Consistent					
	Dwelling Type	Storage size volume															
Studio apartments	4m ²																
1 bedroom apartments	6m ²																
2 bedroom apartments	8m ²																
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	Consistent															

	spaces and circulation areas should be located at least 3m away from bedrooms.											
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Consistent The proposed development will not lead to any noise impacts within the Manly Town centre.										
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.	Consistent The development will provide 3 x 1 bedroom apartments, 9 x 2 bedroom apartments and which will contribute to catering for the market demand within the Manly Town Centre and surrounds.										
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	N/A										
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent The use of a mix of contemporary materials and finishes and effective building articulation will ensure appropriate visual interest is provided along The Corso and Market Lane whilst respecting the heritage character of the local area.										
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.	Consistent The proposed design is consistent with other recent development within the Corso. the roof elements will not be visually dominant in terms of bulk and scale.										
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Consistent Suitable landscape is proposed within the development										
Planting on Structures	When planting on structures the following are recommended as minimum standards for a range of plant sizes: <table border="1" data-bbox="422 1960 1077 2139"> <thead> <tr> <th>Plant type</th> <th>Definition</th> <th>Soil Volume</th> <th>Soil Depth</th> <th>Soil Area</th> </tr> </thead> <tbody> <tr> <td>Large Trees</td> <td>12-18m high, up</td> <td>150m³</td> <td>1,200mm</td> <td>10m x 10m or</td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up	150m ³	1,200mm	10m x 10m or	Consistent: The landscape plan submitted responds appropriately to the site conditions and context. It is considered that further amendments to the landscape plan incorporating public
Plant type	Definition	Soil Volume	Soil Depth	Soil Area								
Large Trees	12-18m high, up	150m ³	1,200mm	10m x 10m or								

		to 16m crown spread at maturity			equivalent	domain treatments will result in an even better outcome, and therefore Council's Landscape Officer has required that the plans be further detailed prior to the issuance of a Construction Certificate.
	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		
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features					Consistent: At least 20% of the apartments contained within the development are capable of providing adaptable living arrangements.
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.					Consistent: The proposed addition to the existing shoptop housing development at No. 19-23 integrates a new contemporary building style while being sympathetic to the heritage significant of the site.
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.					Consistent: The development is accessible through public transport and is appropriately designed to respond to the public domain.
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.					N/A No change to existing awnings

	Signage must respond to the existing streetscape character and context.	
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Consistent: The proposal was accompanied by a BASIX Certificate and BASIX stamped plans to ensure energy efficiency.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Consistent: Councils Engineer has reviewed the design and recommended appropriate conditions to ensure the suitable management of water within the locality.
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?	Consistent Councils Waste Management Officer has reviewed the drawings and is satisfied that the proposal is designed to allow for suitable waste management, subject to conditions.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Consistent The proposal incorporates suitable materials to ensure the longevity and sustainability of the building. The proposal also incorporates suitable access pathways to allow for building maintenance

DETAILED ADG DISCUSSION

Visual privacy (3F-1)

With B2 Local Centre zoned land to both sides of the subject site, the 6m minimum side setback prescribed by this objective would essentially sterilise the site. Objective 3F-1 aims to ensure that adequate separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. The proposed development will extend the null setback, consistent with neighbouring development within the Corso, to ensure that reasonable levels of privacy are achieved between properties.

Living room windows facing the lighwell from Apartments A2.03 and A2.02 at 2nd floor level will potentially may directly overlook each other. A condition of consent has been imposed to ensure direct sightlines between apartments is suitably minimised. The condition imposed is as follows:

"The south facing kitchen window from apartment A2.02 is to have a minimum sill height of 1.6m above

finished floor level or be fixed and frosted below 1.6m"

Ceiling heights & Apartment Size and Layout (4C-1 and 4D-1)

The proposed floor to ceiling height at 3rd floor level are 2.6m for both habitable and non-habitable rooms (measured from the sections plans) inconsistent with the 2.7m requirement for habitable rooms. The proposal also fails to provide the minimum 3.3m floor to ceiling height at first floor level. The proposal also exceeds the maximum 8m living room depth for apartments. The minor non-compliance to both controls noting that each apartment has access to one of the two frontages (The Corso and Market Lane). Both the residential and retail areas will have an abundance of natural light, with a high internal amenity for occupants and visitors alike.

Private open space and balconies (4E-1)

The proposed development fails to provide the minimum 10sqm, required for balconies of two bedroom apartments, with the size of winter gardens ranging from 7.1sqm to 15sqm at first, second and third floor level. The offset the minor scale of the winter gardens by the large community open space proposed to the roof of the subject site. It is also noted that given the subject sites location in the Manly Town Centre and proximity to the beach and public open space, the need for such a large area of private open space is not required.

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:

(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 assessment above has found that the proposed development is consistent with the the design quality principles and the objectives specified in the Apartment Design Guide for the relevant design criteria.

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential and commercial land use.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
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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	No. 19-21 Lift Shaft - 18.67m Roof - 15.47m No. 23: Roof - 14.47m	86.7% 54.7% 44.7%	No
Floor Space Ratio	2.5:1 (2,859.25m ²) Plus 0.5:1 per Clause 4.4 (2A) of MLEP 2013 Total: 3:1 (3,431.1m ²)	(2.52:1) 2881.97m ²	-	Yes
Gross Floor Area in Zone B2	Min. 25% GFA as Commercial (720sqm)	1673.97sqm	-	Yes
	Max. 1,000sqm per premises	No. 19-21: 188sqm and 25sqm No. 23-27: No change (See DA2022/1526)	- N/A	Yes (Existing)

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes

Clause	Compliance with Requirements
6.13 Design excellence	Yes
6.16 Gross floor area in Zone B2	Yes
6.21 Noise impacts—licensed premises	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	10m
Proposed:	<p>No. 19-21 Lift Shaft - 18.67m Roof - 15.74m</p> <p>No. 23: Roof - 14.47m</p>
Percentage variation to requirement:	44.7% - 86.7%

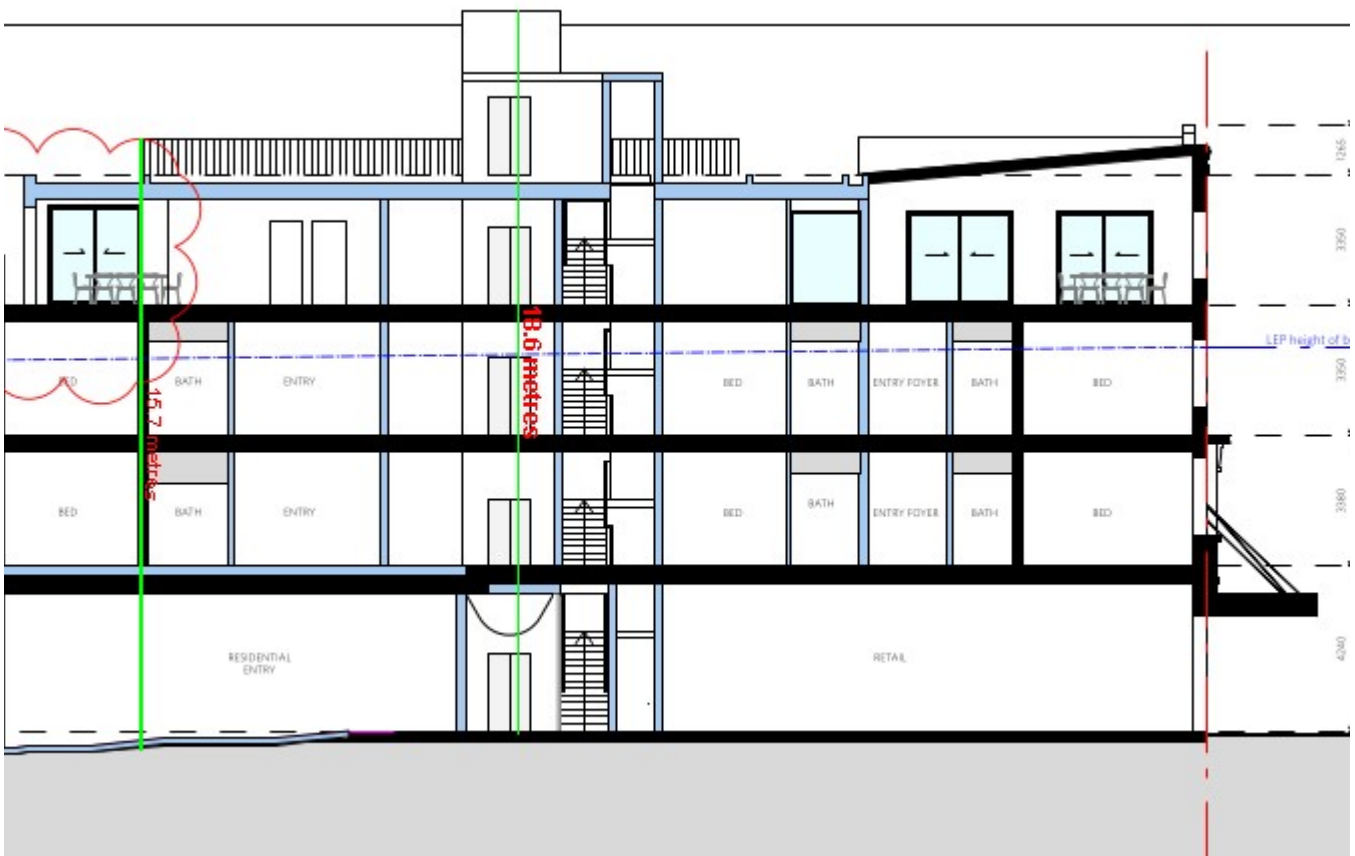


Figure 1 - Building Height

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 development standard 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 cl 4.6(3). There are two separate matters for consideration contained within cl 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 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 cl 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.'

s 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 applicants written request argues, in part:

"There are sufficient environmental planning grounds, despite non-compliance with the development standards for height as:

- *the additional building height allows for opportunities to upgrade an existing building that is in poor condition and subject to a fire order, which risks life and safety. The opportunity to service the building with adequate fire stairs and a lift ensures occupant safety being increased significantly over the existing situation*
- *the additional building height over 19-21 The Corso allows for the provision of common open space area, with a northern orientation that is accessible to all occupants of the building. This will enhance the amenity of the building, which has limited opportunities for open space areas attached to each apartment, having regard to the importance of the building elevations to the streetscape, particularly facing The Corso*
- *the additional building height provides opportunity for additional accommodation in a highly accessible location, with the focus of access being on walking, cycling and public transport*
- *the additional building height has a very minor impact over the public domain as a result of non-compliance with the development standard, which is generally limited to the footpath adjacent the church, opposite the site; the additional height does not compromise building openings that may otherwise restrict light to that space. The imposition only occurs for a low section of the existing wall and landscaping adjacent and is therefore not of significant detriment to the setting of that site, nor the public domain as a whole*
- *the additional building height, having regard to the built form of adjoining properties, does not result in adverse privacy conditions between sites*
- *from the public domain, the areas of non-compliance have no visibility that otherwise affect the bulk and scale of the building*
- *the areas of non-compliance provide greater opportunities for passive surveillance over the public domain of both street frontages*
- *the area of non-compliance across No 23 The Corso has a material public benefit by disguising the view of the Market Lane car park as intended by the planning controls.*

On balance, the proposed height breach achieves the planning purpose by providing a high-quality mixed-use development in a suitable location in close proximity to services, employment and transport. These benefits are in absence of any significant additional adverse streetscape or amenity impacts. Therefore, having regard to the above, there are sufficient environmental planning grounds to permit variation to the development standards for height and floor space ratio."

Council's Assessment of the Clause 4.6 Request

The applicant has satisfactorily demonstrated that the works are consistent with the objects of the EP&A Act, specifically the following objects of the EP&A Act:

- The development promotes the orderly and economic use and development of the land, in so far as the proposed replacement of ageing elements and access of a ageing building is an orderly response to the development of the site;
- The development promotes good design and amenity of the built environment, noting that the lift overrun will not contribute to any unreasonable impact on amenity considerations (i.e solar access, privacy and view loss) to neighbouring properties.
- The development promotes the proper construction and maintenance of buildings, in so far as the proposed non-compliance wholly relates to necessary maintenance of the ageing development.
- The proposed alterations allow for re-development of the shop top housing development without unreasonable impact upon the heritage significance or amenity of adjoining development.

The existing building encroaches above the 10m height control. The proposal seeks to extend the existing fourth level which results in the non-compliance with the 10m height control. The incorporation of a new lift overrun further encroaches on this height control. It is accepted that whilst the proposal seeks to further exceed the height plane, the resulting development will maintain an appropriate visual relationship with the surrounding built environment. In this instance, there is a public benefit in

maintaining the a degree of flexibility to the standard. The proposal works will regenerate an ageing building whilst still maintaining the heritage significance of the building. The works to the building known as No. 23 The Corso, while non-compliant the 10m control, will allow for more synchronised development across the Corao and will ensure that this building itself will not be isolated amongst the development at 19-21 and 25-27 The Corso.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (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 cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

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

cl 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:

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

a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The proposed development is located within a local centre where buildings are of varying heights and roof forms. Development located within the town centre is predominantly characterised by a mix commercial and shop top housing developments varying between 2 to 4 storeys in height.

The building height, while non compliant is generally consistent with the height of the existing building. It is noted that the current building on site (No. 19-21) is currently the highest building within the Corso, however, the existing building represents the centre of Manly and the Corso Generally and it is a noted heritage item under the MLEP 2013. The additional bulk from the lift overrun will not be largely visible from the Corso or Market Lane given it is centralised on the site.

The proposed development includes works above the maximum height of the existing building is limited to the lift overrun. 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 overall building bulk and scale has been effectively controlled by way of effective building setbacks, building separation, building articulation and manipulation of building elements and through the use of appropriate materials and finishes. The proposed building height will not result in unreasonable building bulk or scale and does not result in any unreasonable physical or visual impacts on surrounding lands. The proposal is also compliant with the floor space ratio control.

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 does not cause unreasonable view loss to and from public and private open spaces.

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 is considered to be designed and sited in a manner that adequately mitigates solar access impacts to adjacent properties. The proposed design complies with the relevant controls for sunlight under the MDCP 2013.

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, ferry services and courtesy bus 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 amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*

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:

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

Planning Circular PS20-002 dated 5 May 2020, 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.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1,143.7m²	Requirement	Proposed	% Variation*	Complies
4.2.3 Setbacks Controls in LEP Zone B1 and B2	0m	No. 19 - 21 (third floor) - 0.84m No. 23 - 2.5m	-	Yes

4.4.3 Signage	Max. 2 signs per frontage	No signage proposed	-	N/A
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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
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 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
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
4.2.5.6 Late Night Venues	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	Yes	Yes
4.4.4.2 Awning supported from the ground	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
5 Special Character Areas and Sites	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

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 building height 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

Description of non-compliance

Under Schedule 3 of Manly Development Control Plan 2013, the requirements for Shop Top Housing and Retail Premises are as follows:

Shop Top Housing

In other LEP Business Zoned land (i.e. other than Manly Town Centre)

- 0.6 resident parking space for each Studio or one bedroom dwelling, plus
- 1 resident parking space for each 2 bedroom dwelling, plus
- 0.16 visitor parking space for each dwelling.

Retail Premises

- 1 parking space for every 40sqm of gross floor area

The existing development has 10 apartments. The proposal increases this to 12 residential units (9x two bedroom and 3 x one bedroom) in the Shop Top Housing Development. The retail premises amount to a total gross floor area of 213sqm. Therefore the requirements for car parking are as follows:

11 resident parking spaces, and
 12 x 0.16 = 1.92 (rounded to 2) visitor parking spaces
 213sqm/40sqm = 5.3 (rounded to 6) retail parking spaces

Therefore a total of 19 parking spaces are required. The proposed development provides zero (nil) on

site parking. Therefore the proposal presents a shortfall of 19 parking spaces.

A detailed assessment has been undertaken by Council's Traffic Engineer under Internal Referrals contained within this report. In summary, the variation to the car parking is supportable by Council's Traffic Engineer subject to recommended conditions.

Notwithstanding, an assessment against the objectives of the control has been undertaken, and it is considered the proposal meets the objectives in this regard.

Merit consideration

With regard to the consideration of a variation, the proposal is considered against the underlying objectives of the control as follows:

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

Comment:

The proposed development results in no increase to traffic generation when compared to the existing development, despite the increase in residential apartments. Further, the existing development on site provides for no off-street parking or loading facilities. Finally, 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.

Clause 4.2.5.4 (*Car Parking and Access*) allows for an exception to the parking rate where it has been demonstrated that:

(i) in the case of all uses other than dwellings, the dimensions or topography of the site would physically prevent the provision of some or all of the required spaces;

(ii) the required access interferes with the continuity of retail frontage or interrupts the frontage of the property in other ways such that there would be a conflict with any other provisions of this DCP in particular the townscape objectives; or

(iii) the movement of vehicles to and from the site would cause unacceptable conflict with pedestrian movements, special servicing arrangements for pedestrianised areas or contribute to congestion at key intersections.

The proposed development meets this requirement noting that the site is isolated from the direct road access and that providing access would conflict with the townscape objectives.

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

Comment:

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

Conclusion

Based on the above assessment, and the assessment undertaken by Council's Traffic Engineer it is considered that the proposal satisfies the applicable objectives of this control and the car parking and loading bay provisions are supportable.

4.2.5.4 Car Parking and Access

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 affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$72,152 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$7,215,169.

CONCLUSION

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

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

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

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

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

Council is satisfied that:

- 1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013

seeking to justify a contravention of Clause 4.3 Height of Buildings 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.

CONCLUSION

The proposal includes a non-compliance in relation to the 8.5m Building Height. The proposed height breach has been considered in relation to the provisions of Clause 4.6 of the Manly LEP 2013. While it is acknowledged that the proposed height contravention represents a significant breach, the resulting impacts of the development on the amenity of the adjoining properties and overall townscape has been assessed as reasonable.

The proposal is generally consistent with the SEPP 65 and the apartment design guide.

Issues raised by Heritage and DSAP were satisfactorily addressed by amended plans and the proposal is deemed to be satisfactory, subject to conditions.

Based on the above discussion and the full assessment undertaken the application is recommended for refusal on the grounds of contamination and insufficient information to satisfy Council that the site is suitable for the proposed respite child care centre.

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 clause 4.3 Height of Building development standard 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 objectives for development within 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 DA2022/0643 for Alterations and additions to the existing building to allow for shop-top housing and a pub on land at Lot 2 DP 877793, 25 The Corso, MANLY, Lot 1 DP 877793, 27 The Corso, MANLY, 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 with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-01/ Revision C	6 October 2022	durbach block jagers
DA-11/ Revision C	6 October 2022	durbach block jagers
DA-12/ Revision C	6 October 2022	durbach block jagers
DA-13/ Revision C	6 October 2022	durbach block jagers
DA-14/ Revision C	6 October 2022	durbach block jagers
DA-15/ Revision C	6 October 2022	durbach block jagers
DA-16/ Revision C	6 October 2022	durbach block jagers
DA-17/ Revision C	6 October 2022	durbach block jagers
DA-18/ Revision C	6 October 2022	durbach block jagers
DA-19/ Revision C	6 October 2022	durbach block jagers
DA-20/ Revision C	6 October 2022	durbach block jagers
DA-25/ Revision C	6 October 2022	durbach block jagers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A454749	4 April 2022	Credwell Energy
Geotechnical Report	30 April 2019	GeoEnviro Consultancy
Acoustic Assessment for DA	6 April 2022	Renzo Tonin and Associates

BCA and Access Report	4 April 2022	AE&D
Construction Management Plan and Buildability Report	March 2022	IRIS Capital
Fire Engineering Statement	5 April 2022	GHD
Flood Report	5 May 2022	James Taylor and Associates
Heritage Impact Statement	April 2022	City Plan
Section J Report	4 April 2022	Credwell
Structural Impact	5 April 2022	James Taylor and Associates
Traffic Assessment	6 May 2022	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:

Landscape Plans		
Drawing No.	Dated	Prepared By
Dwg: First and Third floor Plan/ 1 of 3/ Issue C	21 March 2022	Paul Scrivener
Dwg: Roof Level Plan/ 2 of 3/ Issue C	21 March 2022	Paul Scrivener
Dwg: Sections/ 3 of 3/ Issue C	21 March 2022	Paul Scrivener

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Operational and Construction Waste Management Plan	March 2022	Wasteaudit

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. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	N/A

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

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

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of **shop top housing**, in accordance with the Dictionary of the Manly Local Environmental Plan 2013, as follows:

shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. **No Approval for external exhaust system**

No approval is granted under this Development Consent for any external exhaust system. A separate Development Application must be submitted to Council for approval prior to the use of the retail premises.

Reason: To ensure compliance with the relevant Local Environmental Plan.

5. **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 Certifier 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 Certifier 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 Certifier 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.

6. **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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) 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.

- (e) 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.
- (f) 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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 2018
 - (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

7. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$72,151.69 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 (as amended).

The monetary contribution is based on a development cost of \$7,215,169.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

8. **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 are required 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, and details demonstrating payment are to be submitted to the Certifier 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

9. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WATER MANAGEMENT for DEVELOPEMT POLICY. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the 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.

10. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 6.0m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

11. **Photographic Archival Record**

A photographic archival record of the site is to made of all existing buildings and structures

(including interiors and exteriors and their setting), generally in accordance with the guidelines issued by the NSW Heritage Division of the NSW Office of Environment & Heritage (OEH).

This record must be submitted and approved by the Certifying Authority prior to commencement of any demolition or works on-site.

The photographic record should be made using digital technology, submitted on archival quality CD-R disc, and should include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

12. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the 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 and sizes must be agreed with Council's Traffic Engineer prior to submission of the CTMP. Swept path plots must be provided in the CTMP to demonstrate that the largest truck serving the construction site can enter and exit from Whistler Street in a forwards direction and manoeuvre through the external Whistler Street carpark with all parking spaces occupied.

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 safety
- 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 practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

Consideration should be given to permitting access by construction vehicles up to and including vehicles of 8.8m in length subject to the submission of swept path plots to demonstrate that they can safely access and maneuver to and from the site via Whistler St and the trafficable portion of Market Lane with all available parking spaces occupied.

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.

13. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The south facing kitchen window from apartment A2.02 is to have a minimum sill height of 1.6m above finished floor level or be fixed and frosted below 1.6m

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

14. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

15. **Building Code of Australia Fire Safety Requirements**

The Building Code of Australia fire safety measures for the building as detailed and recommended in the BCA and Accessibility Compliance Assessment Report by AED, dated 4/4/2022, Report No. 11784.1 Rev, 2.0 and the Fire Engineering Statement by GHD Ref 12553045 Rev. 0 dated 5/4/2022, including any proposed Performance Solutions are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

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

16. **Building Code of Australia Access**

Access and facilities to and within the building are to be provided for Persons with a Disability. In this regard the recommendations contained in the BCA and Accessibility Compliance Assessment Report prepared by AED dated 4/4/2022, Report No. 11784.Rev 2.0 is to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

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

17. **Interpretation of original layout**

The original layout of the existing building at 19-21 The Corso is to be reflected in the new layout configuration by the retention of the wall nibs -300mm minimum and the retention of the existing ceilings and cornices, where the original walls are proposed to be removed. Details demonstrating compliance with this condition are to be submitted to the Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To allow the interpretation of the original room layouts of the existing Inter-War flat building "The Exeter Flats".

18. **Mechanical Ventilation Provisions for Retail Tenancies**

Prior to the issuing of any Construction Certificate, certification is to be provided from a suitably qualified professional that the building's design and construction will provide adequate provisions to the retail tenancy for mechanical ventilation to be installed for any future uses that require mechanical ventilation e.g. food premises. The certification is to consider that the buildings provisions for mechanical ventilation are satisfactory to:

- Prevent potential amenity issues including noise and odour for occupants of the building and surrounding premises; and
- Allow compliance with relevant legislation and standards including Building Code of Australia, AS1668.1 "The use of ventilation and air conditioning in buildings Fire and smoke control in buildings" and AS1668.2 "The use of ventilation and air conditioning in buildings Mechanical ventilation in buildings".

Certification is to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To protect the amenity of building occupants and neighbouring properties.

19. **Noise - Design of Mechanical Plant**

Prior to the issue of a Construction Certificate, the design and location of the mechanical ventilation is to be provided to the Principal Certifying Authority. An acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine acoustic treatments to control noise emissions from all mechanical plant noise in accordance with recommendations in Acoustic Report prepared by Renzo Tonin & Associates dated 6 April 2022 (TM424-01D02 Acoustic Report for DA Apartments (r3)).

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

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

Reason: To protect surrounding premises from any noise generated by the operation of the development.

20. **Acoustic Report Recommendations**

Prior to the issuing of any Construction Certificate, documentation is to be submitted to the satisfaction of the Principal Certifying Authority that recommendations within the acoustic report by Renzo Tonin & Associates dated 6 April 2022 (TM424-01D02 Acoustic Report for DA Apartments (r3)) have been implemented/incorporated into the design of the premises.

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

21. **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 Certifier prior to the issue of the Construction Certificate.

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

22. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or

easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- “Tap in” details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

23. **Waste and Recycling Requirements**

Details demonstrating compliance with 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 Northern Beaches Waste Management Guidelines, 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 THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

24. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

Reason: To ensure Work zones are monitored and installed correctly.

25. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements and sizes must be agreed with Council’s Traffic Engineer prior to submission of the DTMP. Swept path plots must be provided in the CTMP to demonstrate that the largest truck serving the construction site can enter and exit from Whistler Street in a forwards direction and manoeuvre through the external Whistler Street carpark with all parking spaces occupied.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site.

Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.

- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of 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 DTMP 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. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP 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 Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP 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.

26. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties: 17 The Corso, Manly

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or

affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

27. Implementation of Demolition Traffic Management Plan

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP 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 DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

28. 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 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.

29. Ongoing Management

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

30. Geotechnical Requirements

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

31. Survey Certificate

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

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) 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 Certifier.

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

32. **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 dated [INSERT].

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

33. **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

34. **Landscape Completion**

Landscape works to be implemented in accordance with the approved Landscape Plans.

Prior to the issue of an Occupation Certificate, details from a landscape architect shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

35. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Council's Water Management for Development Policy by a Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

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

36. **Geotechnical Certification Prior to Occupation Certificate**

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

37. Environmental Reports Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifier and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A454749	4 April 2022	Credwell Energy
Geotechnical Report	30 April 2019	GeoEnviro Consultancy
Acoustic Assessment for DA	6 April 2022	Renzo Tonin and Associates
BCA and Access Report	4 April 2022	AE&D
Construction Management Plan and Buildability Report	March 2022	IRIS Capital
Fire Engineering Statement	5 April 2022	GHD
Flood Report	5 May 2022	James Taylor and Associates
Heritage Impact Statement	April 2022	City Plan
Section J Report	4 April 2022	Credwell
Structural Impact	5 April 2022	James Taylor and Associates
Traffic Assessment	6 May 2022	Varga Traffic Planning

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure compliance with standards.

38. Acoustic Report Certification

Prior to any occupation certificate being issued, a further acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to confirm compliance with recommendations within the Acoustic Report by Renzo Tonin & Associates dated 6 April 2022 (TM424-01D02 Acoustic Report for DA Apartments (r3)).

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

The updated acoustic assessment is to be submitted to the satisfaction of the Principal Certifying Authority.

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

39. Garbage and Recycling Facilities

All internal walls of the waste rooms 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.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

40. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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 waste and recycling facilities are provided.

41. **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.

42. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

43. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

44. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. If any plants under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance

with the approved Landscape Plans and any conditions of consent.

Reason: To maintain local environmental amenity.

45. **Collection of commercial/retail waste bins and materials.**

Commercial/retail waste and recycling bins and other waste materials are not to be placed on public land in Market Place for collection.

All arrangements for removal of commercial/retail waste from the building will include collection from the commercial/retail waste storage room within the property.

Empty bins must not be left on Market Place after collection.

Reason: To maintain the amenity of Market Place..

46. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

47. **Collection of Residential Waste and Recycling Bins**

Residential waste and recycling bins are not to be placed on public land in Market Place for collection.

Council will provide a "wheel out/wheel in service" from the bin storage room within the property.

The property owner/manager is to ensure that access to the residential bin storage room is unimpeded from 5.00am to 6.00pm on the scheduled day of collection.

Reason: To maintain the amenity of Market Place.

48. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed.

49. **Resident Parking Permits**

Any residents and/or tenants of the subject site are not eligible for resident parking permits even if they reside in a Permit Parking Scheme area. This condition is to be provided on the property Title.

Reason: to encourage sustainable transport alternatives and ensure that residents/tenants are aware that they are not entitled to a permit

50. **Restriction on size of delivery and service vehicles**

Service and Delivery Vehicles accessing the site from Whistler Street and/or parking in Market Lane are not to exceed 6m in length

Reason: 6m length limit on vehicle access to Whistler Street