

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/1398
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<b>Responsible Officer:</b>	Tony Collier
<b>Land to be developed (Address):</b>	Lot 3 SP 67337, 3 / 63 - 67 The Corso MANLY NSW 2095
<b>Proposed Development:</b>	Alterations and additions to an existing building to facilitate shop top housing containing 12 apartments including the construction of a pergola and lift overrun to the roof terrace
<b>Zoning:</b>	Manly LEP2013 - Land zoned B2 Local Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Sangrow Pty Ltd
<b>Applicant:</b>	Sangrow Pty Ltd

<b>Application Lodged:</b>	06/12/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Mixed
<b>Notified:</b>	11/01/2020 to 25/01/2020
<b>Advertised:</b>	11/01/2020
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 51% 4.4 Floor space ratio: 1.7%
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 2,395,394.00
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### EXECUTIVE SUMMARY

The proposal involves an adaptive re-use of an existing mixed-use building which is currently occupied by backpackers accommodation with ground floor retail premises. Therefore, the proposal seeks consent for alterations and additions and the change of use of the existing backpacker accommodation component to shop top housing.

The building is located within the B2 Local Centre zone and within The Corso. The building is listed under the Manly Local Environmental Plan 2013 as being part of 'Item I106 - Group of Commercial Buildings'. With minor exception to the roof top terrace, the development retains the external fabric of the building, with the works occurring entirely within the building footprint.

The assessment has found that the proposed development is satisfactory in relation to built form, character, streetscape, heritage impact and, on balance given the adaptive nature of the proposal, with respect to internal and external residential amenity.

The public exhibition of the proposal did not attract any submissions.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

## **PROPOSED DEVELOPMENT IN DETAIL**

The following describes changes to existing Strata Part Lot 3. Strata Part Lots 1 and 2 (which solely consist of existing retail outlets on the ground floor) remain unchanged.

In detail, the development consists:

### Ground Floor (RL 4.93)

- Replace the existing lobby with a new residential lobby (facing Market Place).
- Add a new retail outlet adjacent to the residential lobby (facing Market Place).
- Addition of bi-fold doors to the new retail outlet (facing Market Place).
- Add a new retail outlet (facing The Corso).
- Addition of residential bin storage area adjacent to the common area (facing Market Place).

### Mezzanine Level (RL 7.80)

- Adaptable re-use of the existing floor level to accommodate 2 x 1 bedroom apartments (Apartments 01 and 02 facing Market Place).

### Level 1 (RL 10.70)

- Adaptable re-use of the existing floor level to accommodate four apartments. The apartments include:
  - 2 x 1 bedroom apartments (Apartments 03 and 06 facing Market Place).
  - 2 x 2 bedroom apartments (Apartments 04 and 05 facing The Corso).
- Adaptable re-use of the existing floor level to accommodate the bedrooms of Apartments 09 and 10.
- Extension of the floor level into the side void areas to accommodate a dining room to Apartments 04 and 05.
- Installation of balconies (winter gardens) to Apartments 04 and 05 behind the existing facade facing The Corso.

### Level 2 (RL 13.65)

- Adaptable re-use of the existing floor level to accommodate four apartments. The apartments include:
  - 2 x 1 bedroom apartments (Apartments 07 and 12 facing Market Place).
  - 2 x 2 bedroom apartments (Apartments 08 and 11 facing The Corso).
  - 2 x 1 bedroom apartments (Apartments 09 and 10 facing The Corso).

- Installation of balconies to Apartments 08, 09, 10 and 11 behind the existing facade facing The Corso.

#### Roof Level (RL 16.60)

- Replacement of the existing centrally located communal area with a new centrally located communal roof terrace area to accommodate:
  - Seating, BBQ facilities and tables.
  - Landscaping.
- New lift shaft and bridge from terrace to the lift.

Note: The existing facade to The Corso and Market Place will be retained in situ.

The estimated cost of works has been prepared by a Quantity Surveyor registered with the Australian Institute of Quantity Surveyors.

### **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 Local Environmental Plan 2013 - 6.16 Gross floor area in Zone B2

### **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 3 SP 67337 , 3 / 63 - 67 The Corso MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment which is Strata subdivided into three (3) lots (being Part Lots 1, 2 and 3).</p> <p>The site is located at the northern end of The Corso and</p>

enjoys frontages to both The Corso and Market Place. Both streets are pedestrianised.

The site is generally rectangular in shape with a frontage of 16.385m to the Corso, a frontage of 14.860m to Market Place and an average depth of 27.88m. The site has a surveyed area of 490.3m<sup>2</sup>.

The site is located within the B2 Local Centre zone and accommodates a mixed use development comprising retail outlets at the ground and mezzanine floor levels and backpackers' accommodation within the three (3) levels above.

The site has a slight downward slope of 0.34m from The Corso to Market Place although this is not noticeable because the topography has been altered to accommodate the existing building.

Adjoining and surrounding development is characterised by commercial development comprising retail outlets and the neighbouring three (3) storey hotel immediately to the north.

Map:



## SITE HISTORY

Council's records reveal that the site was used as a retail premises by Woolworths until 1999 when the site was subject to a development application (DA201/98) for alterations and additions to the existing two storey retail building to create a 3 storey development containing retail and backpacker accommodation.

The following application is relevant to the current proposal:

#### DA2019/0250

This application was lodged on 13 March 2019 for alterations and additions to the existing building to facilitate shop top housing. The development included fifth floor addition of a contemporary design.

A letter was sent to the applicant on 17 April 2019 advising that the application could not be supported for the following reasons:

- Building height and FSR.
- Heritage impact.

The application was subsequently withdrawn by the applicant on 10 May 2019.

#### 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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for commercial and residential purposes for an extended period of time. The proposed development retains the commercial and residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including</p>

Section 4.15 Matters for Consideration'	Comments
	<p>fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 un/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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application was referred to Council's Building Assessment Team with respect to compliance with the Building Code of Australia, disability access and fire requirements. The following comments have been provided:</p> <p><u>Response 1</u></p> <p><i>"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.</i></p> <p><i>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.</i></p> <p><i>It is noted that the Access Report by Urban Health Access and Heritage Consultants provided with this application is not relevant to the subject building. The applicant should be required to provide an new Access Report for consideration".</i></p> <p>An amended Access Report was submitted to Council on 3 February 2020 and forwarded to Council's Building Assessment Team for review. The following additional comments have been provided:</p> <p><u>Response 2</u></p> <p><i>"The Access Report dated 6/11/2019 prepared by Richard Brew of Urban Health Consultants Pty Ltd has been reviewed. The original condition in my referral report relating to "Access for People with Disabilities" is required to be <u>retained</u>. No further conditions are necessary".</i></p> <p>The recommendations contained in the Access Report are included within the draft conditions of consent.</p>
Environmental Health (Industrial)	<p>The application was referred to Council's Environmental Health Team to review the acoustic report provided on behalf of the applicant by Acoustic Dynamics, 4198R001.LB.200501 ('the report'). The following comments have been provided:</p> <p><i>"The purpose of 'the report' is to assess external impacts of the established Local Centre on the proposed residential premises. This approach was of particular importance given that 'Manly Corso' is identified as a future '24 hour Night Time Economy' precinct. This initiative is likely lead to raised background sound levels during the night-time period (10pm-7am) that could potentially cause sleep disturbance for residents and an overall raised background level</i></p>

Internal Referral Body	Comments
	<p><i>through the day and evening periods that could potentially impact on residential amenity.</i></p> <p><i>Section 4 of 'the report' provided internal and external construction recommendations that can be conditioned to ensure noise from external sources will be adequately mitigated.</i></p> <p><i>Internal floors, walls and ceilings between residential units and the existing retail are required to comply with BCA acoustic requirements. BCA compliance to be assessed by the Principle Certifying Authority.</i></p> <p><i>'The report' has highlighted the importance of 'fresh air' ventilation and Council is in agreement that for any noise attenuation to be effective, each individual unit will need to be adequately ventilated to ensure the residents can keep windows closed during peak external noise periods.</i></p> <p><i>Acoustic dynamics have provided options for passive ventilation systems in 'the report' and mechanical ventilation is also a viable option. The Statement of Environmental Effects references 'natural ventilation' however this may not be sufficient if windows need to be kept close for effective noise attenuation.</i></p> <p><i>As there is no proposal for mechanical ventilation, Council will condition that each residential unit is to have a passive system installed as recommended in section 4.4 of 'the report' or a mechanical ventilation system.</i></p> <p><i>Recommendation: Approval - Subject to conditions".</i></p> <p>The conditions imposed by Environmental health, together with the recommendations contained in the acoustic report are included in the draft conditions of consent.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The application was referred to Council's Stormwater and Floodplain Engineering team for review. The following comments have been provided:</p> <p><i>"The development proposes change of use, internal alterations and extensions (vertical). Subject to conditions, the development complies with Council's flood prone land controls".</i></p> <p>The conditions imposed by Council's Stormwater and Floodplain Engineering team are included in the draft conditions of consent.</p>
Strategic and Place Planning	<p>The application was referred to Council's Strategic and Place Planning department for review, particularly given the context of the work currently being undertaken with the Local Strategic Planning Statement (LSPS), controls for a consolidated Northern Beaches Local Environmental Plan and Development Control Plan together with associated studies and documents such as a Place Plan for Manly. The following comments have been provided:</p>



Internal Referral Body	Comments
	<p><i>"I understand that the DA is for alterations and additions, and change of use to shop-top housing. I understand the 3 storey building located right on and accessible from The Corso and has service access from the rear, via Market Place. This 3 storey building is currently a mixed-use, with retail at ground level and backpacker accommodation in upper 2 levels. The SEE submitted with this DA states that 'the proposed residential accommodation includes a total of 12 apartments comprising 8 x 1 bedroom and 4 x 2 bedroom domiciles.'</i></p> <p><i>The following comments are limited to the adopted and any exhibited draft documents that informs the strategic planning framework applying to this property and more generally, the future role of the Manly Strategic Centre. In this context, the development undoubtedly replaces short-term tourist accommodation with resident accommodation at a location clearly identified as tourist and visitor precinct. The loss of short-term tourist accommodation offered at a specific price point is inconsistent with the vision and principles for the Manly Strategic Centre reiterated from Council's recently adopted Local Strategic Planning Statement (LSPS). An extract from the adopted LSPS relevant to Manly Centre is provided below.</i></p> <p><i>Towards 2040 Local Strategic Planning Statement, adopted by Northern Beaches Council on 25 February 2020, is the 20 year land use vision and will guide development in the Northern Beaches to the year 2040. Towards 2040 identifies the following priorities and underpinning principles as relevant to Manly Strategic Centre for its future role/vision:</i></p> <p><u><i>Priority 26 - Manly as Sydney's premier seaside destination</i></u></p> <ul style="list-style-type: none"> <li><i>• The town centre offers cultural, tourist, retail and entertainment uses.</i></li> <li><i>• Manly is an important tourist destination and the LGA's only designated late-night precinct. These uses must be balanced with the needs of Manly's residents and other specialised uses which include the International College of Management Sydney, Manly Art Gallery and Museum (one of 40 regional and public galleries in NSW), Australia's first hospice for young adults, Soldier On (a veterans' rehab centre at North Head) and Royal Far West (a provider of health and education services for country children and their families).</i></li> </ul> <p><i>The following principles underpinning this priority are to:</i></p> <ul style="list-style-type: none"> <li><i>• Balance competing land uses in Manly to serve the needs of workers, residents and visitors.</i></li> <li><i>• Protect and enhance Manly's character, identity and social significance.</i></li> <li><i>• Balance short-term accommodation for visitors with affordable housing options for residents.</i></li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• <i>Improve public amenity and revitalise Manly's laneways.</i></li> <li>• <i>Diversify the night-time economy and minimise conflicts with residential uses.</i></li> <li>• <i>Continue Manly's function as a tourism precinct and enhance nature-based tourism opportunities</i></li> </ul> <p><u><i>Priority 29 - A thriving, sustainable tourism economy</i></u></p> <ul style="list-style-type: none"> <li>• <i>Manly is the main tourism precinct on the Northern Beaches, voted the best beach in Australia by TripAdvisor for 2018 and 2019 and the Manly Ferry is listed as #3 'must do' in Sydney after Sydney Harbour Bridge and Sydney Opera House. Cruise ships also offer full or half-day excursions to Manly.</i></li> <li>• <i>Diversifying tourism offerings beyond Manly, Palm Beach and the beaches, and beyond the summer peak, will strengthen the tourism economy. Opportunities include diversifying accommodation offerings, such as eco-accommodation (glamping), nature-based tourism and experiences such as the Coast Walk, heritage and Aboriginal culture-based tourism. Continued amenity, vibrancy and safety improvements in centres, as well as a focus on nighttime activities and artistic and cultural offerings, will enhance visitation beyond the coast. A destination management plan for the whole Northern Beaches will guide visitor economy development and growth.</i></li> </ul> <p><i>The principles underpinning Priority 29 include, among other things:</i></p> <ul style="list-style-type: none"> <li>• <i>Enable a strong tourism economy while maintaining quality of life and protecting the environment.</i></li> <li>• <i>Ensure a range of well-designed tourist accommodation in appropriate locations.</i></li> </ul> <p><u><i>Priority 30 - A diverse night-time economy wherein Manly is identified as the only designated late-night entertainment precinct in the LGA</i></u></p> <p><i>In terms of principles under Priority 30, it aims to:</i></p> <ul style="list-style-type: none"> <li>• <i>Broaden the range of night-time activities and locations.</i></li> <li>• <i>Minimise land use conflict and prevent more sensitive uses such as residential from sterilising night-time opportunities in centres.</i></li> </ul> <p><i>The following Actions relevant to Manly Strategic Centre are or will be undertaken based on resource allocation and project programming/priorities.</i></p> <ul style="list-style-type: none"> <li>• <i>Action 26.1 - Prepare a Place Plan for Manly and develop LEP</i></li> </ul>

Internal Referral Body	Comments
	<p><i>and DCP controls to respond to LEP studies and night-time economy to balance competing uses.</i></p> <ul style="list-style-type: none"> <li><i>• Action 29.1 - Complete the Destination Management Plan and Employment Study and use these to inform new LEP and DCP controls and planning processes to remove barriers to the tourism economy.</i></li> <li><i>• Action 29.6 - Prepare place plans that support the tourism economy; enhance visitor experiences; improve connections to the Coast Walk; and where relevant, address competing land uses.</i></li> <li><i>• Action 30.1 - Prepare a night-time economy strategy that responds to the employment study, economic development plan and destination management plan to broaden the range of night-time activities.</i></li> <li><i>• Action 30.2 - Review late-night venue controls in Manly DCP and prepare new location-specific LEP and DCP controls that address late-night venues; the shift towards smaller venues; live music; change agent noise controls; safety; flexible trading hours; and barriers to night-time temporary uses, arts, cultural and creative uses.</i></li> <li><i>• Action 30.3 - Prepare place plans, precinct plans and activation plans that support social, practical and functional activities in the evening and night-time. For the Manly Place Plan, there is a need to respond to alcohol-related violence, anti-social behaviour and tension between competing land uses.</i></li> </ul> <p><i>It is noted that the former Manly Council adopted the Manly 2015 Masterplan prior to amalgamation. The Masterplan identified The Corso as the 'Tourist Strip', being the primary movement corridor for tourists and visitors moving to the beach from the ferry. It should reinforce the seaside character of the place catering to the tourists who generally fill the space. Although a number of infrastructure projects have been completed/currently underway based on this Masterplan, the recently adopted LSPS requires the preparation of a Place Plan for Manly and develop LEP and DCP controls to respond to LEP studies... and night-time economy to balance competing uses (Action 26.1) which will replace the Manly 2015 Masterplan.</i></p> <p><u><i>Car Parking and Contributions</i></u></p> <p><i>I understand this property has no direct vehicular access and the development does not propose onsite resident parking.</i></p> <p><i>Although Manly DCP provisions provide an opportunity to impose a development contribution to be levied in lieu of onsite parking spaces being provided, the current applicable contribution plan does not permit this. The Northern Beaches Section 7.12 Contributions Plan will apply to DA2019/1398. This Contribution Plan does not specifically identify any parking spaces/ public parking stations being delivered In its Works Schedule.</i></p>

Internal Referral Body	Comments
	<p><i>By way of background, the provisions under Manly DCP noted that The Manly Section 94 Contributions Plan 2004 (adopted by Manly Council on 11 April 2005) collected development contributions in lieu of shortfall in onsite parking provision to fund the delivery of public car parks. On 13 July 2019, the Manly Contributions Plan was repealed by the Northern Beaches Section 7.12 Contributions Plan.</i></p> <p><i>Any off street resident parking associated with a residential development is required to be provided on the development site under the Manly DCP.</i></p> <p><i>In the event that a proponent wishes to deliver an infrastructure/money towards delivery of infrastructure external of the development site, this would need to be negotiated and agreed to by Council through a Voluntary Planning Agreement (VPA). The VPA Guideline identifies the process relating to the submission and consideration of a VPA and state "Where a developer proposes a VPA in connection with an application for instrument change or development application, it should indicate to the Council its intention to accompany its application with a VPA offer before making the application... The Council will indicate whether or not it agrees, in principle, to negotiate a VPA with the proponent after an initial consideration of the appropriateness of the VPA offer... If the VPA offer is considered appropriate, the VPA and agreed explanatory note should be drafted and should accompany the development or instrument change application to Council so that the VPA, explanatory note and application can be exhibited together."</i></p> <p><i>The advice on the VPA process however is mute as I understand there is no offer to enter into a VPA".</i></p> <p><u>Planning Comment</u></p> <p>With respect to the adopted LSPS and the vision and principles for the Manly Strategic Centre, the LSPS has no weight as an Environmental Planning Instrument and, as such, until incorporated into a Local Environmental Plan and Development Control Plan (or draft Local Environmental Plan and draft Development Control Plan), is not applicable to the development (or in the consideration of development applications pursuant to the Matters for Consideration under Clause 4.15 of the EP&amp;A Act 1979).</p> <p>With respect to the applicable Environmental Planning Instrument (i.e the Manly Local environmental Plan 2013), the development (being shop top housing) is permitted within the B2 Local Centre zone and is considered to satisfy the zone objectives.</p> <p>Although the development changes the residential component of the building from short-term backpacker accommodation to a long-term residential apartments, the residential use of the building remains similar. In this respect, consideration has been given to the question of conflict between a residential use and the night-time economy of the Manly Town Centre. In this respect, an acoustic report was requested to demonstrate how the development would achieve compatibility with</p>

Internal Referral Body	Comments
	<p>the commercial activity within the Centre. The report ('External Noise Intrusion Assessment' dated 1 May 2020) concludes that <i>"external noise impacts have been considered for all rooms overlooking The Corso, Market Place and for rooms overlooking the courtyards and wintergarden areas...with the inclusion of design recommendations, the development can be constructed to ensure the acoustic amenity of building occupants can be adequately protected"</i>. The Report has been reviewed by Council's Environmental Health Department who concur with the recommendations of the Report subject to the imposition of a condition to address passive ventilation to each apartment. In this regard, the development is considered to achieve compatibility with the night-time economy of the Centre.</p>
Strategic and Place Planning (Heritage Officer)	<p>The application was referred to council's Heritage Officer for review. The following comments have been provided:</p> <p><i>"The proposal is seeking consent for alterations and additions to the existing building to facilitate a change of use from a mixed-use building containing ground floor retail uses with backpacker accommodation above to shop top housing.</i></p> <p><i>The Market Place entry and adjacent retails are reconfigured to accommodate a residential entrance lobby including a lift access.</i></p> <p><i>The existing second floor is proposed to have 6 apartments with a new southern facade which is recessed in the centre but infills on both sides. This recess is encouraged by Heritage but the existing corner recess is recommended to be retained.</i></p> <p><i>The proposed lift shaft and the pergola structure are above the height of the existing structures on the roof deck. It is considered that this is against the objectives of the Manly DCP Part 5 Section 5.1.2.4 The Corso - Parapets to be read against the sky:</i></p> <ul style="list-style-type: none"> <li><i>• Parapet details on the street frontage, and in some cases the related original or historically relevant roof form, are to continue to be read by pedestrians as silhouetted against the sky. This is also to be the case for the parapet of any new building fronting The Corso.</i></li> <li><i>• This provision applies in respect to both oblique and perpendicular views of buildings as pedestrians move through the street. This provision will govern the height and setback of any permitted additional floor levels and also establishes an important 'visual catchment' to The Corso that needs to be kept clear of obstructions.</i></li> </ul> <p><i>It is considered that the proposal will not affect the remaining existing heritage listed building fabric and will not adversely affect the view upon or from this heritage item. There will be minimal impact upon the heritage significance of the heritage items in the vicinity and the Town Centre Conservation Area.</i></p>

Internal Referral Body	Comments
	<p><i>Therefore no objections are raised on heritage grounds and subject to conditions required".</i></p> <p><u>Comment</u> The materiality of the lift shaft has been amended from a solid finish to a clear glass finish. Council's Heritage Officer has advised that this is acceptable.</p>
Strategic and Place Planning (Urban Design)	<p>The amended proposal has reduced the visual bulk of the stairs and lift core to access the roof terrace. Timber screens have also been introduced to hide the a/c condenser units.</p> <p>The submitted image board indicates an integrated landscaped theme which will work well as a roof terrace communal area.</p> <p><b>Previous Comments (20 April 2020)</b> The applicant has submitted amended plans to address the concerns highlighted previously. The shortfall in solar exposure to the units can be made up with access to the sunny roof terrace communal space. On the whole, the proposal can be supported provided more integration treatment is done at the roof terrace area. The proposed extended lift core and enclosed stair access are new built form elements that are jarring and could be made more harmonious with the roof terrace landscape theme. Some suggestions to soften the visual impact are:</p> <ol style="list-style-type: none"> <li>1. Convert the stair access to an open-air stair design (e.g. spiral staircase) to keep away from the common boundary and reduce the built form impact.</li> <li>2. Reduce the lift overrun height by exploring other lift mechanism/ technology. Treat the lift shaft as part of the roof landscape elements (e.g. backdrop to feature green walls, planter box wall treatment, etc) to hide the a/c units area in a unifying landscape theme.</li> <li>3. The material finishes selection should also reflect the landscape theme for a better fit.</li> </ol> <p><b>Previous Comments (17 February 2020)</b> The proposal cannot be supported for the following reasons:</p> <ol style="list-style-type: none"> <li>1. The proposal exceeds the 10m building height control with the proposed additional built form comprising of roof pergolas, lift shaft and stairs to access the existing roof deck. The additions would add to the overall mass of the existing building which is currently about half a storey over the 10m building height. It will also set a precedent for surrounding developments to breach the building height control in the future.</li> </ol>

Internal Referral Body	Comments
	<p>2. The proposal intends to make the existing roof deck accessible for the residents. The existing roof deck has makeshift screens installed to minimise overlooking privacy issue to the surrounding developments. Making the roof deck more accessible will exacerbate the overlooking issue as the roof deck will have increased usage leading to the possibility of more noise generated. The roof deck should be deleted from the proposal. No precedent will also be established for surrounding developments in the future.</p> <p>3. The proposed bed and dining rooms facing the light-wells will not receive adequate solar exposure. The Apartment Design Guide (page 83) states that light wells should not be used as the primary air source for habitable rooms. The amenities provided by the south-western light-well could possibly be further compromised in the future when the next door neighbour (No. 44, The Corso) is developed.</p> <p>4. The existing boarding house does not have car parking provision as there are adequate modes of public transport near-by. Future residential occupants are more likely to have cars which will need to be parked on the streets or public car parks thereby putting more stress on the current parking shortage issues in the Manly town centre area.</p> <p>5. Applicant to check whether fire sprinklers are required as that will require ground floor shopfront to be replaced with sprinkler booster pump.</p>
Traffic Engineer	<p>The application was referred to Council's Traffic Engineer for review. The following comments have been provided:</p> <p><i>"The proposed development is for replacement of backpackers accommodation comprising 108 beds with a new residential shop housing development accommodating 8 x 1 bedroom apartments and 4 x 2 bedroom apartments. The existing ground floor retail area remains unchanged and both the existing and proposed developments provide no off-street parking.</i></p> <p><u>Traffic Generation</u>  <i>Given the location of the development near to public transport, close to amenities and services and in the absence of parking it is not anticipated that it will generate significant levels of traffic. The traffic impact assessment report suggests that the proposed development would generate less traffic than the existing backpackers development. It is considered unlikely that this would not be the case and the development is not opposed on traffic generation grounds</i></p> <p><u>Parking</u>  <i>Clause 4.2.5.4 of the Manly DCP 2013 advises that Council may be</i></p>

Internal Referral Body	Comments
	<p><i>prepared to allow a reduction in parking requirements in the Manly Town Centre, where the dimensions or topography of the site would physically prevent the provision of some or all of the required spaces, where the required access interferes with the continuity of retail frontage, or where the movement of vehicles to and from the site would cause unacceptable conflict with pedestrian movements. The subject site is located with frontages to the paved pedestrianised sections of Market Lane and The Corso as such, it is not appropriate or safe to provide vehicular access to the site.</i></p> <p><i>Further, the site is within close proximity to bus and ferry transport services, is sited within close proximity to a number of car share "pods" and is within walking distance (400m) of walking and cycling paths. There are also significant levels of commercial and retail development nearby limiting the need for private car ownership. On-street parking in the Manly Town Centre is subject to time restricted, permit and paid parking restrictions and there is therefore little opportunity for drivers without parking permits to park on a long term basis on street. As there is minimal need for private car ownership, the absence of parking in the proposed development may be supportable and may contribute to a lowering of private car movements within the Manly CBD. To further limit the potential for private car ownership and ensure residents do not place increased pressure upon parking within surrounding permit parking zones a condition of consent could be placed on any approval to this development preventing residents from obtaining resident parking permits.</i></p> <p><i>It is noted that Objective 2 of the Manly DCP seeks to minimise conflict between pedestrian and vehicular movements within the business areas. Council has pedestrianised The Corso, Market Lane and Sydney Road in the vicinity of this site and effectively prevented vehicular access other than between 5am and 8am when bollards in Henrietta lane, Central Ave and Market Lane are opened to provide for servicing of properties. The absence of parking is therefore consistent with this objective.</i></p> <p><i>Finally, the proposed development, with a parking requirement of 11 space replaces another development on the site with a parking requirement of 14 spaces as per the DCP. i.e the proposed development has a lower parking requirement than the existing development.</i></p> <p><i>It is noted that that the recent repeal of the Manly Section 94 Contributions Plan no longer allows Council to collect contributions towards the provision of public parking to offset any shortfall in parking as the new Northern Beaches Section 7.12 Contributions Plan, which takes it place, does not identify the delivery of any additional parking spaces/public parking stations in its Works Schedule. Any shortfall in parking supply relating to a new development application will now need to be assessed on its merits.</i></p>



Internal Referral Body	Comments
	<p><i>In this case, the provision of vehicular access and off-street parking at the site would introduce an unacceptable and unsafe level of conflict with pedestrian movements on the pedestrian areas surrounding the site and, given the moderate scale of the development and the fact it does not result in an increased parking requirement when compared to the existing development on the site, the absence of parking is not opposed.</i></p> <p><u><i>Loading and Servicing</i></u>  <i>As the development does not propose any off-street parking there is no off-street loading dock. Loading and Servicing needs for the development will need to be accommodated from the paved areas of Sydney Road, Market Lane and The Corso during the hours that bollards are open (5am to 8am) to permit servicing of these pedestrianised areas. This is consistent with arrangements at a number of other premises fronting these areas and the absence of an off-street loading dock is not opposed in this instance".</i></p> <p>Conditions imposed by Council's Traffic Engineer are included in the draft conditions of consent.</p>
Waste Officer	<p>The application was referred to Council's Waste Management team for review. The following comments have been provided:</p> <p><i>"The amended plans for the ground floor received on 18 June are acceptable from a waste management perspective, subject to conditions".</i></p> <p>The conditions imposed by Council's Waste Management team are included in the draft conditions of consent.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. In their response, Ausgrid do not raise any objection to the proposal subject to the development complying with the relevant Ausgrid Network Standards and SafeWorkNSW Codes of Practice for construction works near existing electrical assets.
NSW Police – Crime Prevention Office (Local Command matters)	The application was referred to NSW Police for review. In their response, NSW Police state <i>"given the nature of the development we do not believe a Crime Risk Assessment and CPTED (Crime Prevention through Environmental Design) assessment is required"</i> .

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

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

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

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

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

### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential/commercial purposes for a significant period of time.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential/commercial land use.

### **SEPP 65 - Design Quality of Residential Apartment Development**

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

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

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

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

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

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

As previously outlined the proposed development is for the adaptive re-use of an existing building for the purposes of a 3 storey mixed use development for the provision of 12 self-contained dwellings.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

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 does not have an appointed Design Review Panel.

## **DESIGN QUALITY PRINCIPLES**

### **Principle 1: Context and Neighbourhood Character**

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

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

#### Comment

The site is located towards the eastern end of The Corso and is sandwiched between The Corso and Market Place. Both streets are pedestrianised and heavily utilised as through-routes from the ferry landing to Manly Beach and for market activities on the weekend.

The existing building forms part of a group of commercial buildings listed under the MLEP 2013 as Heritage Item I106. In the Statement of Significance for Heritage Item I106, Council's Heritage Officer has generally described the character of the local area as follows:

*"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.*

*The Corso acts as a low scale horizontal corridor which steps down from the harbour to the ocean. The atmosphere of The Corso is of a 19th century place. Its special qualities include the contrasts of horizontal (low scale architecture) and vertical (planting) dimensions, and urban and natural elements".*

The retention of the exterior facade and roof elements is considered to respect the status of Heritage Item I106 and the character of local area.

It is considered that the development satisfies Principle 1.

### **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

As noted under Principle 1, the development retains the exterior fabric, building footprint and roof form of the existing building and, as such achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings by continuing to define the public domains of The Corso and Market Place, contribute towards the character of streetscapes including their views and vistas, and will provide an acceptable level of internal amenity and outlook in accordance with the provisions of the Apartment Design Guide.

It is considered that the development satisfies Principle 2.

### **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

Although it should be noted that MLEP 2013 does not include a Density Development Standard for the B2 Local Centre zone, the development proposes the provision of 12 apartments which translates to an average residential density of 1 dwelling per 40.8m<sup>2</sup> which is considered to be appropriate given the apartment mix of 1 and 2 bedroom dwellings within an adaptively re-used building of heritage significance.

Given the absence of a density Development Standard, density is gauged by how the development responds to the Design Quality Principles of SEPP 65, the relevant Development Standards of the MLEP 2013 and the relevant controls within the MDCP. This assessment has found that the development, as proposed achieves a satisfactory level of compliance and consistency with these Principles, Standards and controls given the limitations of the building footprint and requirement to retain both building facades.

It is considered that the development satisfies Principle 3.

### **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 site currently accommodates an existing and ageing commercial building which will be re-used in the development.

The residential elements of the development have been designed to achieve the commitment targets set by SEPP (BASIX) and satisfies the relevant environmental Primary Development Controls under the

Apartment Design Code.

It is considered that the development satisfies Principle 4.

### **Principle 5: Landscape**

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

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

#### Comment

The site is built boundary-to-boundary and is therefore unable to include any landscaping. Notwithstanding, a roof terrace design has been submitted which does include a landscaped perimeter around the terrace. This is an improvement on the current situation and context and provides for a more inviting area to relax.

The planter box is shielded by timber screens. The plantable area would be sufficient to include shrubs which would soften the area.

It is considered that the development satisfies Principle 5.

### **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 development has been assessed with regards to impacts upon the amenity of affected neighbouring properties in terms of visual privacy, overshadowing, view sharing and noise.

#### *Visual Privacy*

The building is surrounded by commercial development in both The Corso and Market Place. Given the orientation of the building to this surrounding development, privacy (such as overlooking and being overlooked) is considered to be negligible due to the offset of windows and balconies to adjacent windows.

Internally, the development does not include any windows or balconies which face each other. The two side void areas are sealed from occupant access (these areas are only accessible for maintenance purposes) to avoid compromising visual privacy to the adjacent bedrooms.

#### *Overshadowing*

The development is contained within the building footprint of the existing building, which is sandwiched between two commercial buildings (being a two storey retail/commercial use to the south-west and the three storey New Brighton Hotel to the north-east). No additional works are proposed which would otherwise create additional shadow than what already exists.

### *View Sharing*

Because the development uses the existing building envelope, the proposal would not obstruct available cross site views to the south-east (The Corso) or to the north-west (Market Place). Views towards Manly Beach are not possible due to the bulk and scale of the New Brighton Hotel to the north-east.

The proposed lift shaft and fire stair are of a minor scale such that they would not unreasonably diminish the available cross-site views.

### *Noise*

An Acoustic Report was submitted with the application external noise impact from surrounding non-residential activity in The Corso and Market Place (and particularly the neighbouring entertainment venues in the New Brighton Hotel).

The Report (prepared by Acoustic Dynamics dated 1 May 2020) concludes that, with the inclusion of recommended mitigating measures, the development can be constructed to ensure the acoustic amenity of building occupants can be adequately protected.

The Report was reviewed by Council's Environment Health Department who advises that:

*"The report' has highlighted the importance of 'fresh air' ventilation and Council is in agreement that for any noise attenuation to be effective, each individual unit will need to be adequately ventilated to ensure the residents can keep windows closed during peak external noise periods.*

*Acoustic dynamics have provided options for passive ventilation systems in 'the report' and mechanical ventilation is also a viable option. The Statement of Environmental Effects references 'natural ventilation' however this may not be sufficient if windows need to be kept close for effective noise attenuation.*

*As there is no proposal for mechanical ventilation, Council will condition that each residential unit is to have a passive system installed as recommended in section 4.4 of 'the report' or a mechanical ventilation system".*

It is considered that the development satisfies Principle 6.

### **Principle 7: Safety**

*Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.*

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

#### Comment

The apartments in the development which face towards both The Corso and Market Place thereby providing optimum passive surveillance to the public domain. Internal security is achieved by providing a lockable entry lobby at street level.

In this regard, the proposal is considered to adequately achieve safety and security for future occupants of the development providing good passive surveillance of the public and private domains.

It is considered that the development satisfies Principle 7.

### **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 development provides a mix of apartments which will vary in size and affordability (i.e. 8 x 1 bedroom (66.7%) and 14 x 2 bedroom (33.3%)).

This mix is considered to provide for the social evolution of the community in an area which has close proximity to Manly Beach, direct accessibility to shopping and services, and high frequency public transport routes.

The development includes a redesign of the existing roof top terrace for the purposes of communal open space. Because of the close proximity of the site to manly beach and other recreation reserves it is unlikely that the communal open space area would be heavily utilised. Nonetheless, it does provide a different type of communal space for a broad range of people, providing opportunities for social interaction amongst residents.

It is considered that the development satisfies Principle 8.

### **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 development retains the original facade to The Corso and Market Place, which includes detailed façade fenestration to incorporate narrow and vertical window profiles, balconies and the use of subtle materials and finishes.

In this regard, the development is considered to maintain the appropriate composition of building elements, textures, materials and colours to reflect the mixed-use nature, internal design and structure of the development and which achieves an appropriate urban form that is considered to relate

favourably in both architectural scale and landscape treatment to neighbouring mixed-use development.

It is considered that the development satisfies Principle 9.

## APARTMENT DESIGN GUIDE

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

**Note:** Clause 4R (Adaptive Reuse) of the ADG applies in this instance which states:

*"There are many benefits of retaining existing buildings including sustainability, aesthetics, character and valuing their social and cultural significance. Adaptation of an existing building for a new residential use provides for its repurposing and should be approached in a way that acknowledges the past and respects its sense of place. The significance of heritage items or buildings in conservation areas needs to be respected. Modifications should ensure the building's continued relevance in the future. Residential adaptive reuse projects should be sensitively designed, to respect existing elements and character.*

*Non-residential buildings (such as the subject building) often have dimensions, layouts and orientations that are not designed for residential use. A balance must be achieved between the benefits of retaining existing buildings versus the quality of residential amenity that can be achieved".*

The development seeks to adaptively re-use the existing building for residential purposes and therefore, in assessing the application against the various clauses of the ADG below, consideration has been given to adopting flexibility to controls which are more readily achievable in an entirely new build.

Consideration has been given as to whether a lesser number of apartments would result in a better level of compliance with the ADG. If the development included less apartments, it would be possible to achieve compliance with Clause 4D-3(1), (2) & (3): Habitable room widths (each of which reflect minor non-compliances). The remainder of non-compliance is considered to be a result of the internal retrofitting of an existing building which aims to preserve the exterior heritage fabric.

Development Control	Criteria / Guideline	Comments
<b>Part 3 Siting the Development</b>		
<b>Site Analysis</b>	Does the development relate well to its context and is it sited appropriately?	Consistent  A Site Analysis Plan (in conjunction with the Statement of Environmental Effects and SEPP 65 Design Statement) has been submitted with the application.
<b>Orientation</b>	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Consistent  As discussed elsewhere in this report under the Design Quality Principles, through its retention of the building facades and roof line, the development responds to the streetscape of the local centre and provides a continuity to



		the level of solar access to neighbouring properties.												
<b>Public Domain Interface</b>	<p>Does the development transition well between the private and public domain without compromising safety and security?</p> <p>Is the amenity of the public domain retained and enhanced?</p>	<p>Consistent</p> <p>The development is considered to provide a satisfactory transition between the private and public domains without compromising safety and security.</p>												
<b>Communal and Public Open Space</b>	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> <li>Communal open space has a minimum area equal to 25% of the site</li> <li>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)</li> </ol>	<p>Consistent</p> <p>The development provides a roof top terrace as communal open space.</p> <p>This area is located central to the roof line and has a useable area of 48m<sup>2</sup> (i.e. 25.2% of the site area) excluding the landscaped edges.</p> <p>Because of its roof top location, the communal open space area will exceed the required direct sunlight access between 9am and 3pm on 21 June.</p>												
<b>Deep Soil Zones</b>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td><td>3m</td></tr> <tr> <td>Greater than 1,500m<sup>2</sup></td><td>6m</td></tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	Greater than 1,500m <sup>2</sup>	6m	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	<p><b>Inconsistent</b></p> <p>Acceptable on merit</p> <p>The development uses the existing boundary-to-boundary building footprint such that no deep soil zones are possible.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)												
Less than 650m <sup>2</sup>	-	7%												
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m													
Greater than 1,500m <sup>2</sup>	6m													
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m													
<b>Visual Privacy</b>	<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</td><td>6m</td><td>3m</td></tr> </tbody> </table>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4	6m	3m	<p>Consistent</p> <p>The building (excluding the lift overrun) has a height of up to 11.3m and is therefore required to separation distances of 6.0m for habitable rooms/balconies and 3.0m for non-habitable rooms.</p>						
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4	6m	3m												

	<table> <tr> <td>storeys)</td><td></td><td></td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </table> <p><b>Note:</b> Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	storeys)			Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Because of the boundary-to-boundary street-wall development along The Corso, the apartments within the development all look out to either The Corso or Market place. In this respect, no direct viewing is possible between habitable room/balconies.</p> <p>The two side wells (voids) have windows which belong to separate apartments. However, the wells are not accessible by the occupants (only for maintenance via a ladder) of the apartments and the windows are fixed and treated to avoid noise transfer.</p>
storeys)											
Up to 25m (5-8 storeys)	9m	4.5m									
Over 25m (9+ storeys)	12m	6m									
<b>Pedestrian Access and entries</b>	<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>	<p>Consistent</p> <p>The development provides an accessible and legible building entry which defines the private property from the public domain.</p>									
<b>Vehicle Access</b>	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p>Not applicable</p> <p>The site does not accommodate any capacity to include car parking.</p>									
<b>Bicycle and Car Parking</b>	<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre.</li> </ul> <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><b>Inconsistent</b> Acceptable on merit</p> <p>The development is an adaptive re-use of the existing building and is not capable of providing on-site car parking.</p> <p>Council's Traffic Engineer has reviewed this aspect of the proposal and advises:</p> <p><i>"Clause 4.2.5.4 of the Manly DCP 2013 provides that Council may be prepared to allow a reduction in parking requirements in the Manly Town Centre, where the dimensions or topography of the site would physically prevent the provision of some or all of the required spaces, where the required access interferes with the continuity of</i></p>									

Visual and environmental impacts are minimised.

*retail frontage, or where the movement of vehicles to and from the site would cause unacceptable conflict with pedestrian movements. The subject site is located with frontages to the paved pedestrianised sections of Market Lane and The Corso as such, it is not possible or safe to provide vehicular access to the site.*

*Further, the site is within close proximity to bus and ferry transport services, is sited within close proximity to a number of car share "pods" and is within walking distance (400m) of walking and cycling paths. There are also significant levels of commercial and retail development nearby limiting the need for private car ownership. On-street parking in the Manly Town Centre is subject to time restricted, permit and paid parking restrictions and there is therefore little opportunity for residents to park on a long term basis on street. Given the proximity of this development to good public transport, car share vehicles, services and walking and cycling routes, there is minimal need for private car ownership and the absence of parking in the proposed development is therefore supportable. To ensure residents do not place increased pressure upon parking within surrounding permit parking zones a condition of consent could be placed on any approval to this development preventing residents from obtaining resident parking permits.*

*It is noted that Objective 2 of the Manly DCP seeks to minimise conflict between pedestrian and vehicular movements within the business areas. Council has pedestrianised The Corso, Market Lane*

*and Sydney Road in the vicinity of this site and effectively prevented vehicular access other than between 5am and 8am when bollards in Henrietta lane, Central Ave and Market Lane are opened to provide for servicing of properties. The absence of parking is therefore consistent with this objective.*

*Finally, the proposed development replaces another development on the site with a similar parking requirement as per the DCP. That development also provides no parking.*

*In light of the above, the provision of vehicular access and off-street parking at the site would introduce an unacceptable and unsafe level of conflict with pedestrian movements on the pedestrian areas surrounding the site and, given the moderate scale of the development and the fact it does not result in an increased parking requirement when compared to the existing development on the site, in this case, the absence of parking is not opposed".*

## Part 4 Designing the Building

### Amenity

#### Solar and Daylight Access

To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:

- 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.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.

#### Inconsistent

Acceptable on merit

The living rooms of six (6) apartments (i.e. 50%) will receive a minimum 2 hours direct sunlight between 9 am and 3 pm at mid winter. The apartments receiving direct sunlight access are located facing Market Place.

Similarly, due to the reasons given below, a maximum of 50% of apartments in the building (i.e. those apartments facing The Corso) do not receive direct sunlight between 9 am and 3 pm at mid winter.

		<p>Although not compliant with the Design Criteria, it is acknowledged that the development is constrained by the retrofitting of an existing building, and its existing orientation.</p>			
<p><b>Natural Ventilation</b></p>	<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"> <li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</li> </ul>	<p><b>Inconsistent</b> Acceptable on merit</p> <p>Six apartments (all located on the upper level) are cross ventilated through the incorporation of 'ventilated skylights'. This equates to 50% of the apartments in the development.</p> <p>The apartments at the lower levels are not cross ventilated due to the requirement to close the windows within the two side void areas to mitigate noise transfer.</p> <p>It is noted that, due to limitations of the retrofitting of the existing building, the provision of dual aspect apartments is not achievable in this particular instance.</p> <p>Notwithstanding, it is noted that four (4) of the remaining single aspect apartments at the lower levels (being Apartments 01, 02, 03, and 06) have depths of less and or equal to 8.0m thereby enabling a acceptable level of airflow for open plan apartments (according to Figure 4D.3 of the ADG).</p>			
	<ul style="list-style-type: none"> <li>Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</li> </ul>	<p>Consistent</p> <p>The development includes two (2) cross-over apartments (being Apartments 09 and 10). The depths of these identical apartments is 8.9m.</p>			
<p><b>Ceiling Heights</b></p>	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p>	<p>Consistent</p> <p>The development provide continuous floor-to-ceiling heights of between 2.7m and 3.0m (at the</p>			
	<table border="1"> <tr> <th colspan="2">Minimum ceiling height</th> </tr> <tr> <td></td> <td></td> </tr> </table>	Minimum ceiling height			
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<b>Apartment Size and Layout</b>	<p>Apartments are required to have the following minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p> <p>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.</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<p>Consistent</p> <p>The development includes the following apartment sizes:</p> <table><tr><th>Unit</th><th>Bedrooms</th><th>Area</th></tr><tr><td>1</td><td>1</td><td>52.8m<sup>2</sup></td></tr><tr><td>2</td><td>1</td><td>63.4m<sup>2</sup></td></tr><tr><td>3</td><td>1</td><td>52.8m<sup>2</sup></td></tr><tr><td>4</td><td>2</td><td>83.8m<sup>2</sup></td></tr><tr><td>5</td><td>2</td><td>88.3m<sup>2</sup></td></tr><tr><td>6</td><td>1</td><td>63.4m<sup>2</sup></td></tr><tr><td>7</td><td>1</td><td>52.8m<sup>2</sup></td></tr><tr><td>8</td><td>2</td><td>70.3m<sup>2</sup></td></tr><tr><td>9</td><td>1</td><td>56.3m<sup>2</sup></td></tr><tr><td>10</td><td>1</td><td>56.3m<sup>2</sup></td></tr><tr><td>11</td><td>2</td><td>74.5m<sup>2</sup></td></tr><tr><td>12</td><td>1</td><td>61.8m<sup>2</sup></td></tr></table> <p><b>Inconsistent</b></p> <p>Acceptable on merit</p> <p>The development provides the following:</p> <table><tr><th>Unit</th><th>Room</th><th>Room Area</th><th>Glass Area</th><th>%</th></tr><tr><td>01</td><td>Living Bed</td><td>30.6m<sup>2</sup> 11.8m<sup>2</sup></td><td>2.9m<sup>2</sup> 2.9m<sup>2</sup></td><td><b>9.5%</b> 24.5%</td></tr><tr><td>02</td><td>Living Bed</td><td>31.4m<sup>2</sup> 11.8m<sup>2</sup></td><td>2.9m<sup>2</sup> 2.9m<sup>2</sup></td><td><b>9.2%</b> 24.5%</td></tr><tr><td>03</td><td>Living</td><td>30.6m<sup>2</sup></td><td>2.9m<sup>2</sup></td><td><b>9.5%</b></td></tr></table>	Unit	Bedrooms	Area	1	1	52.8m <sup>2</sup>	2	1	63.4m <sup>2</sup>	3	1	52.8m <sup>2</sup>	4	2	83.8m <sup>2</sup>	5	2	88.3m <sup>2</sup>	6	1	63.4m <sup>2</sup>	7	1	52.8m <sup>2</sup>	8	2	70.3m <sup>2</sup>	9	1	56.3m <sup>2</sup>	10	1	56.3m <sup>2</sup>	11	2	74.5m <sup>2</sup>	12	1	61.8m <sup>2</sup>	Unit	Room	Room Area	Glass Area	%	01	Living Bed	30.6m <sup>2</sup> 11.8m <sup>2</sup>	2.9m <sup>2</sup> 2.9m <sup>2</sup>	<b>9.5%</b> 24.5%	02	Living Bed	31.4m <sup>2</sup> 11.8m <sup>2</sup>	2.9m <sup>2</sup> 2.9m <sup>2</sup>	<b>9.2%</b> 24.5%	03	Living	30.6m <sup>2</sup>	2.9m <sup>2</sup>	<b>9.5%</b>
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	Bed	11.8m <sup>2</sup>	2.9m <sup>2</sup>	24.5%
04	Living	30.2m <sup>2</sup>	16.4m <sup>2</sup>	54.3%
	Bed 1	10m <sup>2</sup>	2.4m <sup>2</sup>	24%
	Bed 2	9.8m <sup>2</sup>	7.8m <sup>2</sup>	79.6%
05	Living	34.5m <sup>2</sup>	16.4m <sup>2</sup>	47.5%
	Bed 1	10m <sup>2</sup>	2.4m <sup>2</sup>	24%
	Bed 2	9.8m <sup>2</sup>	7.8m <sup>2</sup>	79.6%
06	Living	31.4m <sup>2</sup>	2.9m <sup>2</sup>	<b>9.2%</b>
	Bed	11.8m <sup>2</sup>	2.9m <sup>2</sup>	24.5%
07	Living	31m <sup>2</sup>	2.9m <sup>2</sup>	<b>9.3%</b>
	Bed	11.7m <sup>2</sup>	2.9m <sup>2</sup>	24.8%
08	Living	31.1m <sup>2</sup>	9.9m <sup>2</sup>	31.8%
	Bed 1	8.1m <sup>2</sup>	7.8m <sup>2</sup>	96.3%
	Bed 2	13.5m <sup>2</sup>	7.8m <sup>2</sup>	57.8%
09	Living	29.8m <sup>2</sup>	10.3m <sup>2</sup>	34.6%
	Bed	12m <sup>2</sup>	9.7m <sup>2</sup>	81%
10	Living	29.8m <sup>2</sup>	10.3m <sup>2</sup>	34.6%
	Bed	12m <sup>2</sup>	9.7m <sup>2</sup>	81%
11	Living	35.2m <sup>2</sup>	9.9m <sup>2</sup>	28.1%
	Bed 1	8.1m <sup>2</sup>	7.8m <sup>2</sup>	96.3%
	Bed 2	13.5m <sup>2</sup>	7.8m <sup>2</sup>	57.8%
12	Living	31.4m <sup>2</sup>	2.9m <sup>2</sup>	<b>9.2%</b>
	Bed	11.8m <sup>2</sup>	2.9m <sup>2</sup>	24.5%

Each of the glass areas which are less than 10% (indicated in bold in the above table) consist the windows which are retained as part of the facade to Market Place. The retention of these windows (which include Juliet balconies) is considered to be essential in maintaining the existing external appearance of the building to Market Place (and within the Centre generally).

Notwithstanding, the reduction to the glass area is considered to be minor and does not adversely affect the amenity of the adjacent room - particularly as these rooms afford direct sunlight access and outlook into the pedestrian mall below.

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

In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable

**Inconsistent**  
Acceptable on merit

The development includes existing floor-to-ceiling heights of 2.7m at

room depth is 8m from a window.

each habitable level. Therefore, this clause recommends that room depths for habitable rooms (other than open plan layouts) equate to 6.75m.

The development provides the following:

Unit	Room	Depth
01	Living Bed	6.5m 3.8m
02	Living Bed	8.0m 3.8m
03	Living Bed	6.5m 3.8m
04	Living Bed 1 Bed 2	<b>9.7m</b> 3.2m 3.2m
05	Living Bed 1 Bed 2	<b>9.7m</b> 3.2m 3.2m
06	Living Bed	8.0m 3.8m
07	Living Bed	6.5m 3.8m
08	Living Bed 1 Bed 2	<b>8.6m</b> 3.7m 2.7m
09	Living Bed	<b>8.6m</b> 3.0m
10	Living Bed	<b>8.6m</b> 3.0m
11	Living Bed 1 Bed 2	<b>8.6m</b> 3.7m 2.7m
12	Living Bed	8.0m 3.8m

The development includes living room depths of between 8.6m to 9.7m as listed above.

Although numerically not compliant, the open plan living room depths do not unreasonably impede residential amenity given the shortfall in depth of between 0.6m and 1.7m (the later is



situated in Apartments 04 and 05 where the open plan area has windows at either end of the room).

Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).

**Inconsistent**

Acceptable subject to condition

The development provides the following:

Unit	Room	Area
01	Bed 1	11.8m <sup>2</sup>
02	Bed 1	11.8m <sup>2</sup>
03	Bed 1	11.8m <sup>2</sup>
04	Bed 1 Bed 2	<b>9.8m<sup>2</sup></b> 10m <sup>2</sup>
05	Bed 1 Bed 2	<b>9.8m<sup>2</sup></b> 10m <sup>2</sup>
06	Bed 1	11.8m <sup>2</sup>
07	Bed 1	11.8m <sup>2</sup>
08	Bed 1 Bed 2	13.5m <sup>2</sup> <b>8.1m<sup>2</sup></b>
09	Bed 1	12m <sup>2</sup>
10	Bed 1	12m <sup>2</sup>
11	Bed 1 Bed 2	13.5m <sup>2</sup> <b>8.1m<sup>2</sup></b>
12	Bed 1	11.6m <sup>2</sup>

Bedroom 1 in Apartments 04 and 05 are marginally undersized and should be increased to accommodate a minimum area of 10m<sup>2</sup> (i.e. and additional 0.2m<sup>2</sup> each). Accordingly, an appropriate condition is included in the consent to address this matter

Bedroom 2 in Apartments 08 and 11 are significantly undersized and should be designated as Study's only. Accordingly, an appropriate condition is included in the consent to address this matter.

Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.

**Consistent**

The development provides the following:

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Unit	Room	Dimension
01	Bed 1	3.0m
02	Bed 1	3.0m
03	Bed 1	3.0m
04	Bed 1 Bed 2	3.0m 3.0m
05	Bed 1 Bed 2	3.0m 3.0m
06	Bed 1	3.0m
07	Bed 1	3.0m
08	Bed 1 Bed 2	3.0m 3.0m
09	Bed 1	3.0m
10	Bed 1	3.0m
11	Bed 1 Bed 2	3.0m 3.0m
12	Bed 1	3.0m

Living rooms or combined living/dining rooms have a minimum width of:

- 3.6m for studio and 1 bedroom apartments
- 4m for 2 and 3 bedroom apartments

#### Inconsistent

Acceptable on merit

The development provides the following:

Unit	Type	Width
01	1 Bed	4.9m
02	1 Bed	3.9m
03	1 Bed	4.9m
04	2 Bed	<b>3.7m</b>
05	2 Bed	<b>3.7m</b>
06	1 Bed	3.9m
07	1 Bed	3.9m
08	2 Bed	<b>3.7m</b>
09	Crossover - see below	
10	Crossover - see below	
11	2 Bed	<b>3.7m</b>
12	1 Bed	3.9m

The four (4) apartments listed above have internal widths of 3.7m which is 0.3m below the recommended width.

All apartments are shallow in depth

		(i.e. room depths of 8.9m) with good outlook which assists in relieving a sense of enclosure.																																																						
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	<p><b>Inconsistent</b> Acceptable on merit</p> <p>The two (2) crossover apartments (Apartments 09 and 10) have internal widths of 3.8m.</p> <p>Both apartments are shallow in depth (i.e. room depths of 8.9m at the living room level and 2.9m at the bedroom level) with good outlook which assists in relieving a sense of enclosure.</p>																																																						
<b>Private Open Space and Balconies</b>	<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr> </thead> <tbody> <tr> <td>Studio apartments</td><td>4m<sup>2</sup></td><td>-</td></tr> <tr> <td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr> <tr> <td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr> <tr> <td>3+ bedroom apartments</td><td>12m<sup>2</sup></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 <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	<p><b>Inconsistent</b> Acceptable on merit</p> <p>The development provides the following:</p> <table border="1"> <thead> <tr> <th>Unit</th><th>Area</th><th>Depth</th></tr> </thead> <tbody> <tr> <td>01 (1 Bed)</td><td>1.1m<sup>2</sup></td><td>0.7m</td></tr> <tr> <td>02 (1 Bed)</td><td>1.1m<sup>2</sup></td><td>0.7m</td></tr> <tr> <td>03 (1 Bed)</td><td>1.1m<sup>2</sup></td><td>0.7m</td></tr> <tr> <td>04 (2 Bed)</td><td>7.9m<sup>2</sup></td><td>2.3m</td></tr> <tr> <td>05 (2 Bed)</td><td>7.9m</td><td>2.3m</td></tr> <tr> <td>06 (1 Bed)</td><td>1.1m<sup>2</sup></td><td>0.7m</td></tr> <tr> <td>07 (1 Bed)</td><td>1.1m<sup>2</sup></td><td>0.7m</td></tr> <tr> <td>08 (2 Bed)</td><td>7.9m<sup>2</sup></td><td>2.0m</td></tr> <tr> <td>09 (1 Bed)</td><td>7.9m<sup>2</sup></td><td>2.0m</td></tr> <tr> <td>10 (1 bed)</td><td>7.9m<sup>2</sup></td><td>2.0m</td></tr> <tr> <td>11 (2 Bed)</td><td>7.9m<sup>2</sup></td><td>2.0m</td></tr> <tr> <td>12 (1 Bed)</td><td>1.1m<sup>2</sup></td><td>0.7m</td></tr> </tbody> </table> <p>The development involves the</p>	Unit	Area	Depth	01 (1 Bed)	1.1m <sup>2</sup>	0.7m	02 (1 Bed)	1.1m <sup>2</sup>	0.7m	03 (1 Bed)	1.1m <sup>2</sup>	0.7m	04 (2 Bed)	7.9m <sup>2</sup>	2.3m	05 (2 Bed)	7.9m	2.3m	06 (1 Bed)	1.1m <sup>2</sup>	0.7m	07 (1 Bed)	1.1m <sup>2</sup>	0.7m	08 (2 Bed)	7.9m <sup>2</sup>	2.0m	09 (1 Bed)	7.9m <sup>2</sup>	2.0m	10 (1 bed)	7.9m <sup>2</sup>	2.0m	11 (2 Bed)	7.9m <sup>2</sup>	2.0m	12 (1 Bed)	1.1m <sup>2</sup>	0.7m
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		<p>retrofitting of an existing building of which the retention of the existing facades is required.</p> <p>In retrofitting the building, the development relies on the existing Juliet balconies which are situated on the facade facing Market Place. These balconies form a recognisable feature to the building when viewed from The Market.</p> <p>Although not compliant with the required minimum depth and area, the balconies include full height French doors which open directly from the Living Room and therefore form an open perspective to The Market below.</p> <p>Similarly, the areas of the 2 bedroom apartments do not comply with the required area of 10m<sup>2</sup>. Again, because the development is required to retain the facade facing The Corso, the relevant apartments have been sited to locate balconies behind the existing facade.</p>
	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 <sup>2</sup> and a minimum depth of 3m.	Not applicable
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight (8).	Consistent
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	The maximum number of apartments off a circulation core is six (6).
		Not applicable
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	Not applicable

	<table><tr><td>3+ bedroom apartments</td><td>10m<sup>2</sup></td></tr></table>	3+ bedroom apartments	10m <sup>2</sup>	bedrooms, the development provides a total of 41.7m <sup>3</sup> storage area.
3+ bedroom apartments	10m <sup>2</sup>			
	At least 50% of the required storage is to be located within the apartment.			
<b>Acoustic Privacy</b>	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	<p>Consistent</p> <p>No car parking is provided on the site and therefore no noise impact will be generated in this regard.</p> <p>The plant is located on the roof and will not create any adverse acoustic impact .</p>		
<b>Noise and Pollution</b>	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	<p>Consistent Subject to condition</p> <p>An Acoustic Report was submitted with the application external noise impact from surrounding non-residential activity in The Corso and Market Place (and particularly the neighbouring entertainment venues in the New Brighton Hotel).</p> <p>The Report (prepared by Acoustic Dynamics dated 1 May 2020) concludes that, with the inclusion of recommended mitigating measures, the development can be constructed to ensure the acoustic amenity of building occupants can be adequately protected.</p> <p>The Report was reviewed by Council's Environment Health Department who advises that:</p> <p>"'The report' has highlighted the importance of 'fresh air' ventilation and Council is in agreement that for any noise attenuation to be effective, each individual unit will need to be adequately ventilated to ensure the residents can keep windows closed during peak external noise periods.</p> <p>Acoustic dynamics have provided options for passive ventilation</p>		

		<p>systems in 'the report' and mechanical ventilation is also a viable option. The Statement of Environmental Effects references 'natural ventilation' however this may not be sufficient if windows need to be kept close for effective noise attenuation.</p> <p>As there is no proposal for mechanical ventilation, Council will condition that each residential unit is to have a passive system installed as recommended in section 4.4 of 'the report' or a mechanical ventilation system".</p>
<b>Configuration</b>		
<b>Apartment Mix</b>	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.	<p>Consistent</p> <p>The development includes the following apartment mix which is considered appropriate in supporting the housing needs of the community now and into the future:</p> <ul style="list-style-type: none"> <li>• 1 bedroom: 8 (66.7%)</li> <li>• 2 bedroom: 4 (33.3%)</li> </ul>
<b>Ground Floor Apartments</b>	Do the ground floor apartments deliver amenity and safety for their residents?	Not applicable
<b>Facades</b>	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	<p>Consistent</p> <p>The development retains the existing building facades.</p>
<b>Roof Design</b>	<p>Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features.</p> <p>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.</p>	<p>Consistent</p> <p>Although change is proposed to the lift shaft and fire stair, the remainder of the roof form remains unchanged. The communal terrace remains integrated into the roof form.</p> <p>Council's Heritage Officer has reviewed this aspect of the proposal and advises that the proposal will not affect the remaining existing heritage listed building fabric and will not adversely affect the view upon or from this heritage item.</p>

		Furthermore, Council's Urban Designer has also provided comment on this matter and advises that the amended proposal (which reduced the height of the lift shaft and changed its facade to glass) has reduced the visual bulk of the stairs and lift core to access the roof terrace. Timber screens have also been introduced to hide the airconditioning condenser units.																														
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Acceptable on merit  The site is built boundary-to-boundary and is therefore unable to include any landscaping. Notwithstanding, a roof terrace design has been submitted which does include a landscaped perimeter around the terrace. This is an improvement on the current situation and context and provides for a more inviting area to relax.																														
Planting on Structures	<div>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</div> <table><tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr><tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m<sup>3</sup></td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr><tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m<sup>3</sup></td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr><tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m<sup>3</sup></td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr><tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr><tr><td></td><td></td><td></td><td></td><td></td></tr></table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m <sup>3</sup>	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm							Consistent  As noted above, the application includes a roof terrace design which details the provision of a perimeter planter box around the north, east and southern edges. The planter box is shielded by timber screens. The plantable area would be sufficient to include shrubs which would soften the area.
Plant type	Definition	Soil Volume	Soil Depth	Soil Area																												
Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent																												
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	<table><tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr><tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr></table>	Ground Cover			300-450mm		Turf			200mm		
Ground Cover			300-450mm									
Turf			200mm									
<b>Universal Design</b>	<p>Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features</p>	<p>Acceptable on merit</p> <p>Because the development involves an adaptable re-use of the existing building, achieving all 7 core design features of the Silver Level are not possible. However, it is noted that the development does satisfy the following 4 core design features:</p> <ul style="list-style-type: none"><li>• A safe continuous and step free path of travel from the street entrance to a dwelling entrance that is level.</li><li>• At least one, level (step-free) entrance into the dwelling.</li><li>• Internal doors and corridors that facilitate comfortable and unimpeded movement between spaces.</li><li>• A toilet on the ground (or entry) level that provides easy access.</li></ul>										
<b>Adaptable Reuse</b>	<p>New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.</p>	<p>Acceptable on merit</p> <p>All additions are situated within the exterior fabric of the building and do not have any notable impact on the area's identity and sense of place.</p>										
<b>Mixed Use</b>	<p>Can the development be accessed through public transport and does it positively contribute to the public domain?</p> <p>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</p>	<p>Consistent</p> <p>The development can be readily accessed through public transport (ferry and bus).</p> <p>Because the development retains the external fabric of the building, the heritage context of the built form will continue to contribute to the public domain of The Corso and Market Place.</p> <p>The ground floor will continue to be used for retail and lobby purposes</p>										



		only. No residential use is located at the ground floor level.
<b>Awnings and Signage</b>	<p>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.</p> <p>Signage must respond to the existing streetscape character and context.</p>	<p>Consistent</p> <p>The development will not alter the provision of awnings.</p> <p>Signage is not part of the this application.</p>
<b>Performance</b>		
<b>Energy Efficiency</b>	Have the requirements in the BASIX certificate been shown in the submitted plans?	<p>Consistent</p> <p>The BASIX Certificate submitted with the application indicates that the development will achieve above target scores for water and energy while thermal comfort will achieve a target pass.</p>
<b>Water Management and Conservation</b>	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	<p>Consistent</p> <p>The development will utilise the existing access to water infiltration, potable water, rainwater, wastewater, stormwater and groundwater.</p>
<b>Waste Management</b>	Has a Waste Management Plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	<p>Consistent</p> <p>A Waste Management Plan (prepared by Lid Consulting dated 15 November 2019) has been submitted with the application and is included in the draft conditions of consent.</p>
<b>Building Maintenance</b>	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	<p>Consistent</p> <p>The development retains the external fabric of the building (including the roof treatments).</p> <p>The only elements which are additional to the external facade are the exposed lift shaft and fire stair, both of which are finished in materials which would ensure the longevity and sustainability of the building due to low maintenance requirements.</p>

## STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

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

modification of development consent states that:

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

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

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

Comment

The development is considered to satisfy (1)(a) because the adaptive re-use of the existing building is unable to provide on-site car parking.

The development satisfies (1)(b) and (1)(c).

(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) sub-clause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in sub-clause (1), including on the basis of sub-clause (2), and
- (b) the design criteria specified in sub-clause (1) are standards to which clause 4.15 (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 development demonstrates that adequate regard has been given to the design quality principles and the objectives specified in the Apartment Design Guide for the relevant design criteria.

## **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 874102M-04 dated 15 July 2020).

The BASIX Certificate indicates that the development will achieve the following:

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Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	35	46

## SEPP (Infrastructure) 2007

### Ausgrid

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

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

### Comment

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

## SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

### **10 Development on certain land within coastal wetlands and littoral rainforests area**

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
  - the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
  - the carrying out of any of the following:*
    - earthworks (including the depositing of material on land),*
    - constructing a levee,*
    - draining the land,*
    - environmental protection works,*
  - any other development.*

### Comment

The development is not located on land located within a coastal wetland or littoral rainforest area.

Clause 10 is therefore not applicable.

## **11 Development on land in proximity to coastal wetlands or littoral rainforest**

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
  - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

### Comment

The development is not located on land located within proximity to a coastal wetland or littoral rainforest area.

The nearest littoral rainforest proximity area is located approximately 996m to the south-east adjacent to Collins Beach on the opposite side of the Manly Peninsula.

Clause 11 is therefore not applicable.

## **12 Development on land within the coastal vulnerability area**

*Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:*

- (a) *if the proposed development comprises the erection of a building or works - the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
  - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
  - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
  - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of,*

*anticipated  
coastal  
processes  
and  
current  
and  
future  
coastal  
hazards.*

#### Comment

The NSW Department of Planning, Industry and Environment website refers to a Coastal Vulnerability Area as one that is subject to coastal hazards such as coastal erosion and tidal inundation. However, Clause 12 is preceded by a note which states "*at the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified*".

Therefore, Clause 12 is not applicable at this time.

### **13 Development on land within the coastal environment area**

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
  - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) *Aboriginal cultural heritage, practices and places,*
  - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
  - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in sub-clause (1), or*
  - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*

#### Comment

The site is not located within the Coastal Environment Area.

Clause 13 is therefore not applicable.

## **14 Development on land within the coastal use area**

(1)

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
  - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
  - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
  - (iv) Aboriginal cultural heritage, practices and places,
  - (v) cultural and built environment heritage, and
- (b) is satisfied that:
  - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
  - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (iii) if that impact cannot be minimised - the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

### Comment

The site is located at the southern edge of the Coastal Use Area.

The development retains the primary structural and architectural features of the site such that no adverse impact will be caused to the matters raised in Point (a)(i) to (v).

Therefore, Council is satisfied that the development has been designed, sited and will be managed to avoid any adverse impact referred to in Point (a).

This assessment has considered the development against the applicable standards and controls to take into account the bulk, scale and size of the development within the surrounding coastal and built environment.

The development satisfies Clause 14(1).

As such, it is considered that the application complies with the requirements of the *State Environmental Planning Policy (Coastal Management) 2018*.

## **15 Development in coastal zone generally- development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

### Comment

The development retains the primary structural and architectural features of the site such that any increased risk of coastal hazard will be avoided.

The development satisfies Clause 15.

## Manly Local Environmental Plan 2013

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

### Principal Development Standards

Standard	Permitted	Proposed	% Variation	Complies
4.3 - Height of Buildings	10m	Terrace Wall: 12.6m Fire Escape: 14.37m Lift Shaft: 14.97m	26% (2.6m) 43.7% (4.37m) 49.7% (4.97m)	<b>No</b>
4.4 - Floor Space Ratio (FSR)	2.5:1 (1,255.7m <sup>2</sup> )	2.6:1 (1,277m <sup>2</sup> )	1.70% (21.3m <sup>2</sup> )	<b>No</b>

**Note:** Clause 4.4(2A) allows for a FSR of up to 0.5:1 if the commercial GFA is at least 50% of the building GFA. The commercial GFA is less than 50% and therefore, the development does not benefit from the additional FSR.

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	N/A
6.4 Stormwater management	N/A
6.8 Landslide risk	N/A
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.16 Gross floor area in Zone B2	Yes

### Detailed Assessment

#### 4.6 Exceptions to development standards

#### Description of non-compliance

Development standard:	4.3 - Height of Buildings 4.4 - Floor Space Ratio

Requirement:	Building Height: 10.0m Floor Space Ratio: 2.5:1 (1,255.7m <sup>2</sup> )
Proposed:	Building Height: 12.6m to 14.97m Floor Space Ratio: 2.6:1 (1,277m <sup>2</sup> )
Percentage variation to requirement:	Building Height: 26% to 49.7% Floor Space Ratio: 1.7%

## Description of non-compliances

### Building Height

The new elements contributing to non-compliant building height are:

- Lift shaft;
- Fire Stair; and
- Terrace Wall.

Each of the elements are located on the roof, immediately adjacent to the central communal open space area.

### Floor Space Ratio

The new elements contributing towards the non-compliant floor space ratio are situated in various locations and involve the filling in of stairwells, redundant spaces and outdoor areas within the two side courtyards.

## Assessment of request to vary a development standard

The following assessment of the variation to Clause 4.3 – Height of Buildings and Clause 4.4 - Floor space ratio development standards, 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 and Clause 4.4 - Floor space ratio development standards are 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 sub-clause (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 (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standards.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standards 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:

### **Building Height**

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

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

### **Floor Space Ratio**

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

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

*standard, and*

*(d) that having regard to (a), (b) and (c) above that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(e) that given the developments ability to comply with the zone and floor space ratio standard objectives that approval would not be antipathetic to the public interest, and*

*(f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning".*

The justification provided in the request to vary Clause 4.3 (Height of Buildings) and Clause 4.4 (Floor Space Ratio) is considered to be sound in that, while the variations (particularly with respect to the Height of Buildings) appear significant numerically, the non-compliant elements are comparatively minor to the scale of the existing building and treated to minimise visual bulk.

The variation to the floor space ratio is contained entirely within the existing building and does not add to the bulk and scale of the building.

The request has satisfactorily justified the variations against the objectives of the respective Development Standards and the zone.

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 and Floor Space Ratio Development Standards and the objectives of the B2 Local Centre zone. An assessment against these objectives is provided below.

### **Objectives of the Development Standards**

#### **Height of Buildings**

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 author of the request states:

*"The bulk and scale of the building is not significantly altered with the minor increase in floor space located within the established building envelope.*

*The subject property is heritage listed, located within immediate proximity of other heritage listed properties and is located within the Town Centre Conservation Area. Accordingly, primary consideration must be given to maintaining a contextually appropriate building form which respects the significance of the existing building, its setting and its relationship with the building form and height established by adjoining development including the heritage listed New Brighton Hotel.*

*The application is accompanied by a detailed Architect Design Statement prepared by the project Architect which details the design philosophy and considerations which influenced the design and final built form and heights proposed. Such design response was dictated, to a large extent, by the advice received during the design phase from the project heritage consultant and as detailed within the accompanying HIS. Particular attention must be given to the content of these documents as they form a critical component of the application. The conclusion contained at clause 9.6 of the HIS is as follows:*

*"Given the heritage significance of the building and its condition, options for retention and adaptive reuse of the building are most appropriate. The scale and alignment of the building reinforce the character of the adjacent New Brighton Hotel and anchor this important corner opposite the Steyne Hotel".*

*In relation to building height we note that the existing 3 storey parapet to The Corso is maintained with the glass line at the upper level pushed back to create balcony space with the existing roof form retained over. The existing roof top ancillary structures are demolished and replaced with more integrated access structures. The consent authority can be satisfied that the additional works above the height standard will not give rise to any inappropriate or jarring streetscape, urban design or residential amenity outcomes.*

*Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the minor increase in building height of the proposed development offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of adjoining development and development generally along the length of The Corso. Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings and representative of the existing and desired future character of development within the Town Centre Heritage Conservation Area".*

The justification provided by the author of the request is concurred with in that the development retains the overall height of the existing building with exception to the comparatively minor additions of the lift shaft and fire stair, both of which are located

on the roof and not readily visible from street level.

The proposal is considered to be consistent with this objective.

***b) to control the bulk and scale of buildings.***

Comment

The author of the request states:

*"We rely on our response to objective (a) above. This objective is not defeated".*

The justification provided by the author of the request is concurred with given the considerations under (a).

The proposal is considered to be consistent with this objective.

***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 author of the request states:

*"Having inspected the site to determine available view lines across the site from surrounding residential development to public spaces (including Manly Beach and The Corso) and from public spaces to surrounding development including the surrounding adjoining heritage items we have formed the considered opinion that the development, by virtue of its height, maintains a view sharing scenario in accordance with the principles established by the Land and Environment Court in the matter of Tenacity Consulting v Warringah [2004] NSWLEC 140.*

*View impacts have been minimised and accordingly the proposal is consistent with this objective".*

The justification provided by the author of the request is concurred with in that the development, particularly the elements of non-compliance, do not unreasonably impact on available views to nearby residential development from public spaces, from nearby residential development to public spaces and between public spaces.

The proposal is considered to be consistent with this objective.

***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 author of the request states:

*"The accompanying shadow diagrams clearly demonstrate that the only minor*

*additional shadowing created by the development between 9am and 3pm will occur to adjoining development. The extent of additional shadowing is appropriately described as minor and will not unreasonably impact on the amenity of the adjoining properties. No additional overshadowing will occur to The Corso".*

The justification provided by the author of the request is concurred with in that the development, particularly the elements of non-compliance, do not unreasonably impact on solar access to public and private open spaces. No dwellings are located adjacent to the subject site.

The proposal is considered to be consistent with this objective.

***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

This objective is not applicable.

## **Floor Space Ratio**

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor Space Ratio' of the MLEP 2013 are:

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

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

Comment

The author of the request states:

*"The bulk and scale of the building is not significantly altered with the minor increase in floor space located within the established building envelope. The roof top communal open space, pergola and access structures do not contribute towards GFA/FSR.*

*Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the bulk and scale of the proposed development, as reflected by GFA/FSR, offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of adjoining development and development generally along the length of The Corso. Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings and representative of the existing and desired future character of development within the Town Centre Heritage Conservation Area."*

The justification provided by the author of the request is concurred with in that the development retains the overall bulk and scale of the existing building when viewed from street level.

The proposal is considered to be consistent with this objective.

***b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features.***

Comment

The author of the request states:

*"Having inspected the site to determine available view lines to and from the site from surrounding residential development and public spaces (including Manly Beach and The Corso) we have formed the considered opinion that the building, by virtue of its height, bulk and scale will not obscure important landscape and townscape features".*

The justification provided by the author of the request is concurred with in that, with exception to the afore-mentioned lift shaft and fire stair considered under Clause 4.3 above, the development does not alter the external fabric of the building and therefore does not obscure important landscape and townscape features.

The proposal is considered to be consistent with this objective.

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

Comment

The author of the request states:

*"We rely on our response to objective (a) and (b) noting the landscaped setting of the site and its surrounds is maintained".*

The justification provided by the author of the request is concurred with given the considerations under (a) and (b).

The proposal is considered to be consistent with this objective.

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

Comment

The author of the request states:

*"The accompanying shadow diagrams clearly demonstrate that the only minor additional shadowing created by the development between 9am and 3pm will occur to adjoining development. The extent of additional shadowing is appropriately described as minor and will not unreasonably impact on the amenity of the adjoining properties. No additional overshadowing will occur to The Corso. Similarly, the proposal will not result in any unacceptable visual or aural privacy impacts on any adjoining land.*

*The change of use from backpacker accommodation to shop top housing will minimise potential/ existing adverse environmental impacts on the use and enjoyment of adjoining land and the public domain".*

The justification provided by the author of the request is concurred with in that the development would not cast any additional shadow nor present any overlooking opportunities into surrounding residential or commercial buildings. Furthermore, through the retention of the existing building, the development will not further limit any view sharing to and from private and public spaces.

The proposal is considered to be consistent with this objective.

***e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.***

Comment

The author of the request states:

*"The established level of retail floor space is maintained as a consequence of the works proposed and accordingly the proposal is consistent with this objective".*

The justification provided by the author of the request is concurred with in that the development would not unreasonably impact on the retention of local services and employment opportunities within the Centre. The development retains the existing retail/commercial activities on the ground floor which will continue to provide local services and employment opportunities within the Centre.

Despite it's size, it is noted that the backpacker accommodation only employs one part-time manager and one casual clerk. The applicant advises that cleaning is done by the guests staying in the hostel. Comparatively, it is anticipated that there will be one off site management role for the residential component, the equivalent of one full time employee for cleaning of units and common area. Tradesmen will also be required for ongoing building and plant maintenance. In this respect, it is considered that the development would not reduce the employment opportunity of the site.

The proposal is considered to be consistent with this objective.

## **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 author of the request states:

*"The proposed development retains the existing ground floor and mezzanine level retail uses the area of which far exceed the minimum 25% floor space requirement"*

The justification provided by the author of the request is concurred with.

The proposal is considered to be consistent with this objective.

- ***To encourage employment opportunities in accessible locations.***

Comment

The author of the request states:

*"The proposed development retains the existing ground floor and mezzanine level retail uses the area of which far exceed the minimum 25% floor space requirement. Manly CBD is one of the most accessible commercial areas within the northern beaches LGA".*



The justification provided by the author of the request is concurred with.

The proposal is considered to be consistent with this objective.

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

Comment

The author of the request states:

*"The proposal does not provide any carparking and as such satisfies this objective".*

The justification provided by the author of the request is concurred with. Council's Traffic Engineer has reviewed this aspect of the proposal and notes that the site is within close proximity to bus and ferry transport services, is sited within close proximity to a number of car share "pods" and is within walking distance (400m) of walking and cycling paths. There are also significant levels of commercial and retail development nearby limiting the need for private car ownership. On-street parking in the Manly Town Centre is subject to time restricted, permit and paid parking restrictions and there is therefore little opportunity for drivers without parking permits to park on a long term basis on street. As there is minimal need for private car ownership, the absence of parking in the proposed development may be supportable and may contribute to a lowering of private car movements within the Manly CBD and the reliance on public transport.

The proposal is considered to be consistent with this objective.

- ***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

The author of the request states:

*"The development is not within proximity of any zone boundaries. The change of use from backpacker accommodation to shop top housing will reduce potential noise and odour impacts with no impacts associated with the delivery of materials or use of machinery. In this regard no objection is raised to standard conditions pertaining to the acoustic performance of roof mounted air conditioning condensers".*

The justification provided by the author of the request is concurred with. It is further noted that the applicant has undertaken an acoustic assessment to ensure that the development would not prejudice adjoining commercial development in the Centre nor adversely impact upon the nighttime economy of the Centre. The recommendations contained in the Acoustic Report are included in the conditions of consent.

The proposal is considered to be consistent with this objective.

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

## 6.16 Gross floor area in Zone B2

Clause 6.16 requires:

1. *The objective of this clause is to provide for the viability of Zone B2 Local Centre and encourage the development, expansion and diversity of business activities, that will contribute to economic growth, retention of local services and employment opportunities in local centres.*

### Comment

The development will introduce a long-term residential component into the zone which would contribute towards the economic growth of the Centre through the provision of a stable customer base.

2. *This clause applies to land in Zone B2 Local Centre.*

### Comment

The subject site is located within the B2 Local Centre zone.

3. *Development consent must not be granted to the erection of a building on land in Zone B2 Local Centre unless the consent authority is satisfied that at least 25% of the gross floor area of the building will be used as commercial premises.*

### Comment

The development includes a total gross floor area of 1,277m<sup>2</sup>. Pursuant to sub-clause (3), the development should provide 25% of the area (being 319.2m<sup>2</sup>) as commercial premises. The development provides for 365.6m<sup>2</sup> gross floor area which equates to 74.6% and therefore complies with the requirement of this clause.

4. *Development consent must not be granted for development on land to which this clause applies if the gross floor area of any retail premises on the land would exceed 1,000 square metres.*

### Comment

The gross floor area of the retail premises is 365.6m<sup>2</sup> and therefore complies with the requirements of this clause.

## Manly Development Control Plan

### Built Form Controls

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Development Controls	Requirement	Proposed	% Variation*	Complies
4.2.1 - FSR	2.5:1	2.6:1	1.7% (21.3m <sup>2</sup> )	<b>No</b> See comments under Clause 4.4 of MLEP 2013
4.2.2 - Height of Buildings	10m	12.7m to 15.1m	27% to 51%	<b>No</b> See comments under Clause 4.3 of MLEP 2013
4.2.3 - Setbacks in the B2 Zone	Public Road: Nil Side Boundaries: Nil	Nil Nil Existing (no change)	N/A N/A	Yes Yes
4.2.4 - Car Parking	See Schedule 3 below	Nil	100%	<b>No</b> See separate comment below
Schedule 3 - Parking and Access	Residential: 9 spaces Visitor Parking: 2 spaces Retail: 8.8 spaces* Total: 19.8 (20) spaces	Nil	100%	

**Note:** The retail component includes the existing retail uses on the site to indicate the extent of the total car parking shortfall.

Clause (as applicable)	Requirement (as relevant)	Compliance
4.2.5.1 - Design of Townscape	<ul style="list-style-type: none"> <li>Maintain the predominant pattern of narrow fronted buildings within the town centre with new buildings incorporating modulation of the street wall such as recesses or modulation in the building facade to visually reduce the length and perceived bulk of the street wall.</li> </ul>	<p>Yes</p> <p>The development maintains the existing facade at The Corso and Market Place thereby maintaining the existing articulation, aesthetic and bulk.</p>
	<ul style="list-style-type: none"> <li>Maintain existing setbacks.</li> </ul>	<p>Yes</p> <p>The development maintains the existing facade at The Corso and Market Place thereby maintaining the existing setbacks.</p>
	<ul style="list-style-type: none"> <li>New development to enhance townscape characteristics, disregarding existing unsympathetic buildings.</li> </ul>	<p>Yes</p> <p>The development maintains the existing external aesthetic appearance, scale and built form by retaining both street facing facades. Therefore, the character of the townscape is</p>

		preserved.
<b>4.2.5.2 - Height of Buildings</b>	<ul style="list-style-type: none"> <li><i>Whether the final building height including any architectural embellishments adversely dominate the heights of end (corner) buildings in the same street block or that of adjoining buildings.</i></li> </ul>	<p>Yes</p> <p>The development includes lift overrun and fire stair embellishments which are situated within the north-western part of the roof.</p> <p>The lift shaft has been designed to feature glass frontages to minimise its visual appearance. The fire stair is sited such that it would not be readily visible from the street.</p> <p>In both instances, Council's Urban Designer has endorsed both features and states:</p> <p><i>"The amended proposal has reduced the visual bulk of the stairs and lift core to access the roof terrace".</i></p>
	<ul style="list-style-type: none"> <li><i>Whether the proposed development successfully demonstrates the most appropriate relationship to adjoining development in terms of fulfilling the Council's townscape objectives. New development provides opportunities to achieve the maximum height of building in the centre of the street blocks to obtain views and outlook over buildings on the block edge at a lower height.</i></li> </ul>	<p>Yes</p> <p>With exception to the aforementioned lift overrun and fire stair, the development maintains the building height and setbacks by retaining the existing facades to both street frontages thereby fulfilling the objectives of Clause 4.2.5.1 - Design of Townscape.</p> <p>Views and outlook over buildings from the roof terrace is retained.</p>
	<ul style="list-style-type: none"> <li><i>Whether new development should be constructed to the same building envelope as existing buildings on a site in order to maintain interest and variety, provided the other objectives and requirements (including FSR) of this plan are achieved.</i></li> </ul>	<p>Yes</p> <p>The development retains the existing front and side setbacks (and the existing building envelope).</p> <p>The retention of the facades at both street frontages maintains the historic visual interest, architectural variety and continuity of the</p>

		townscape.
	<ul style="list-style-type: none"> <li><i>Whether new buildings equate with both the overall height as well as the level of each floor of adjoining buildings and in relation to particular architectural details like parapet details and with particular regard to important end-buildings in the particular street block.</i></li> </ul>	<p>Yes</p> <p>Notwithstanding the aforementioned lift overrun and fire stair (both of which are supported), the height of the development equates with both the overall height as well as the level of each floor of adjoining buildings and to particular architectural details in the street block.</p>
<b>4..2.5.4 - Car Parking &amp; Access</b>	<i>In exceptional circumstances and having regard to the merits of the application, Council may be prepared to allow a reduction in the any parking rate/ requirements in Manly Town Centre (including residential and commercial) where the applicant has demonstrated that:</i>	<p>Yes</p> <p>Council's Traffic Engineer has reviewed this aspect of the development and advises that</p> <p><i>"The subject site is located with frontages to the paved pedestrianised sections of Market Lane and The Corso as such, it is not possible or safe to provide vehicular access to the site.</i></p>
	<ul style="list-style-type: none"> <li><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;</i></li> </ul>	<p><i>Further, the site is within close proximity to bus and ferry transport services, is sited within close proximity to a number of car share "pods" and is within walking distance (400m) of walking and cycling paths. There are also significant levels of commercial and retail development nearby limiting the need</i></p>
	<ul style="list-style-type: none"> <li><i>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;</i></li> </ul>	<p><i>for private car ownership. On-street parking in the Manly Town Centre is subject to time restricted, permit and paid parking restrictions and there is therefore little opportunity for residents to park on a long term basis on street. Given the proximity of this development to good public transport, car share vehicles, services and walking and cycling routes, there is minimal need for</i></p>
	<ul style="list-style-type: none"> <li><i>The movement of vehicles to and from the site would cause unacceptable conflict with pedestrian movements, special servicing arrangements for pedestrianised areas or</i></li> </ul>	

	<i>contribute to congestion at key intersections.</i>	<i>private car ownership and the absence of parking in the proposed development is therefore supportable".</i>
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### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	N/A	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	N/A	N/A
3.3.2 Preservation of Trees or Bushland Vegetation	N/A	N/A
3.3.3 Footpath Tree Planting	N/A	N/A
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
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	N/A	N/A
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	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
4.2.5.1 Design for Townscape	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
4.2.5.4 Car Parking and Access	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	N/A	N/A
4.4.5 Earthworks (Excavation and Filling)	N/A	N/A
5 Special Character Areas and Sites	N/A	Yes
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

## 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 2019

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

A monetary contribution of \$23,954 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,395,394.

## CONCLUSION

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

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

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

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

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

Council is satisfied that:

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

In summary, a detailed assessment has been conducted for each of the following specific issues where and inconsistency or numerical non-compliance was found:

#### **Apartment Design Guide (ADG)**

- Clause 3E - Deep Soil Zones;
- Clause 3J - Bicycle and Car Parking;
- Clause 4A - Solar and Daylight Access;
- Clause 4B - Natural Ventilation;
- Clause 4D - Apartment Size and Layout;
- Clause 4E - Private Open Space and Balconies; and
- Clause 4G - Storage.

In each instance, the above inconsistencies were considered to be acceptable on merit given the adaptive nature of the proposal within the retained heritage fabric of the building and pursuant to the provision of Clause 4R - Adaptive Re-Use' of the ADG.

#### **Manly Local Environmental Plan 2013**

- Clause 4.3 - Height of Buildings; and
- Clause 4.4 - Floor Space Ratio.

#### **Manly Development Control Plan 2013**



- Clause 4.2.1 - Floor Space Ratio;
- Clause 4.2.2 - Height of Buildings;
- Clause 4.2.4 - Car Parking

In each instance the assessment of the above matters found that the development achieved consistency with the objectives of the control and could be supported.

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 and Clause 4.4 Floor Space Ratio development standards 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 sub-clause (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 DA2019/1398 for Alterations and additions to an existing building to facilitate shop top housing containing 12 apartments including the construction of a pergola and lift overrun to the roof terrace on land at Lot 3 SP 67337, 3 / 63 - 67 The Corso, MANLY, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. **Approved Plans and Supporting Documentation**

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

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
101 (DA3) - Ground Floor Plan	25 May 2020	Platform Architects Pty Ltd
102 (DA3) - Mezzanine Plan	06 July 2020	Platform Architects Pty Ltd
103 (DA3) - First Floor Plan	06 July 2020	Platform Architects Pty Ltd
104 (DA3) - Second Floor Plan	06 July 2020	Platform Architects Pty Ltd
105 (DA3) - Roof Plan	13 May 2020	Platform Architects Pty Ltd
201 (DA3) - South Elevation - The Corso	06 July 2020	Platform Architects Pty Ltd
202 (DA3) - West Elevation	06 July 2020	Platform Architects Pty Ltd
203 (DA3) - North Elevation	06 July 2020	Platform Architects Pty Ltd
204 (DA3) - East Elevation	13 May 2020	Platform Architects Pty Ltd
301 (DA3) - Section A-A	06 July 2020	Platform Architects Pty Ltd
302 (DA3) - Section B-B	06 July 2020	Platform Architects Pty Ltd

303 (DA3) - Section C-C	06 July 2020	Platform Architects Pty Ltd
304 (DA3) - Section D-D	06 July 2020	Platform Architects Pty Ltd
305 (DA3) - Section E-E	06 July 2020	Platform Architects Pty Ltd
306 (DA3) - Section EE	30 October 2019	Platform Architects Pty Ltd
Roof Terrace Design (Issue A)	12 May 2020	Platform Architects Pty Ltd

**Reports / Documentation – All recommendations and requirements contained within:**

<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
External Noise Intrusion Assessment	01 May 2020	Acoustic Dynamics
DA Stage BCA Access Report	06 November 2019	Urban Health Consultants Pty Ltd
Structure Load Check	1 September 2016	MPN Group Consulting Engineers
Construction Management Plan	14 November 2019	Low Impact Development Consulting

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan Report	15 November 2019	Low Impact Development Consulting

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

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

## 2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

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

Reason: Legislative requirement.

### 3. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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 a final 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) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;  
  
Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

#### 4. **Resident Parking permits**

Any residents and/or tenants of the subject site are not eligible for resident parking permits. This condition is to be provided on the property Title.

Reason: To ensure the residents/tenants are aware that they are not entitled to a permit irrespective of its location within a Resident Parking Scheme (RPS). (DACTRBOC1)

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## FEES / CHARGES / CONTRIBUTIONS

### 5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$23,953.94 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$2,395,394.00.

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

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

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

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

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

### 6. **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 Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

### 7. **Amendments to the approved plans**

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

- Bedroom 1 in Apartments 04 and 05 are to be increased to achieve a minimum area of 10m<sup>2</sup>.
- Bedroom 2 in Apartments 08 and 11 are to be designated on the plans as Studies only.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

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

### 8. **Building Code of Australia Upgrade requirements and Fire Safety Upgrade**

The Building Code of Australia works and fire upgrading measures to upgrade the building as detailed and recommended in the Indicative Compliance Report prepared by Building Innovations Australia, dated 29/11/2019, Report Project No.PRO-04365-B2N4 are to be considered when assessing 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.

### 9. **Access for People with Disabilities**

Access to and within the building and facilities are to be provided for Persons with a Disability in order to comply with the Building Code of Australia and AS 1428.1.

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.

### 10. **Material Finish to the Lift Shaft**

The lift shaft is to be finished entirely in clear glass on all facades so that the shaft is a see-through structure.

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

Reason: To minimise the visual appearance of the lift shaft.

### 11. **Schedule of Materials and Finishes**

A Schedule of Materials and Finishes is to be submitted to Council for approval prior to the issue of a Construction Certificate.

Reason: To ensure that any facade treatments are consistent with the heritage values of the site.



12. **Noise fixtures prior to CC**

Details of the fixtures, fitting and equipment being used for the windows, internal walls, external walls, mechanical plant and external doors are to be provided to the PCA for approval prior to the issuing of any Construction Certificate.

Fixtures fittings and equipment are to meet the minimum requirements as specified in the acoustic report by Acoustic Dynamics Document 4198R001.LB.200501, section 4 - 4.1, 4.2 and 4.3.

Reason: to protect future residence from noise associated with a local business district.

13. **Passive ventilation systems**

Details of passive ventilation for all individual residential units are to be provided to the PCA for approval prior to any Construction Certificate being issued.

All passive ventilation systems must meet the requirements for AS2107:2016.

Reason: To meet indoor acoustic design objectives.

14. **Flooding**

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

Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Flood Planning Level of 5.84m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

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 5.84m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

Flood Emergency Response – E2

Appropriate access to the shelter in place refuge should be available from all areas of the new development.

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.

15. **Compliance with Standards**

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

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

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

16. **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 pedestrian safety and traffic congestion issues in the vicinity of the site truck movements will be restricted in size and number. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and means to minimise traffic and pedestrian impacts and noise in the area;
- 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 Traffic Control Plans prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of the development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the

combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.

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

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.(DACTRCPC1)

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **17. Works 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 reserve for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of crane, concrete trucks or other construction plant on the road reserve.

Reason: To ensure Work Zones are assessed, monitored and installed correctly (DACTRDPC1)

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **18. Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and

- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

19. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

20. **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 and pedestrian 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 agreed Construction Traffic Management procedures and are held liable to the conditions of consent.  
(DACTREDW1)

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

22. **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.  
(DACWTE02)

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

23. **Certification that fittings and structures meet the minimum acoustic standards**  
Prior to any Occupational Certificate being issued, details are to be submitted to the PCA who is to certify that all recommended fixtures, fittings, and equipment have been installed and meet the minimum requirements as specified in the acoustic report by Acoustic Dynamics Document 4198R001.LB.200501, section 4 - 4.1, 4.2 and 4.3

Reason: to protect future residence from noise associated with a local centre.

24. **Installation of passive ventilation**  
Prior to any Occupational Certificate being issued, details are to be provided to the PCA to certify that all individual residential units have passive ventilation units installed as specified in the acoustic report by Acoustic Dynamics Document 4198R001.LB.200501, section 4.4.

Reason: To ensure residents benefit from the recommended noise attenuation with adequate ventilation (DACHPFPOC6)

25. **Garbage and Recycling Facilities**  
All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and drained to the sewer with a tap in close proximity to facilitate cleaning, or a cleaning plan submitted to Council indicating a regular inspection and cleaning regime to avoid accumulation or escape of waste from the property

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To prevent pollution of the environment and to protect the amenity of the area.  
(DACPLF03)

26. **House / Building Number**  
House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

27. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**  
The units within the development are to be numbered in accordance with the Australia Post Address Guidelines  
([https://auspost.com.au/content/dam/auspost\\_corp/media/documents/Appendix-01.pdf](https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-01.pdf)).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on

stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

28. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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 compliance with the statutory requirements of Sydney Water.

29. **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. (DACWTF02)

30. **Positive Covenant for Waste Services**

Waste containers are not to be presented in the public places for servicing or collection. Access to the on-site storage facility must be available to waste collection contractors.

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

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

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

The original completed request form (Department of Lands standard 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. (DACWTF04)

32. **Neighbourhood Management Statement for Waste Services**

Where a development proposes the creation of a neighbourhood scheme, the Neighbourhood Management Statement shall include wording in relation to the provision of waste services in accordance with Council's standard requirements (available from Warringah Council).

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF05)

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

33. **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. (DACPLG19)

34. **Loading and Servicing**

Any Loading/Unloading and Servicing of the development from within the pedestrianised areas of Market lane, Sydney Road or The Corso must only occur between the hours of 5am and 8am when bollards in Henrietta Lane, Central Avenue and Market lane are open to facilitate servicing. Any loading or servicing requirements outside of those hours must be accommodated from within Loading Zones in surrounding streets

Reason: to ensure pedestrian safety on pedestrianised areas (DACTRGOG1)