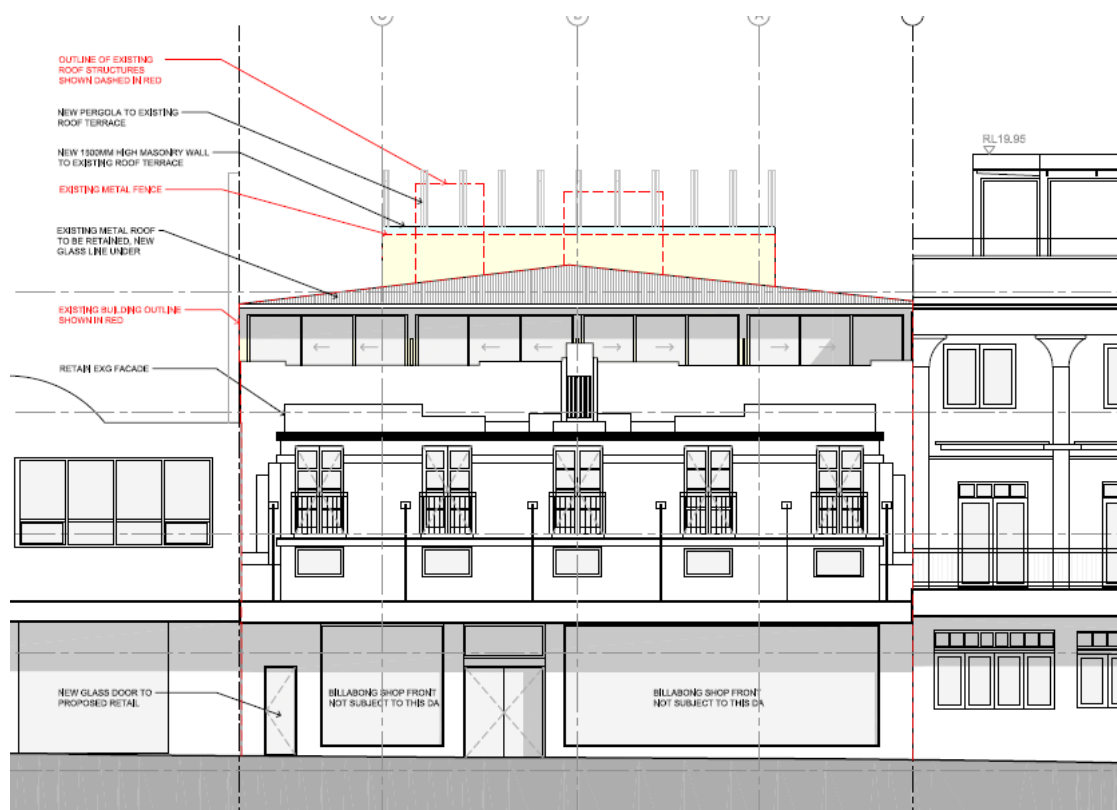


STATEMENT OF ENVIRONMENTAL EFFECTS

Alterations, additions and change of
use to shop top housing

**63 – 67 The Corso
Manly**



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Statement of Environmental Effects

Alterations, additions and change of use to shop top housing

63 – 67 The Corso, Manly

Prepared on behalf of

Invergowrie Properties Pty Limited

By

Greg Boston

B Urb & Reg Plan (UNE) MPIA

Boston Blyth Fleming Pty Ltd

Town Planners (ACN 121 577 768)

Suite 1/9 Narabang Way

Belrose NSW 2085

Tel: (02) 99862535

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1.0 INTRODUCTION

This document has been prepared as a component of a development application proposing 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.

The design is responsive to the issues raised by Council in its assessment of a previously withdrawn development application (DA2019/0250) proposing a change of use to shop top housing including an additional level of residential accommodation. In this regard, the upper level residential floor plate has been deleted with lift and stair access extended to the existing roof terrace for use as communal open space. This has reduced the height and FSR of the proposal with the acceptability of the proposal from a heritage perspective addressed in the accompanying Heritage Impact Statement prepared by Jennifer Hill.

The project architect has responded to the client brief to design a contextually responsive building which takes advantage of the site's superior locational attributes whilst respecting the heritage significance of the existing building and the Town Centre Conservation Area generally. In this regard, the scheme has been developed through formal pre and post-DA consultation with Council (DA2019/0250), the project heritage consultant and detailed site and contextual analysis to identify the constraints and opportunities associated with the development of this consolidated infill site with the final design outcome respecting the dominant corner imagery displayed by the New Brighton Hotel.

Particular attention has been given to ensuring that the development not only responds to its immediate built form context, and the form of development anticipated within the Manly Town Centre precinct, but importantly to ensure that appropriate visual and aural residential amenity is maintained between the proposed residential apartments and the adjoining hotel use. This submission will demonstrate that such outcome has been achieved without unacceptable streetscape, residential amenity or heritage conservation outcomes with the proposal replacing antiquated backpacker accommodation with contemporary residential apartments which will afford exceptional levels of amenity good whilst providing diversity in housing choice within a precinct ideally suited to increased residential densities.

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

- The Environmental Planning and Assessment Act, 1979 (the Act);
- Manly Local Environmental Plan 2013 (MLEP);

- Manly Development Control Plan 2013 (MDCP);
- State Environmental Planning Policy No. 55 – Contaminated Lands;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65); and
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Architectural drawings including floor plans, sections and elevations have been prepared in relation to the development proposed. The application is also accompanied by a site analysis, survey plan, Architectural Design Verification Statement, Heritage Impact Statement, Traffic and Parking Assessment, Construction Management Plan, structural report, BASIX certificate, BCA/ Access Report, Waste Management Plan, acoustic report, shadow diagrams, schedule of finishes and QS report.

The proposal is permissible and in conformity with the intent of the development standards contained within MLEP as they reasonably relate to the adaptive reuse of a building with heritage significance and the built form guidelines contained within MDCP as they relate to mixed use development within the Manly Town Centre. The proposal satisfies the design quality principles contained within SEPP 65 and achieves the objectives contained within the Apartment Design Guide (ADG).

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Act. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

2.0 SITE DESCRIPTION, LOCATION AND CONTEXT

The subject property is legally described as SP67337, No. 63 – 67 The Corso, Manly. The property is located within the Manly Town Centre with frontage to the pedestrianised section of The Corso. The site is generally rectangular in shape although its north-eastern boundary is slightly irregular in alignment. The allotment has primary frontage and address to The Corso of 16.385 metres, secondary frontage to Market Place of 14.860 metres, a depth of 15.705 metres and an area of 490.3 square metres as depicted in the survey extract at Figure 1 below.

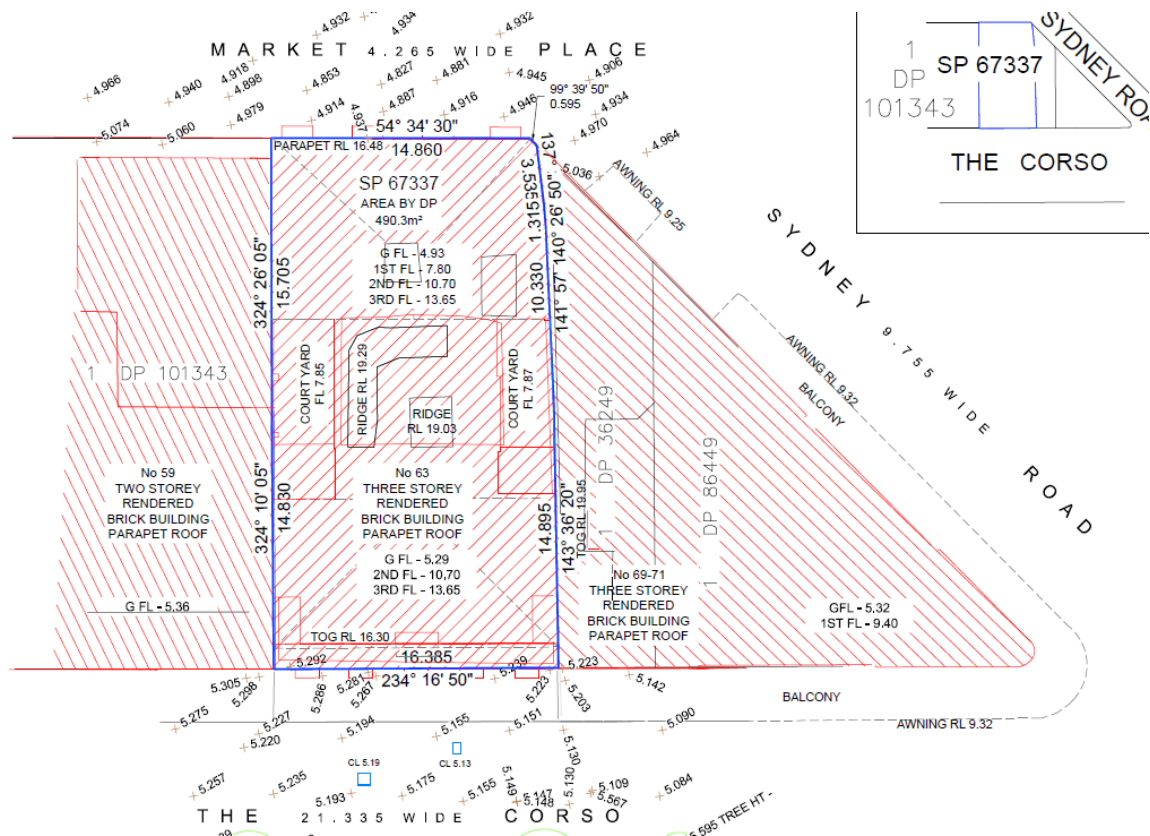


Figure 1 – Survey extract

The accompanying Heritage Impact Statement (HIS) prepared by Architectural Projects confirms that the existing 3 storey building was constructed in 1927 and used from 1935 as a Woolworths variety store. On 5th February 1999 development consent No. 201/98 was granted by Manly Council for alterations and additions to the existing building to create a ground floor retail tenancy and upper level backpacker accommodation.

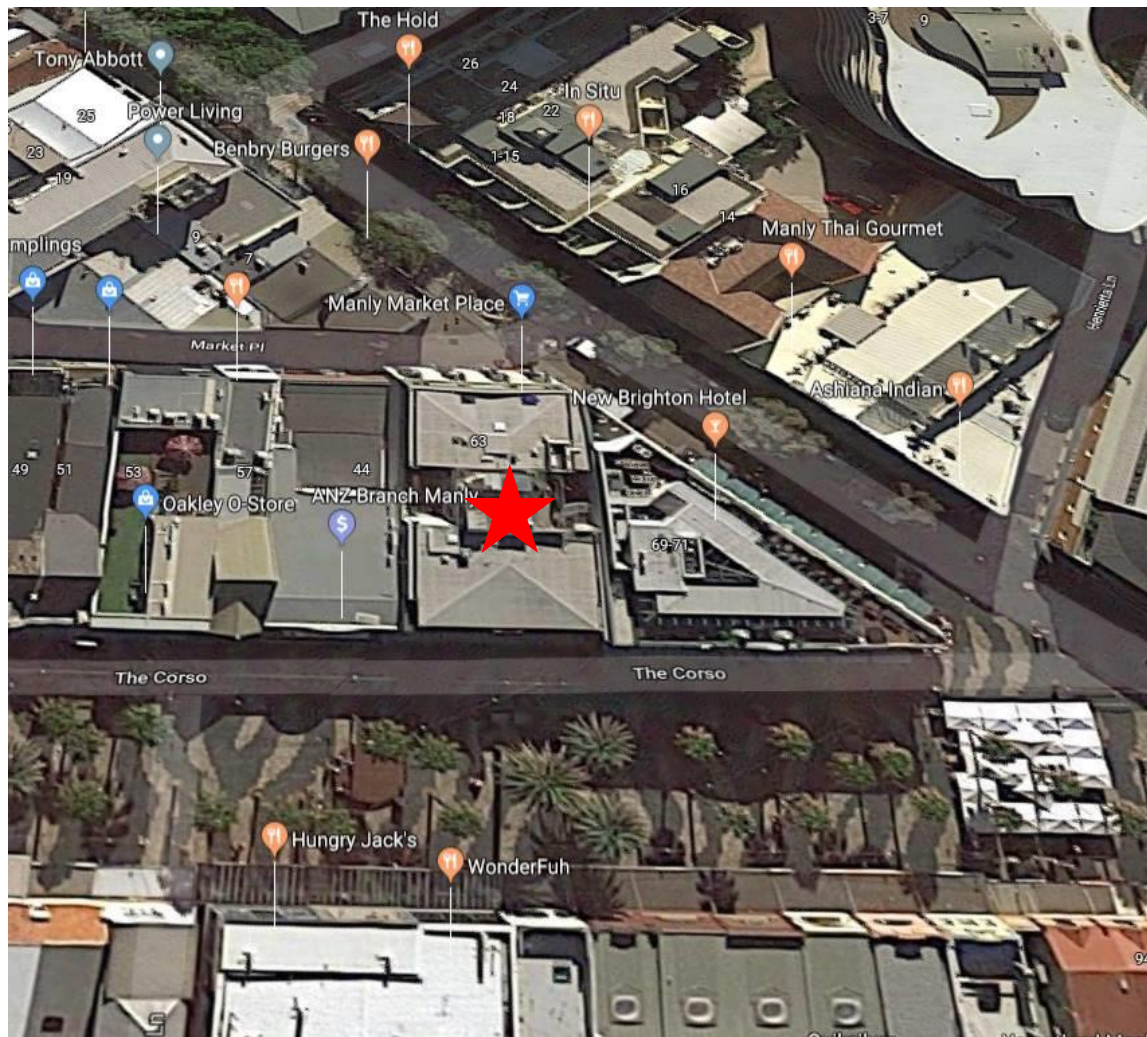
The HIS finds that the building located on the subject site is a highly altered representative of an Interwar building which dates from the key period of the Town Centre Conservation Area. The building has historical significance and aesthetic significance as a representative example of an Interwar building with low integrity.

The HIS further states that the building has a simple façade in which the original central keystone has been retained but the stepped parapet has been concealed under a uniform parapet. The entablature evident in early pictures is retained but interrupted by 5 new French doors to the façade. The awning and the shopfront are new. The street facing building facades are depicted in the survey extract at Figure 2 below.



Figure 2 – Elevational survey extract

The site is bounded on the southeast by The Corso, on the north-east by the New Brighton Hotel and on the north-west by No. 59 The Corso (ANZ Bank and commercial premises) all of which are depicted in the following photographs.



Source: Google Maps

Figure 3 – Aerial location/ context photograph with subject site depicted by red star.



Figure 4 - Subject property as viewed from The Corso



Source: Google Street View

Figure 5 – View looking south-west down The Corso past the subject site



Source: Google Street View

Figure 6 – View looking north-east down The Corso past the subject site



Source: Google Street View

Figure 7 – Subject property as viewed from Market Place

3.0 PROPOSED DEVELOPMENT

This document has been prepared as a component of a development application proposing 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. The residential accommodation includes a total of 12 apartments comprising 8 x 1 bedroom and 4 x 2 bedroom domiciles.

The scope of the works is depicted on architectural plans 001, 100 to 107, 201 to 204 and 301 to 304 prepared by Platform Architects. Specifically, the application provides for the following built form outcome:

Ground Floor Plan

- The existing The Corso facing retail tenancy is retained with a small retail tenancy introduced at its north western end.
- The Market Place entry and adjacent retail tenancies are reconfigured to accommodate a residential entrance lobby and lift access to the residential floors above.
- The balance of the floor space is retained as 3 retail tenancies and a common bin and bicycle storage area with a new ambulant WC for maintenance personal and retail staff associated with the new retail tenancies proposed.

Mezzanine Plan

- The existing mezzanine floor space accessed via The Corso facing retail tenancy is retained.
- The balance of the floor space is converted to 2 x 1 bedroom apartments each having floor areas in excess of the minimum 50 square metre ADG requirement.
- Each apartment has access to north facing Juliette balconies and integrated storage areas.
- A lift and fire stair provide access to and from this floor plate.

First Floor Plan

- This reconfigured floor plate incorporates access to 2 x 1 and 2 x 2 bedroom apartments.
- Each apartment has access to either north or south facing Juliette balconies/ winter gardens and integrated storage areas.
- The bedrooms for apartments 4 and 5 have access to light and ventilation through the existing light wells.

- A bedroom and a study associated with the 2 storey apartments 10 and 11 above are also located at this level and orientated towards, and having access to, a private secondary south facing winter gardens.
- A lift and fire stair provide access to and from this floor plate.

Second Floor Plan

- This reconfigured floor plate incorporates access to 2 x 1 and 2 x 2 bedroom apartments.
- Apartments 8, 9, 10 and 11 have access to south facing terraces and integrated storage. Apartments 7 and 12 have access to north facing Juliette balconies and integrated storage areas.
- The bedrooms for apartments 8 and 11 have access to light and ventilation through the existing light wells with angled glazing preventing downward views into the courtyard below.
- A lift and fire stair provide access to and from this floor plate.

Roof Plan

- The proposed lift and existing fire stairs are extended to the existing roof top terrace which is to be refurbished for use as communal open space. This involves the demolition of a number of ancillary structures at this level. New integrated planting and pergola structures are proposed at this level to enhance with new skylights introduced into the retained pitched roof form to provide light into the floor plates immediately below.

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 amenity outcomes. 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 should be given to the content of these documents as they form a critical component of the application.

All stormwater will be collected and disposed of to the existing Council drainage infrastructure with a compliance table detailing the performance of each apartments at Figure 8 over page.

AREA SCHEDULE & COMPLIANCE TABLE FOR SHOP TOP HOUSING AT
63 THE CORSO, MANLY

PLATFORM ARCHITECTS PTY LTD
2019.10.25

UNIT MIX proposed	
NO	TYPE
	0 x STUDIO
	4 x 1BED
	4 x 1BED + S
	4 x 2BED
	0 x 2BED + S
	0 x 3BED
	0 x 3BED + S
12 UNITS	

2HRS WINTER

70% REQUIRED60% REQUIRED

UNIT	TYPE	SIZE (m2)	COMPLIES	WINTER GARDEN		STORAGE		SOLAR ACCESS	CROSS VENTILATION	
				BALCONIES (m2)	(m2)	COMPLIES	(m3)			COMPLIES
1	1BED	52	YES	1.5		NO	6	YES	YES	NO
2	1BED	64.2	YES	1.5		NO	6	YES	YES	NO
3	1BED	52.8	YES	1.5		NO	6	YES	YES	NO
4	2BED	83.8	YES	21+ 0.6	9.2	YES	8	YES	NO	YES
5	2BED	88.8	YES	24.8 +0.6	9.8	YES	8	YES	NO	YES
6	1BED	63.4	YES	1.5		NO	6	YES	YES	YES
7	1BED	52.8	YES	1.5		NO	6	YES	YES	NO
8	2BED	70	YES	7.7		NO	2.9	NO	YES (skylight)	YES
9	1BED + S	52.5	YES	8 (+ 0.8 BED)	3.3 (BED)	YES	6	YES	YES (skylight)	YES
10	1BED + S	54.5	YES	8 (+ 0.8 BED)	3.3 (BED)	YES	6	YES	YES (skylight)	YES
11	2BED	74.5	YES	8.2		NO	2.9	NO	YES (skylight)	YES
12	1BED + S	61.8	YES	1.5		NO	6	YES	YES	YES
		12/12				4/12	10/12		10/12	8/12
		100%				33%	83%		83%	66%

Figure 8 – Apartment summary statement

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Manly Local Environmental Plan 2013

4.1.1 Zone and Objectives

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

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

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

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

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

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

4.1.2 Height of Buildings

Pursuant to Clause 4.3 of MLEP 2013 the height of a building on the subject land is not to exceed 10 metres in height. The objectives of this control are as follows:

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

Building height is defined as follows:

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

The development has a maximum height of 15.42 metres measured to the proposed lift overrun, 14.62 metres measured to the proposed roof top pergola structure and 14.42 metres measured to the roof of the fire stair extension. The pergola and stair extension structures are consistent with the height of the pre-existing structures at this level with the lift extension necessary to satisfy the accessible provisions of the BCA and the applicable DDA legislation. These heights represent non-compliances of 5.42, 4.62 and 4.42 metres respectively and a maximum variation of 54% as depicted in Figure 9 below.

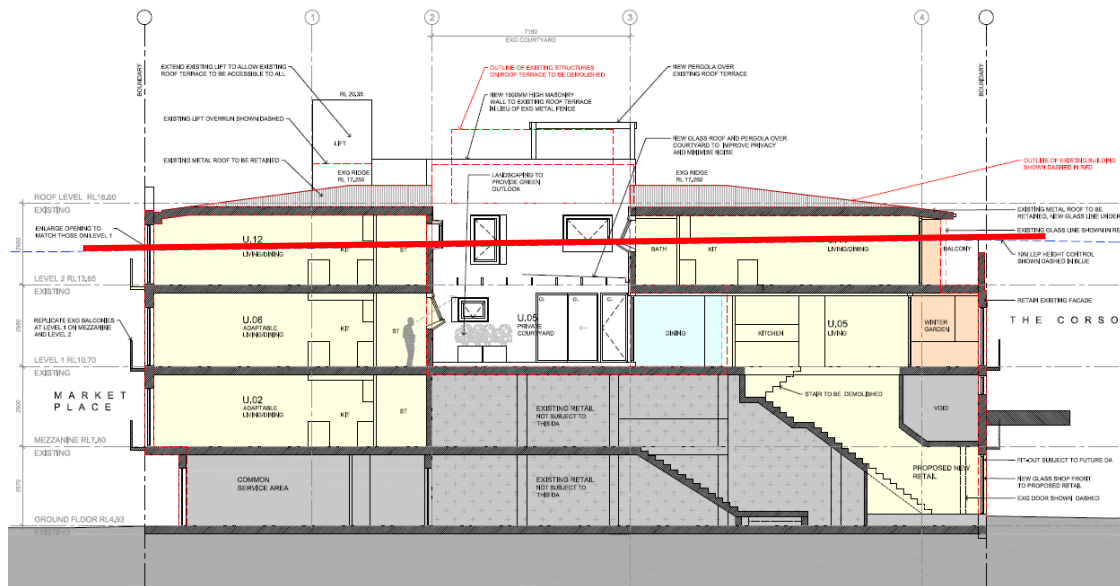


Figure 9 – Section extract showing relationship of proposed works to 10 metre height standard

Clause 4.6 of MLEP provides a mechanism by which a development standard can be varied with a clause 4.6 variation request attached at ANNEXURE 1.

We consider the clause 4.6 variation to be well founded as it has been demonstrated that the proposal is consistent with the zone objectives and consistent with the objectives of the standard and therefore strict compliance is both unreasonable and unnecessary under the circumstances. Further, the clause 4.6 variation request demonstrates that there are sufficient environmental planning grounds to justify the variation sought including the attainment of the objectives of the Act as they relate to good design and amenity, the promotion of the sustainable management of built and cultural heritage and the orderly and economic use and development of the land.

4.1.3 Floor Space Ratio

Pursuant to Clause 4.4 MLEP 2013 the maximum FSR for development on the site is 2.5:1 representing a gross floor area of 1225.75 square metres. The stated objectives of this clause are:

- (a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
- (b) *to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*
- (c) *to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*
- (d) *to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*
- (e) *to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

It has been determined that the proposal increases the existing gross floor area by 21 square metres to a total gross floor area of 1277 square metres representing an FSR of 2.6:1 and a non-compliance of 51.25 square metres or 4%.

Again clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied with a clause 4.6 variation request attached at ANNEXURE 2.

We consider the clause 4.6 variation to be well founded as it has been demonstrated that the proposal is consistent with the zone objectives and consistent with the objectives of the standard and therefore strict compliance is both unreasonable and unnecessary under the circumstances. Further, the clause 4.6 variation request demonstrates that there are sufficient environmental planning grounds to justify the variation sought including the attainment of the objectives of the Act as they relate to good design and amenity, the promotion of the sustainable management of built and cultural heritage and the orderly and economic use and development of the land.

4.1.4 Heritage Conservation

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

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

The stated objectives of this clause are as follows:

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

The subject property is heritage listed, located within immediate proximity of other heritage listed properties and is located within the Town Centre Conservation Area.

In this regard, the application is accompanied by a HIS prepared by Architectural Projects which provides detailed background in relation to the identified heritage items and conservation area and contains an assessment as to the acceptability of the proposed development having regard to the clause 5.10 MLEP 2013 provisions and the identified significance of the items and their setting. 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.

4.1.5 Acid Sulphate Soils

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

As the proposal does not involve any additional excavation these provisions are satisfied.

4.1.6 Foreshore Scenic Protection Area

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

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

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

- Due to the location of the site and juxtaposition of adjoining development the proposed development will not be readily discernible when viewed from Manly Beach and not visible at all from Sydney Harbour. Whilst the southern facade of the development may be visible from a small area of Manly Beach the height, bulk and scale of the development proposed will not be perceived as inappropriate or jarring in the context of its relationship to the New Brighton Hotel.

- Clearly the height, scale and architectural presentation of the development are contextually appropriate having regard to the built form characteristics established by adjoining development.
- Having regards to the Land and Environment Court of NSW planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed building offensive, jarring or unsympathetic to its context or surrounds.

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

4.1.7 Active Street Frontages

We confirm that in accordance with the clause 6.11 MLEP provisions that both street frontages remain activated with retail uses. These provisions are satisfied.

4.1.8 Essential Services

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

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

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

4.1.9 Design Excellence

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

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

Comment: The accompanying shadow diagrams 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.

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

Comment: This report clearly demonstrates that the height, bulk, scale and form of development proposed is contextually appropriate and will contribute positively to the streetscape and the built form quality of development generally within the sites visual catchment. In this regard, the heritage significance of the streetscape is protected.

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

Comment: The development continues to appropriately define the street edges and maintain/ re-introduce active retail uses at street level in recognition of the zoning of the land.

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

Comment: The proposed development does not propose any works within the adjacent road reserve and accordingly maintains existing levels of access adjacent to the frontages of the property.

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

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

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

Comment: The design has taken consideration of the adjoining heritage item in terms of providing a complimentary and compatible building form. The use of compatible small scaled design elements provides a suitable fit to the context of development along The Corso.

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

Comment: Not applicable.

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

Comment: 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.

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

Comment: The application is accompanied by a detail 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.

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

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

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

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

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

4.1.10 Gross Floor Area in Zone B2

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

The proposal has a total commercial floor space of 520m² representing 30% of the total gross floor area of the building. Such provision satisfies the numerical standard and is accordingly “deemed to comply” with the associated objectives.

4.2 Manly Development Control Plan 2013

4.2.1 General Principles of Development

4.2.1.1 Townscape (Local and Neighbourhood Centres)

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

- The development has been designed through detailed site context analysis to provide through a contextually responsive building form maintaining appropriate amenity to adjoining properties and a high level of amenity to future occupants.
- The design has taken consideration of the adjoining heritage item in terms of providing a complimentary and compatible building form. The use of compatible small scaled design elements provides a suitable fit to the context of development along The Corso and Market Place.
- The development has regard to the scale, proportion and line of visible facades with the upper level structures not readily discernible as viewed from both street frontages.
- The materials, textures and colours proposed are compatible with the buildings heritage significance.
- The development will not give rise to any unacceptable shadowing impact on any adjacent open space areas and will not give rise to any adverse wind effects.
- The retail frontages provide for appropriate street level activation.

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

4.2.1.2 Landscaping

Landscaping is provided around the perimeter of the existing roof terrace. There is no opportunity to provide at-ground landscaping on this particular site.

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

The development has been designed through detailed site analysis to ensure that appropriate privacy is maintained between adjoining development through building design and orientation, the appropriate use and placement of fenestration and the inclusion of fixed privacy screen treatments where necessary.

The orientation of apartments to both street frontages and use of integrated privacy attenuation measures ensure that no direct overlooking opportunities will exist within a 9 metre radius of adjacent living and/ or private open space areas. The existing roof terrace is retained with privacy enhanced through the introduction of perimeter landscaping. In this regard appropriate privacy and security will be maintained between adjoining development.

As previously indicated careful consideration has been given to the impact of the proposal on existing view lines over and across the site. In this regard, the juxtaposition of adjoining development relative to the subject site and available view lines ensures that the development will not give rise to any unacceptable view impacts on any adjoining or nearby residential or commercial properties.

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.

4.2.1.4 Sustainability

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

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

4.2.1.5 Accessibility

These provisions are addressed in the accompanying report prepared by Building Innovations Australia.

We confirm that apartments 1, 2, 6 and 12 are adaptable representing 33% of apartments in accordance with the control.

4.2.1.6 Stormwater Management

All stormwater will be collected and disposed of to the existing Council drainage infrastructure without need for augmentation given the maintenance of the established building footprint.

4.2.1.7 Waste Management

The application is accompanied by a Waste Management Plan prepared by the project Architect. In this regard, a waste storage room has been provided on the ground floor of the development conveniently accessed from the Market Place frontage. The bin storage area is able to be accessed by Council and satisfies the location requirements of the recently adopted waste management policy.

4.2.1.8 Mechanical Plant Equipment

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

4.2.2 Development in Business Centres

4.2.2.1 Setback Controls

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

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

The stated objectives of this control are as follows;

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

As previously indicated the design has taken consideration of the adjoining heritage item in terms of providing a complimentary and compatible building form. The use of compatible small scaled design elements provides a suitable fit to the context of development along The Corso and Market Place.

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

4.2.2.2 Car Parking, Vehicular Access and Loading Controls

We note that there is no ability to provide off street parking for development along the Corso with the accompanying Traffic and Parking Assessment confirming that the proposed development generates a demand for only 2 additional car parking spaces compared to the existing development on the site.

That said, reference is made to the minutes of the Ordinary Council meeting of 3rd August 2000 (ANNEXURE 3) where it is indicated that the original Woolworths variety store use generated a parking demand for 33 vehicles being well in excess of the car parking demand generated by the current proposal.

In our opinion, this car parking credit is appropriately applied to the subject application with the absence of parking not triggering the requirement for any contribution or concern in relation to access to public transport given the sites location within immediate proximity of a major bus and ferry transport hub.

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

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

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

- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.
- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

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

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

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

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

SEPP 65 applies to new residential flat buildings, the substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building. Clause 3 of SEPP 65 defines a residential flat building as follows:

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

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

The proposed development involves a 3-storey building, as defined, containing 12 apartments and 5 retail tenancies. As per the definition of a ‘Residential Flat Building’ and the provisions of Clause 4 outlining the application of the Policy, the provisions of SEPP 65 are applicable to the proposed development.

Clause 28(2)(b) SEPP 65 requires any development application for residential flat development to be assessed against the 9 design quality principles contained in Schedule 1. The proposal’s compliance with the design quality principles is detailed in the Architect Design Verification Statement at ANNEXURE 4.

Pursuant to clause 28(2)(c) of SEPP 65 in determining a development application for consent to carry out residential flat development the consent authority is required to take into consideration the Apartment Design Guide. In this regard an Apartment Design Guide compliance table is attached at ANNEXURE 5.

We note that although the proposal requires the consent authority to give favourable consideration to the private open space and ceiling heights (in part) guidelines in the ADG that such provisions are reasonably varied given the heritage significance of the building and the inherent amenity benefits associated with the locational attributes of the site given its proximity to Manly Beach and a plethora of outdoor recreational areas.

4.5 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

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

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

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

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

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

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

The proposal is permissible and in conformity with the intent of the development standards contained within MLEP as they reasonably relate to the adaptive reuse of a building with heritage significance and the built form guidelines contained within MDCP as they relate to mixed use development within the Manly Town Centre. The proposal satisfies the design quality principles contained within SEPP 65 and achieves the objectives contained within the Apartment Design Guide (ADG).

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

Context and Setting

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

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

The 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 detail 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.

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

- ***relationship and compatibility of adjacent land uses?***
- ***sunlight access (overshadowing)?***
- ***visual and acoustic privacy?***
- ***views and vistas?***
- ***edge conditions such as boundary treatments and fencing?***

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

Access, transport and traffic

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

- ***travel demand?***
- ***dependency on motor vehicles?***
- ***traffic generation and the capacity of the local and arterial road network?***

- ***public transport availability and use (including freight rail where relevant)?***
- ***conflicts within and between transport modes?***
- ***traffic management schemes?***
- ***vehicular parking spaces?***

We note that there is no ability to provide off street parking for development along the Corso with the accompanying Traffic and Parking Assessment confirming that the proposed development generates a demand for only 2 additional car parking spaces compared to the existing development on the site.

That said, reference is made to the minutes of the Ordinary Council meeting of 3rd August 2000 (ANNEXURE 3) where it is indicated that the original Woolworths variety store use generated a parking demand for 33 vehicles being well in excess of the car parking demand generated by the current proposal.

In our opinion, this car parking credit is appropriately applied to the subject application with the absence of parking not triggering the requirement for any contribution or concern in relation to access to public transport given the sites location within immediate proximity of a major bus and ferry transport hub.

Public domain

The development will contribute positively to the public domain.

Utilities

Existing utility services will adequately service the development.

Flora and fauna

The site does not contain any flora or fauna.

Waste

The application is accompanied by a Waste Management Plan prepared by the project Architect. In this regard, a waste storage room has been provided on the ground floor of the development conveniently accessed from the Market Place frontage. The bin storage area is able to be accessed by Council and satisfies the location requirements of the recently adopted waste management policy.

Natural hazards

The site is not affected by any known hazards.

Economic impact in the locality

The proposed development will generate temporary employment during construction. On-going employment will be provided by the businesses that occupy the retail tenancies and through the employment of building and strata managers as necessary.

Site design and internal design

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

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

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

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

- **lighting, ventilation and insulation?**
- **building fire risk – prevention and suppression/**
- **building materials and finishes?**
- **a common wall structure and design?**
- **access and facilities for the disabled?**
- **likely compliance with the Building Code of Australia?**

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

Construction

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

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

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

The suitability of the site for the development.

Does the proposal fit in the locality?

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

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

Are the site attributes conducive to development?

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

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

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

The public interest.

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

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

5.0 CONCLUSION

The proposal is permissible and in conformity with the intent of the development standards contained within MLEP as they reasonably relate to the adaptive reuse of a building with heritage significance and the built form guidelines contained within MDCP as they relate to mixed use development within the Manly Town Centre. The proposal satisfies the design quality principles contained within SEPP 65 and achieves the objectives contained within the Apartment Design Guide (ADG).

The design is responsive to the issues raised by Council in its assessment of a previously withdrawn development application (DA2019/0250) proposing a change of use to shop top housing including an additional level of residential accommodation. In this regard, the upper level residential floor plate has been deleted with lift and stair access extended to the existing roof terrace for use as communal open space. This has reduced the height and FSR of the proposal with the acceptability of the proposal from a heritage perspective addressed in the accompanying Heritage Impact Statement prepared by Jennifer Hill.

The project architect has responded to the client brief to design a contextually responsive building which takes advantage of the site's superior locational attributes whilst respecting the heritage significance of the existing building and the Town Centre Conservation Area generally. In this regard, the scheme has been developed through formal pre and post-DA consultation with Council (DA2019/0250), the project heritage consultant and detailed site and contextual analysis to identify the constraints and opportunities associated with the development of this consolidated infill site with the final design outcome respecting the dominant corner imagery displayed by the New Brighton Hotel.

Particular attention has been given to ensuring that the development not only responds to its immediate built form context, and the form of development anticipated within the Manly Town Centre precinct, but importantly to ensure that appropriate visual and aural residential amenity is maintained between the proposed residential apartments and the adjoining hotel use. This submission demonstrates that such outcome has been achieved without unacceptable streetscape, residential amenity or heritage conservation outcomes with the proposal replacing antiquated backpacker accommodation with contemporary residential apartments which will afford exceptional levels of amenity good whilst providing diversity in housing choice within a precinct ideally suited to increased residential densities.

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

We note that although the proposal requires the consent authority to give favourable consideration to variation to the private open space and ceiling heights (in part) guidelines in the ADG that such provisions are reasonably varied given the heritage significance of the building and the inherent amenity benefits associated with the locational attributes of the site given its proximity to Manly Beach and a plethora of outdoor recreational areas.

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

Boston Blyth Fleming Pty Limited



Greg Boston

B Urb & Reg Plan (UNE) MPIA

Director

ANNEXURE 1

Clause 4.6 variation request - Height of buildings

Clause 4.6 variation request – Height of buildings

This clause 4.6 variation has been prepared having regard to the Land and Environment Court judgements in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*) at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

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

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

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

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

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

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

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

- (a) *the consent authority is satisfied that:*

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

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

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

Claim for Variation

Consistency with zone objectives

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

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Response: 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 proposal is consistent with this objective.

- *To encourage employment opportunities in accessible locations.*

Response: Again, 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 and as such the proposal is also consistent with this objective.

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

Response: The proposal does not provide any carparking and as such satisfies 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.*

Response: 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 proposed development is consistent with the zone objectives as outlined.

Consistency with height of buildings standard

The development has a maximum height of 15.42 metres measured to the proposed lift overrun, 14.62 metres measured to the proposed roof top pergola structure and 14.42 metres measures to the roof of the fire stair extension. The pergola and stair extension structures are consistent with the height of the pre-existing structures at this level with the lift extension necessary to satisfy the accessible provisions of the BCA and the applicable DDA legislation. These heights represent non-compliances of 5.42, 4.62 and 4.42 metres respectively and a maximum variation of 54% as depicted in Figure 1 over page.

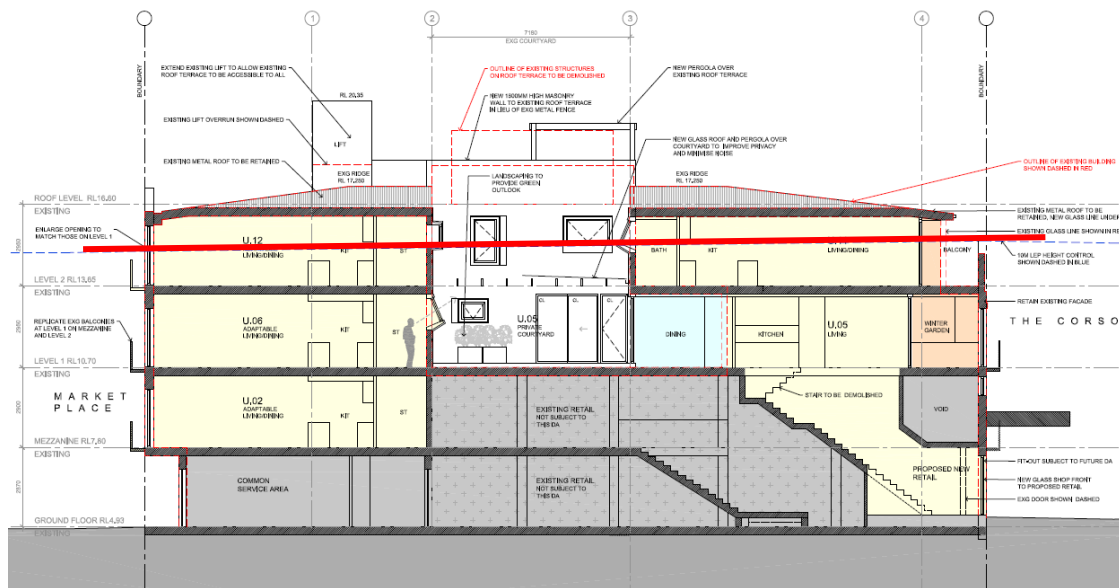


Figure 1 – Section extract showing relationship of proposed works to 10 metre height standard

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

- (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 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 pergola and 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 proposal is consistent with this objective.

(b) to control the bulk and scale of buildings,

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

- (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),*

Response: 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.

- (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 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.

- (e) *to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

Comment: Not applicable.

Accordingly, the consent authority can be satisfied that the building height non-compliance proposed will not defeat the objectives of the height standard and accordingly strict compliance is both unreasonable and unnecessary under the circumstances.

Having regard to the matter of *Veloshin v Randwick City Council* [2007] NSWLEC 428 this is not a case where the difference between compliance and non-compliance is the difference between good and bad design.

In the recent 'Four2Five' judgement (*Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90), Pearson C outlined that a Clause 4.6 variation requires identification of grounds that are particular to the circumstances to the proposed development. That is to say that simply meeting the objectives of the development standard is insufficient justification of a Clause 4.6 variation.

It should be noted that a Judge of the Court, and later the Court of Appeal, upheld the Four2Five decision but expressly noted that the Commissioner's decision on that point (that she was not "satisfied" because something more specific to the site was required) was simply a discretionary (subjective) opinion which was a matter for her alone to decide. It does not mean that Clause 4.6 variations can only ever be allowed where there is some special or particular feature of the site that justifies the non-compliance.

Whether there are "sufficient environmental planning grounds to justify contravening the development standard", it is something that can be assessed on a case by case basis and is for the consent authority to determine for itself.

The recent appeal of *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 is to be considered. In this case the Council appealed against the original decision, raising very technical legal arguments about whether each and every item of clause 4.6 of the LEP had been meticulously considered and complied with (both in terms of the applicant's written document itself, and in the Commissioner's assessment of it). In February of this year the Chief Judge of the Court dismissed the appeal, finding no fault in the Commissioner's approval of the large variations to the height and FSR controls.

While the judgment did not directly overturn the *Four2Five v Ashfield* decision an important issue emerged. The Chief Judge noted that one of the consent authority's obligation is to be satisfied that the applicant's written request has adequately addressed ...that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ...and that there are sufficient environmental planning grounds to justify contravening the development standard.

He held that the Commissioner did not have to be satisfied directly that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant's written request has adequately addressed the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary.

In this regard, it is considered that there are sufficient environmental planning grounds to justify the variation sought namely the contextually appropriate building form achieved 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 detail Architect Design Statement prepared by the project Architect which details the design philosophy and considerations which influenced the design and final built form 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.

Having regard to *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 the proposed development and associated height breaching elements, in particular the communal open space roof terrace, pergola and associated access, are consistent with objectives 1.3(c), (f) and (g) of the Act in they that promote good design and amenity, promote the sustainable management of built and cultural heritage with the approval of the variation facilitating the orderly and economic use and development of the land.

The proposed development will be in the public interest because it is consistent with the objectives of the height development standard and the objectives of the zone.

Conclusions

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

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

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

Yours sincerely

Boston Blyth Fleming Pty Limited



Greg Boston

B Urb & Reg Plan (UNE) MPIA
Director

ANNEXURE 2

Clause 4.6 variation request - FSR

Clause 4.6 variation request – Floor Space Ratio

Pursuant to Clause 4.4 MLEP 2013 the maximum FSR for development on the site is 2.5:1 representing a gross floor area of 1225.75 square metres. The stated objectives of this clause are:

- (a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
- (b) *to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*
- (c) *to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*
- (d) *to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*
- (e) *to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

It has been determined that the proposal increases the existing gross floor area by 21 square metres to a total gross floor area of 1277 square metres representing an FSR of 2.6:1 and a non-compliance of 51.25 square metres or 4%.

Again clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied.

Claim for Variation**Consistency with zone objectives**

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

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Response: 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 proposal is consistent with this objective.

- *To encourage employment opportunities in accessible locations.*

Response: Again, 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 and as such the proposal is also consistent with this objective.

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

Response: The proposal does not provide any carparking and as such satisfies 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.*

Response: 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 proposed development is consistent with the zone objectives as outlined.

Consistency with floor space ratio objectives

Pursuant to Clause 4.4 MLEP 2012 the floor space ratio of any building on the land shall not exceed an FSR of 2.5:1. The objectives of this clause have been previously identified.

It has been determined that the proposal increases the existing gross floor area by 21 square metres to a total gross floor area of 1277 square metres representing an FSR of 2.6:1 and a non-compliance of 51.25 square metres or 4%.

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

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

Response: 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.

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.

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.

This proposal is 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,*

Response: 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.

This proposal is consistent with this objective.

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

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

This proposal is consistent with this objective.

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

Response: 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.

This proposal is 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.*

Response: 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.

Having regard to the matter of *Veloshin v Randwick City Council* [2007] NSWLEC 428 this is not a case where the difference between compliance and non-compliance is the difference between good and bad design.

It is considered that there are sufficient environmental planning grounds to justify the variation sought namely the minor increase in GFA/FSR proposed and its location within the established building envelope/ void spaces where it will not materially alter the buildings appearance as viewed from outside the site.

Having regard to *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 the proposed development and associated additional GFA/FSR are consistent with objectives 1.3(c), (f) and (g) of the Act in they that promote good design and amenity (facilitate the adaptive reuse of the building), promote the sustainable management of built and cultural heritage with the approval of the variation facilitating the orderly and economic use and development of the land.

Conclusions

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

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

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

Yours sincerely

Boston Blyth Fleming Pty Limited

A handwritten signature in black ink, appearing to read 'Greg Boston', written over a horizontal line.

Greg Boston
B Urb & Reg Plan (UNE) MPIO
Director

ANNEXURE 3

Minutes of Ordinary Council meeting of 3rd August 2000

ORDINARY MEETING

13 -

3 AUGUST, 2000
Reference: 50577

ITEM 139: (cont...)

Planning Comments

This request for modification includes a number of changes. Firstly the previous modification to permit a consistent floor level through at first floor level now allows the introduction of a mezzanine level above the Market Lane retail tenancy and lobby to the backpackers facility. This area is proposed as a manager's studio apartment and a self contained unit with access from the backpackers lobby and reception area. This is an additional 100m² of floor space which raises the floor space ratio from the previously approved 2.8:1 to 3:1 compared with the 2.5:1 allowable in Council's Development Control Plan. While it can be argued that this increase in floor space is within the existing outline of the building, that there will be no external impact, it should also be realised that this increased floor space would provide for ten (10) additional backpackers on this particular mezzanine level and a total increase of twenty one (21) backpackers is in the applicants request for a total one hundred and eighteen (118) beds or a total of twenty three (23) above the current approval using the nominated numbers on the plans submitted to Council.

On the basis of one (1) carparking space per ten (10) beds this requires two (2) additional carparking spaces which can not be provided onsite. In this regard it is noted that the original application was considered as a comparison between the existing situation where thirty three (33) carparking spaces would have been required by the two level retail premises and the current approval for ninety seven (97) backpackers as well as the retail floor space required 32.7 carparking spaces. As well as this the report must be read in conjunction with the previous report on the Agenda whereby the increase in the size of the mezzanine level for the retail shop increases the carparking requirement to 33.3 spaces marginally above that already associated with the previous use.

In granting the original approval for ninety seven (97) backpackers on the site Council was concerned with making the development comply more fully with the Development Control Plan for Backpacker Accommodation. Consent was granted, however, in this recent request for modification the development is once again no longer complying with the requirement for carparking.

The proposed additional mezzanine level requires the provision of an additional fire stair which gives access to Market Lane and changes the Market Lane elevation slightly. The new fire stair requires the relocation of the toilet facilities on level 1, to the location of managers flat in the previously approved plans. In this regard it should be noted that the proposal is for alterations and additions to the existing building and that earlier observations about the degree of change to the building, Council was advised that existing toilet facilities and the lift were to be part of the new development. Council has more recently approved a new floor system in place of using the existing floor and this modification introduces further changes so that there will be almost nothing of the existing building remaining.

The new layout has allowed for a total of one hundred and ten (110) beds as indicated on the plans or one hundred and eight (108) as indicated by the applicant in written submission. The floor plans have therefore introduced additional toilet and bathroom facilities to provide for these extra numbers. As noted above the applicant amended their first set of plans to include the unit at mezzanine level as part of the development but have now indicated this to contain ten (10) beds. This appears to be in conflict with the original proposition that some people may not wish to stay in a backpacker facility and that the separate flat arrangement would provide an alternative form of accommodation. However, the provision of ten (10) beds in a two (2) bedroom apartment would be consistent with a normal backpacker facility and not be an upgraded facility as was previously mentioned by the owners.

Previous approval
? Council
it.

Not
true

ANNEXURE 4

Architect Design Verification Statement



Design Verification Statement Pursuant to
State Environmental Planning Policy No 65 –

Design Quality of
Residential Apartment Development for
Shop-top housing at:

63-67 the Corso, Manly

Prepared by:
Platform Architects

4 November 2019



**Design Verification Statement Pursuant to State Environmental Planning Policy No 65 –
Design Quality of Residential Apartment Development for Shop-top housing at 63-67 the Corso, Manly.**

2019.11.04

Principle 1: Context

'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.'

The site is located in the heart of Manly, only a couple of hundred metres from Manly Wharf and Manly Beach. The Corso and Market Lane to the rear are both pedestrianised streets and therefore the site is inaccessible by car. The Corso is bustling with life and is a very attractive location for businesses and residents alike.

The development in the central business area of Manly is varied in shape and size with buildings ranging from two storeys up to 17 storeys. The site sits within the Corso Conservation area where several buildings are also individually listed heritage items. For example, the immediate neighbour to the north is the 'New Brighton Hotel' which is a heritage item.

In general, all the buildings in the business district are built to the boundaries on all sides and comprise retail or commercial spaces on the ground floor. The building on the subject site conforms to this pattern with 3 retail shops on the ground floor and a Backpackers' accommodation above. This configuration was established about 20 years ago when the original building was gutted and redeveloped with an additional floor. At this stage, both the front and the rear facades were substantially altered, with both parapets raised and windows altered and added.



Fig 1. The existing streetscape of The Corso showcases a variety of architectural styles in different scales.

Despite the heritage character of Manly CBD, the area is undergoing significant change. Lane-ways are being activated and buildings extended and redeveloped, all in line with the future character of the area. Examples of recent developments can also be found on the Corso and in the vicinity of the site. In fact, the adjacent ANZ building is a modern building and the New Brighton Hotel's recent refurbishment included a rooftop extension.

The proposed development seeks to convert the Backpackers' component of the building to shop top housing. Shop top housing is common in the vicinity and conforms with the desired outcome for the area. The development is proposed as an adaptive reuse of the existing building. Thus, the character of the area is maintained whilst it responds to the need for housing.

Principle 2: Built Form & 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.'

The existing building has a recent additional floor set back above when viewed from the Corso. The proposal seeks to keep the existing roof of this extension but alter the glass line below it. As such, the changes to the existing fabric are minimal and will not be visually obvious to any passers-by. The scale and bulk of the building will remain largely the same as existing.

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.'

The proposal fits within the existing envelope, reusing the existing roof and roof terrace. The existing GFA is only increased marginally by 21sqm as a result of changes to the floor plan within the existing envelope. The variation from existing FSR is less than 1.5% and is therefore negligible and consistent with the existing and desired future density for the area. The location of the site is well suited to accommodate future residents with great access to public amenities and transport within walking distance.

platform

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.'

The reuse of existing fabric works to improve the sustainability of the project, both in terms of retaining social and historical values and in an environmental sense. As much as possible of the existing fabric is proposed to be retained in order to minimise waste and make use of what is already built.

The north-south facing orientation of the site means that the living rooms facing the Corso cannot receive any direct solar access in mid-winter. Therefore, skylights have been introduced to the units on level 2 to improve day light access where possible. Thus, 10 out of 12 units will receive a minimum of 2hrs sunlight in mid-winter. This is considered very good considering the adaptive reuse and the orientation of the existing building. 8 of the 12 units will also achieve cross ventilation. To some units, cross ventilation is achieved by the use of two storey apartments.

Living areas have been located as far as possible on level 2 to maximise access to day light and ventilation. Large glass doors are proposed to allow ample levels of natural daylight where not restricted by the heritage considerations of the original building fabric. This way the need for artificial lighting is reduced. The windows in the courtyards are angled towards the sky to maximise natural light.

Principle 5: Landscaping

'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 and provides for practical establishment and long term management.'

The existing building covers the whole site as is common in Manly CBD. Therefore, deep soil and extensive planting is difficult to provide. However, despite the extensive footprint of the building, attention has been paid to provide greenery on site where possible. Pot plants are proposed in the elevated courtyards and a large planter bed is proposed around the perimeter of the existing roof terrace. They provide a softer green edge to the building and a green outlook for residents. Climbing plants are proposed to the courtyards and the pergolas as green screens as well as improving acoustics and providing shade in summer.

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.'

An adaptive reuse of a building might pose challenges to some aspects of the Apartment Design Guide. This is recognised under the guide but is encouraged in view of other social and historical benefits of such reuse. In this case, any possible shortcomings due to the adaptive reuse are considered more than compensated for by the high level of planning and the outstanding location.

The attractive location and the amenity provided by the variety of recreational and public open spaces on offer nearby, compensate for any shortfall in private outdoor space caused by the reuse of existing building fabric. In fact, all units will practically have Manly Beach and at their doorstep and this will greatly influence the perceived amenity of residences. All living areas have been oriented towards the Corso or Sydney Road to ensure a pleasant outlook and some will even enjoy views towards the sea.

When not restricted by the existing fabric, the units have ample private open space or winter gardens. Some enjoy French doors with Juliette balconies, and all units have access to a communal roof garden. The existing roof terrace is given a facelift with new planters built-in seating and BBQ areas for communal use by the residents.

Further, the apartments all achieve high amenity due to the well-planned layouts and generous sizes. Solar access and cross ventilation are maximised through a mixed use of large sliding doors, skylights, Juliette balconies and pop-out windows. Glass roofs and pergolas have been added to the existing courtyards to provide visual and acoustic privacy between units facing the courtyards. Careful consideration has been given to the design of the windows facing the courtyards to further improve privacy, angling them away from any sightline to the courtyards below.

Landscaping and pot plants to the courtyards and roof terrace brings greenery to the development. Decking and pebbles adds texture and natural elements to the courtyards. The pebbles also demarcates the inaccessible part of the courtyards. The glass roof over the pergola ensures acoustic separation to rooms above. The spatial planning ensures only habitable rooms from two units face each courtyard. Further, the courtyards are not the primary outdoor space for any unit. Indeed, both unit 4 & 5 have winter gardens facing the Corso as their primary open space.

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.

All living rooms face the Corso or the rear Market Lane, thus adding to the passive surveillance of the streets. The current entry point to the Backpackers' will be reused as the residential lobby. The residential lobby will have two doors, one allowing access to the mailboxes and the existing retail space. The second door will be protected by a video intercom system, only allowing access to residents or their visitors. Both doors and side panels will be glazed to allow a clear view through to the lobby within and allowing enough circulation space for people in wheelchairs.

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.

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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 and providing opportunities for social interaction among residents.

As the location does not permit off-street car parking, 1 and 2 bedroom units are the preferred typologies for this site. Smaller units are in general more affordable than larger ones and thus provides an opportunity for first home buyers to enter the attractive Manly market. However, the proposal offers housing to a range of budgets by providing a variety of unit types and sizes, some over two storeys. This promotes social interaction and a sustainable demographic.

Three of the units are adaptable, providing a choice for people with disabilities. All common corridors and the like have been designed to be accessible and provide ample circulation spaces.

Principle 10: 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 a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

The proposal is an adaptive reuse and as such the building will look largely the same as existing. The existing roof will stay and the glass line directly under towards the Corso will be replaced to suit the new apartment layout. The new glass line is symmetric as befitting the largely symmetrical existing Art Deco façade below.

The pergola and the access structures to the existing roof terrace is set back from the streets to either side and will hardly be discernible from the public domain.

Some amendments are proposed to the rear façade to Sydney Road and Market Lane. This includes enlarging the windows on level 2 to allow for more light into these apartments. The new Juliette balconies will look the same as the ones to level 1, and will thus blend in with the surroundings.

Yours faithfully,



Bridie Gough
Director
Arb No. 8280

ANNEXURE 5

Apartment Design Guide Compliance Table

Note: The following guidelines must be read in conjunction with detailed text contained in the Design Code.

APARTMENT DESIGN GUIDE COMPLIANCE TABLE				
	OBJECTIVE & DESIGN CRITERIA	DESIGN CRITERIA	PROPOSED	COMMENT
Part 3, Siting the Development				
Site Analysis	Objective 3A-1 Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationships to the surrounding context		Complies	Refer to Site Analysis Plan.
Orientation	Objective 3B-1 Building types and layouts respond to the streetscape and site while optimising solar access within the development		Complies	Building addresses both street frontages.
	Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid winter		Complies	Refer accompanying shadow diagrams.
Public Domain Interface	Objective 3C-1 Transition between private and public domain is achieved without compromising safety and security		Complies	Building entrances clearly marked and public/ private domain interface appropriately defined.
	Objective 3C-2 Amenity of the public domain is retained and enhanced		Complies	No change
Communal and Public Open Space	Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	No communal open space is proposed nor considered necessary given the sites immediate proximity to Manly Beach and a plethora of open space recreational areas.	None provided	Acceptable on merit
	Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting		As above	-
	Objective 3D-3 Communal open space is designed to maximise safety		As above	-
	Objective 3D-4 Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood		As above	-
Deep Soil Zones	Objective 3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	Not applicable	N/A	-
Privacy	Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal privacy.	Separation between windows and balconies (within lightwells) is provided to ensure visual privacy is achieved (refer to Architectural Design Statement).	Nil side setbacks acceptable in B2 Local Centre zone	-

	Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.		Complies	-
Pedestrian Access and Entries	Objective 3G-1 Building entries and pedestrian access connects to and addresses the public domain		Complies	The pedestrian access to the apartments is from Market Place. This provides a clearly identifiable entry and identity to the building.
	Objective 3G-2 Access, entries and pathways are accessible and easy to identify		Complies	Refer to Access Report
	Objective 3G-3 Large sites provide pedestrian links for access to streets and connection to destinations		N/A	-
Vehicle Access	Objective 3H-1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.		N/A	-
Bicycle and Car Parking	Objective 3J-1 Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	For development in the following locations: <ul style="list-style-type: none"> • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre 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 	Bicycle storage provided in the ground floor common circulation area. Satisfied.	-
	Objective 3J-2 Parking and facilities are provided for other modes of transport		Complies	Bicycle storage provided in the ground floor common circulation area.
	Objective 3J-3 Car parking design and access is safe and secure		N/A	-
	Objective 3J-4 Visual and environmental impacts of		N/A	-

	underground car parking are minimised			
	Objective 3J-5 Visual and environmental impacts of on-grade car parking are minimised		N/A	-
	Objective 3J-6 Visual and environmental impacts of above ground enclosed car parking are minimized		N/A	-
Part 4, Designing the Building				
Solar and Daylight Access	Objective 4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas 2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter 3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	10 of the 12 (83) apartments receive 2 hours of solar access between 9am and 3pm Complies	-
	Objective 4A-2 Daylight access is maximised where sunlight is limited		Complies	-
	Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months		Complies	-
Natural Ventilation	Objective 4B-1 All habitable rooms are naturally ventilated		Complies	-
	Objective 4B-2 The layout and design of single aspect apartments maximises natural ventilation		n/a	-
	Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	8 of 12 (66%) are naturally cross ventilated Complies	-

Ceiling Heights	Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms: 2.7m Non-habitable: 2.4m For 2 storey apartments: 2.7m for main living area floor / 2.4m for second floor where its area does not exceed 50% of the apartment area Attic spaces: 1.8m at edge of room with a 30 degree minimum ceiling slope If located in mixed use areas: 3.3m for ground and first floor to promote future flexibility of use	Some habitable room ceilings are less than 2.7 metres in height however all satisfy the minimum 2.4 metre BCA requirement.	Satisfactory on merit given the adaptive reuse of the existing heritage building, shallow room depths and inherent amenity associated with the sites location within manly Town Centre and within immediate proximity of Manly Beach.
	Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well proportioned rooms		Noted as above	
	Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building		Noted as above	
Apartment Size and Layout	Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	1. Apartments are required to have the following minimum internal areas: Studio – 35m ² 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom – 90m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each 2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Complies	All apartments comply with minimum requirement.
	Objective 4D-1 Environmental performance of the apartment is maximised	1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height 2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Complies Complies	-
	Objective 4D-3 Apartment layouts are designed to	1. Master bedrooms have a minimum	Complies	Bedrooms dimensions are all at

	accommodate a variety of household activities and needs	<p>area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. . Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>Complies</p> <p>Complies</p> <p>n/a</p>	least 3m excluding wardrobes, living rooms are all over 4m wide.
Private Open Space and Balconies	Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity	<p>1. All apartments are required to have primary balconies as follows: Studio - min. area, 4m2 / depth - 1 Bed - min. area, 8m2 / depth, 2m 2 Bed - min. area, 10m2 / depth, 2m 3 Bed - min. area, 12m2 / depth, 2.4m</p> <p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m</p>	All apartments have either Juliette balconies or terraces however most do not satisfy the minimum dimensional requirements. Appropriate amenity is however achieved in accordance with the objective of the control.	Satisfactory on merit given the adaptive reuse of the existing heritage building, shallow room depths and inherent amenity associated with the sites location within manly Town Centre and within immediate proximity of Manly Beach.
	Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents		Complies	All private open space is accessed directly from the principle habitable room.
	Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building		Complies	Balconies and terraces contribute to the overall building design and form.
	Objective 4E-4 Private open space and balcony design maximises safety		Complies	-
Common	Objective 4F-1 Common circulation spaces achieve	1. The maximum number of apartments	Complies	The maximum number of

Circulation Spaces	good amenity and properly service the number of apartments	off a circulation core on a single level is eight 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	n/a	apartments off the circulation core is less than 8 per level. The circulation lobbies on each floor are generous in size. With a maximum of only 6r apartments per lobby there will be familiarity between residents fostering a feeling of security and safety.
	Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between residents		Complies	-
Storage	Objective 4G-1 Adequate, well designed storage is provided in each apartment	1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Studio - 4m3 storage volume 1 Bed. - 6m3 storage volume 2 Bed - 8m3 storage volume 3+ Bed - 10m3 storage volume At least 50% of the required storage is to be located within the apartment	Complies Complies	Ample storage is available in each apartment.
	Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments		n/a	-
Acoustic Privacy	Objective 4H-1 Noise transfer is minimised through the siting of buildings and building layout		Complies. The accompanying acoustic report deals with noise transfer between apartments and through the lightwell/ courtyard areas. The report also deals with the noise from persons egressing The New Brighton Hotel, amplified music from the New Brighton Hotel and noise from pedestrian using The Corso. No objection is raised to the recommendations forming appropriate conditions of consent.	Refer to acoustic review prepared by Acoustic Dynamic

	Objective 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments		Complies	As above
Noise and Pollution	Objective 4J-1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings		Complies	-
	Objective 4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission		Complies	-
Apartment Mix	Objective 4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future		Complies	An appropriate mix is proposed.
	Objective 4K-2 The apartment mix is distributed to suitable locations within the building		Complies	-
Ground Floor Apartments	Objective 4L-1 Street frontage activity is maximised where ground floor apartments are located		N/A	-
	Objective 4L-2 Design of ground floor apartments delivers amenity and safety for residents		N/A	-
Facades	Objective 4M-1 Building facades provide visual interest along the street while respecting the character of the local area		Complies	Refer to Architectural Design Statement
	Objective 4M-2 Building functions are expressed by the facade		Complies	As above
Roof Design	Objective 4N-1 Roof treatments are integrated into the building design and positively respond to the street		Complies	No change to roof.
	Objective 4N-2 Opportunities to use roof space for residential accommodation and open space are maximised		Complies	Roof terraces communal open space proposed.
	Objective 4N-3 Roof design incorporates sustainability features		Complies	-
Landscape Design	Objective 4O-1 Landscape design is viable and sustainable		N/A	-
	Objective 4O-2 Landscape design contributes to the streetscape and amenity		N/A	-
Planting on Structures	Objective 4P-1 Appropriate soil profiles are provided		N/A	-
	Objective 4P-2 Plant growth is optimised with appropriate selection and maintenance		N/A	-

	Objective 4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces		N/A	-
Universal Design	Objective 4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members		Complies	Refer to Access Report submitted with the Application.
	Objective 4Q-2 A variety of apartments with adaptable designs are provided		Complies	Refer to Access Report submitted with the Application.
	Objective 4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs		Complies	Refer to Access Report submitted with the Application.
Adaptive Reuse	Objective 4R-1 New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place		Complies	Refer to HIS and Architect Design Statement
	Objective 4R-2 Adapted buildings provide residential amenity while not precluding future adaptive reuse		Complies	-
Mixed Use	Objective 4S-1 Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement		Complies	-
	Objective 4S-2 Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents		Complies	-
Awnings and Signage	Objective 4T-1 Awnings are well located and complement and integrate with the building design		Complies	-
	Objective 4T-2 Signage responds to the context and desired streetscape character		N/A	-
Energy Efficiency	Objective 4U-1 Development incorporates passive environmental design		Complies	-
	Objective 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer		Complies	Refer to BASIX Report submitted with the Application
	Objective 4U-3 Adequate natural ventilation minimises the need for mechanical ventilation		Complies	All apartments receive adequate natural ventilation.
Water Management and Conservation	Objective 4V-1 Potable water use is minimised		Complies	-
	Objective 4V-2 Urban stormwater is treated on site before being discharged to receiving waters		n/a	-
	Objective 4V-3 Flood management systems are integrated into site design		n/a	-

Waste Management	Objective 4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents		Complies	An appropriately sized and located bin store is provided at ground floor level.
	Objective 4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling		Complies	-
Building Maintenance	Objective 4X-1 Building design detail provides protection from weathering		Complies	-
	Objective 4X-2 Systems and access enable ease of maintenance		Complies	-
	Objective 4X-3 Material selection reduces ongoing maintenance costs		Complies	-