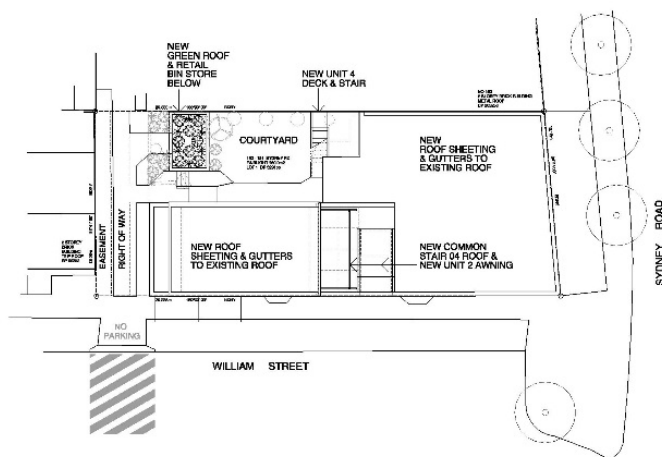




Costello+Graham Design

Statement of Environmental Effects Development Application

Proposal:	Alterations & Ancillary Works to Existing Mixed Use Building Including Retail & Residential
Property:	152-154 Sydney Road, Fairlight NSW 2094 Lot 1 DP 329155
Client:	Philip & Nigel Rose
Prepared By:	Costello + Graham Design
Project Reference:	SRFR 22104
Document Number:	DA95_A
Date:	19 December 2022
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1. Existing Condition

The 360.0m² site @ 152-154 Sydney Road Fairlight contains an existing 4 storey mixed use building with 4 residential dwellings, 4 retail tenancies & ancillary facilities forming Lot 1 of DP 329155. The site is a corner lot at the junction of Sydney Road & William Street and falls approximately 4m from Sydney Road towards the northern boundary & adjacent 2 storey town houses at No 2 William Street. Units 2 & 4 and parts of the common property areas are the subject of this DA Development Application comprising alterations and additions to the existing building. The building is named the "Rose Building" being the surname of the original Butcher shop owners. The building is listed as item I-65 being a local item of environmental heritage. Refer to the Heritage Compliance Statement in Part 6 of this SEE.

Residential Unit 1 is a 2 bedroom apartment solely contained on level 2 & was the original home of the owner & proprietor of the original Butcher's shop. It is accessed from a common staircase on William Street. Unit 1 has windows on 3 sides and shares a small length of common wall with unit 4.

Residential Unit 2 is located directly above unit 1 and consists of a 2 storey maisonette 2+ Bedroom apartment on both levels 3 & roof level 4. Access to unit 2 is from the common William Street staircase and the Unit 2 level 3 plan is similar to the unit 1 plan and benefits from having windows on 3 sides with only a small length of wall in common with Unit 4. Unit 2 benefits from being the only unit on Roof Level 4 and has district views to the north & part harbour views to the south available from the existing southern roof terrace.

Residential Unit 3 is located wholly on level 3 in the south west corner of the building at the corner of Sydney Road & William Street. The unit 3 apartment is accessed from the common William Street staircase and contains 2 bedrooms facing Sydney Road with living spaces and a balcony facing William Street. Unit 3 is located above the no 154 retail tenancy on Sydney Road and shares a north south common wall with unit 4.

Residential Unit 4 is a 2 storey maisonette 2+ Bedroom apartment contained on levels 2 & 3, facing both the rear northern courtyard and Sydney Road to the south. The maisonette unit contains bedrooms and living spaces on level 3 with an entry kitchen & dining area on Level 2. The unit 4 maisonette shares common walls with units 1 2 & 3 and a boundary wall adjacent to No. 150 Sydney Road. The entrance to unit 4 is via a steel staircase accessed from the rear courtyard.

The rear courtyard is generally grassed with scattered plantings. It is bounded by masonry walls from the neighbouring properties at No 150 Sydney Road and 2 & 2b William Streets. To access the courtyard, there is an approximately 3m wide ROW right of way and path between and to the north of the subject building & No 2 William Street Fairlight, providing access to the subject site & the residential components of No 150 Sydney Road Fairlight. At the William Street end of the ROW and pedestrian path there is an existing kerb crossing which does not lead to a driveway. Consequently, the driveway wide space is often utilised as additional on street parking by the public.

A common Laundry is provided on Level 1 with access from the rear courtyard. There is also an additional common Laundry built above the William Street staircase which includes an internal non-compliant staircase leading to the roof & Unit 2 roof terrace.

There are 2x retail tenancies on Level 1 addressing William Street located below the Unit 1 residential Tenancy. The tenancies are currently occupied by a real estate agency & a hairdresser and there are also non habitable storage and subfloor areas on level 1 located beneath the Residential unit 1 tenancy in spaces created as the natural ground level rises towards Sydney Road.

The numbers 152 & 154 Sydney Road retail tenancies are popular shops that maintain their period appearance and are well maintained. The current tenants are the Butcher's shop & the

Butcher's café. The bin storage for the retail tenancies are currently located offsite within garages on the opposite William Street property at the corner of Sydney Road which is leased by the Vet clinic. As required, the retail waste collection is performed by contract waste collection services which collect on the days and times listed below:

660L Red Bin M W F between 5.00am - 6.00am

1100L Blue Bin Tu Th between 9.00am - 10.00am

Waste from the residential tenancies is collected by Northern Beaches Council as follows:

*2x 240L Red Garbage Bin Tuesdays; 1x 240L Blue Cardboard Recycling Bin Alternate Tuesdays;
1x 240L Yellow Bottles Recycling Bin Alternate Tuesdays & 1x 240L Green Waste Bin Alternate
Tuesdays*

Residential bins are stored within the existing courtyard. For location refer Architectural drawing DA10 - Level 1 Plan

As advised by the owners Phil & Nigel Rose, the original parts of the building are understood to have been built in 1934 and the Sydney Road facade includes the building name being the **Rose Building**. The style of the building includes some Spanish Mission components including decorative tile roofing elements.








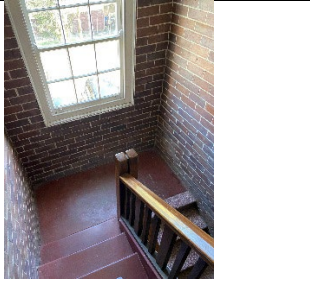

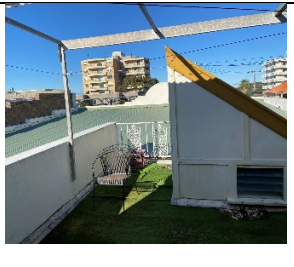
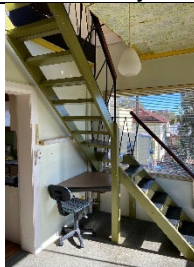
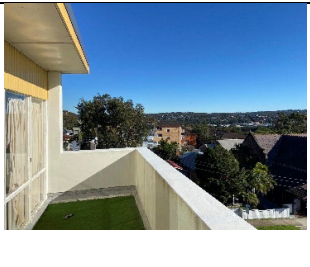
The subject site at 152-154 Sydney Road Fairlight is identified on Manly Local Environmental Plan 2013 Heritage Map HER_003 as being a Heritage Item General and listed as item I-65 under Manly LEP 2013 Schedule 5 Environmental Heritage Local. Schedule 5 describes the item as *2 commercial buildings, including the Rose Building*. Its significance is stated as *"An unusually intact representative example of Inter War Spanish Mission style commercial development."*

Refer to Heritage Compliance Statement included in Part 6.3 of this SEE.

From observations of the existing condition, it is understood that the floor structure is timber framed with generally internally rendered masonry party walls and external walls, with timber framed and timber clad projecting bays to the west elevation. The common staircase is of concrete construction from William Street Level 1.5 to the Common Laundry on Level 3.5 with lightweight cladding above. The internal stair walls are face brick. No invasive investigations have been undertaken & no finishes have been removed for inspection.

The detail level & boundary survey prepared by Altitude Surveys reference 22096 identifies that the northern masonry wall facing the side boundary is adjacent a 3.43m wide easement & ROW right of way to the north boundary. Some western & southern building elements project beyond the boundary line & the eastern courtyard generally borders the masonry boundary wall of No 150 Sydney Road. Unit 4 contains an internal masonry boundary wall.

Detailed documentation & assessment of the existing building for building code compliance and comparisons to current building code requirements, have been prepared by ASBS Building Reports Pty Ltd and are included in this Development Application. The purpose of the report is paraphrased as a *high-level commentary that will identify where the proposal is required to comply with the "Deemed to Satisfy" (DTS) provisions of parts C D E & F of the Building Code of Australia. Where non-compliances are identified, provide upgrading strategies.*

				
Fairlight Shops with Units 3 & 4 over viewed from Sydney Road	Fairlight Shops and Awnings viewed from Sydney Road Footpath	North West View from William St with cars parked across driveway	Current Retail Bin storage located off site on William Street	
				
ROW Right of Way & Footway to No 150 Sydney Road Fairlight	Rear Courtyard & stairs leading to Unit 4	Common Laundry accessed from Rear Courtyard	Common stairs accessed from William Street	
				
Internal View of Unit 2 Kitchen	View to the south & Roof of Units 3 & 4	Internal Unit 2 Maisonette stairs	District views to the north from Roof Terrace 01	

2. Proposed Design Statement

The proposed alterations & additions to the existing mixed use building at 152-154 Sydney Road Fairlight include works specifically located within Units 2 & 4 & also within Common Property areas. No works are proposed to Units 1 & 3 requiring development approval. Additional fire safety & building code compliance upgrades as proposed within the ASBS Building Reports Pty Ltd documentation, will also be required.

The proposed new Unit 2 works that are the subject of this DA Development Application are primarily internal works and works that have minimal environmental impacts to adjacent properties.

The Unit 2 works proposed for DA approval as shown on drawings DA12 Level 3 Plan, DA 13 Level 4 Plan & DA 15 Roof Plan include:

- 2.1- Replacement of External Windows & New Windows – The Level 3 external windows will be replaced with new upgraded windows within the same masonry openings. These windows have a WX code and have been reportioned in response to Council's

Heritage Advisor's comments. The new windows on Level 4 including sliding glass doors will be constructed in the same plane as the existing external facades and no additional gross floor area is incurred.

2.2-New Internal Staircase & New Internal Fit Out – Unit 2 works proposed include removal of existing walls and construction of new walls for a new internal staircase & laundry. The internal finishes and fixtures on Level 3 will also be replaced as part of the renovation of Unit 2. Level 4 will have new internal partitions to create a new Master Bedroom, Ensuite, Robe & Guests Rooms

2.3-Upgrade of Roof Terraces 01 & 02 – New waterproofing, finishes and glazed balustrades will be located inside the existing Terrace parapet walls. The existing parapet walls do not have sufficient tolerance & safety to provide an effective barrier adjacent the 4 story fall to ground levels below on William Street, the courtyard & ROW. The proposed new frameless glass balustrades will be mounted inside of the existing parapet to increase the barrier height & minimise any visual impact from the street below. The proposed frameless glass balustrades will have the least visual impact to the existing Heritage building facades. A new retractable awning will be provided to Terrace 02 to replace the existing awning and will be an improvement upon the existing fixed polycarbonate or similar translucent material roof sheeting.

2.4-New Roofing – The existing roof sheeting and guttering will be replaced.

The proposed new Unit 4 works that are the subject of this DA Development Application have minimal environmental impacts to adjacent properties.

The Unit 4 works proposed for DA approval as shown on drawings DA10 Level 1 Plan, DA 11 Level 2 Plan & DA 13 Level 4 Plan include:

4.1-New Stair 02 Deck French Doors Window & Removal of Internal Corridor – The existing staircase leading to Unit 4 is proposed to be replaced with a new external deck and staircase leading to the Level 1 courtyard. The existing entry door & windows are proposed to be replaced with new French doors and a window and the common corridor shall be dedicated to Unit 4. An additional gross floor area of 0.3m² arises as a result of measuring GFA to the line of the new line of glazing.

4.2-New Skylight – A new skylight 01 is proposed within the roof shown on Level 4.

The proposed new Common Property works that are the subject of this DA Development Application are both external & internal works that have minimal environmental impacts to adjacent properties.

The Common Property works proposed for DA approval as shown on drawings DA10 Level 1 Plan, DA 11 Level 2 Plan, DA 13 Level 4 Plan & DA 14 Roof Plan include:

5.1- New Retail Bin Store Stair 01 + OSD & RWT tanks – The proposed new Retail Bin Store will provide an on-site location to store the retail bins which are currently located off site. The bin store is proposed to be located within the rear courtyard and outside of the ROW Right Of Way with generally level access to the William Street collection point. The rendered masonry Bin Store will be screened by new landscape planting & the design of the Bin Store will include a roof garden to soften the view of the bin store from the apartments over when looking down from the subject site and from neighbouring sites. A combined OSD & RWT tank is proposed to be located under the new unit 4 deck and will have minimal visual impact to the adjacent or subject property. The OSD RWT tank will include rainwater reuse components for re-use within the courtyard, ROW & new green roof.

5.2- New Widened Path & No Parking Road Line Marking – To allow access for the 660L & 1100L retail bins to be wheeled to the commercial contractor collection point on William Street, the existing path is proposed to be replaced and widened to 1.5m. As the

commercial collection for the butcher and other retail stores occurs regularly each week as identified in Part 01 of this SEE, the existing road is proposed to be painted with diagonal stripes to the width of the existing driveway crossing & no parking is proposed to be painted on the existing crossing. No Parking street signage posts are proposed adjacent the kerb and gutter either side of the driveway. With the proposed relocation of the retail bin store on to the subject site, permanent driveway access is now required for the delivery & collection of the retail bins & associated waste. The above signage measures are proposed & required to prevent public parking in front of the existing driveway.

- 5.3- New Roof to Common Stair 04 – The proposed works include the removal of the common laundry and the non-compliant non fire rated staircase located at the half landing on level 3.5. The proposed new works include a new concrete stair flight to access Roof Terrace 02 and to provide access to the Level 4 Roof for general maintenance. The amended stair flight and landings require the construction of a new roof over common stair 04. The new curved roof profile is designed to be sympathetic to the nearby gently curving parapet which is a characteristic of the heritage listed building. The new stair walls and roof will be fire rated where required to comply with the BCA Building Code of Australia.

Refer to DA submission drawings uploaded to NSW Planning Portal as part of this development application.

There are generally only minor changes proposed to the existing heritage listed building and the majority of the building facades that are visible from street level on Sydney Road & William Streets are untouched. Refer to the Heritage Compliance Statement contained in Part 6.3 of this SEE.

The proposed collection of residential waste shall remain as existing with residential bins being wheeled to the kerb from their current storage location in the courtyard for collection by council's waste collection services. No changes to the frequency or quantity of collections are proposed.

The retail waste collection is proposed to be wheeled to the kerb from the new retail bin storage facility in the courtyard via the new path & ROW for collection by private contractors maintaining the same volume & frequency as the existing commercial collection services. The nearest neighbour at 2 William Street has a solid brick wall facing the ROW bounding the subject site & the environmental impact of locating the bin storage on-site has been minimised and mitigated as much as possible to be considered reasonable for this site.

Refer to part 6.10 of this SEE for explanations and justifications confirming that the proposed retail and residential works are minor in nature, are not considered substantial and do not trigger the requirement to comply with the residential apartments design guide as contained under NSW planning legislation SEPP 65 State Environmental Planning Policy Number 65.

In summary, there are minimal adverse environmental impacts anticipated to arise from the proposed minor works & the majority of the heritage listed building remains untouched.

3. Manly LEP Development Summary Compliance

Manly LEP - Local Environment Plan 2013				
Development Control	LEP Requirements	Existing	Proposed	Complies / Comments
Land Zoning LZN_003	Zone B1 Neighbourhood Centre	Retail premises comprising neighbourhood shops & shop top housing	No changes proposed to existing land use or land zoning	Complies
Floor Space Ratio FSR_003	Zone N = 1.0:1 site area = 360.0 m ² x 1.0 = 360.0m ²	523.5m ² = 1.46:1	522.6m ² = 1.46:1	Non-Compliant Exemption Sought Less than existing FSR. Refer Part 6.1 LEP Clause 4.6 Exceptions
	GFA – Level 1	37.2m ² Retail & 7.0m ² Residential = 44.2m ²	43.7m ² Retail & 7.0m ² Residential = 50.7m ²	
	GFA – Level 2	99.0m ² Retail & 125.5m ² Residential = 224.5m ²	91.3m ² Retail & 133.5m ² Residential = 224.8m ²	
	GFA – Level 3	0.0m ² Retail & 206.3m ² Residential = 206.3m ²	0.0m ² Retail & 206.3m ² Residential = 206.3m ²	
	GFA – Level 4	0.0m ² Retail & 48.5m ² Residential = 48.5m ²	0.0m ² Retail & 40.8m ² Residential = 40.8m ²	
	Total GFA	523.5m ²	522.6m ²	
	% Variation from LEP Standard	146%	146%	
Height of Buildings HOB_003	Zone I = 8.5m	12.30m	12.40m	Non-Compliant Exemption Sought Similar to Existing Condition Refer Part 6.2 LEP Clause 4.6 Exceptions
	% Variation from LEP Standard	145%	146%	
Lot Size LSZ_003	Zone C Min 250m ²	360.0 m ²		Complies
Heritage HER_003	Heritage Item I65 Local Significance 2 Commercial Buildings including the "Rose Building"	Heritage Assessment Required		Complies Refer Part 6.3 Heritage Compliance Statement
Acid Sulphate Soils & Landslide Risk CL1_003	Class 5 Acid Sulphate Soils applies Landslide Risk Not Applicable	Acid Sulphate Soils Assessment Required		Complies Refer Part 6.4 Acid Sulphate Soils Compliance Statement
Non Applicable	Terrestrial Biodiversity Map_CL2_003			

LEP Controls	Land Reservation Acquisition Map LRA_003 Active Street Frontages Map ASF_003 Foreshore Building Line Map FBL_003 Foreshore Scenic Protection Map FSP_003 Key Sites Map KYS_003 Lot Size Multi Dwellings LSM_003
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4. Manly DCP Development Summary Compliance

Manly DCP – Development Control Plan				
Development Control	DCP Requirements	Existing	Proposed	Complies / Comments
DCP 3.1.3 Townscape - Local & Neighbourhood Centres	Design of development to have regard to townscape principles including a) local role of site for scale and interest b) be consistent with the townscape and streetscape principles c) design details to compliment adjacent building & locality with reference to scale, proportion & line of visible facades including scale proportion and pattern of openings, parapet heights materials colours and textures.	Sydney Road streetscape pattern local to the Fairlight shopping strip consists of generally 2 storey buildings comprising retail ground floor tenancies with shop top housing over. The scale of development increases to the north as the natural ground levels fall.	The proposed development maintains the scale and building bulk of the existing development. The proposed new windows and windows to be replaced will be complimentary to the existing facades and or traditional fenestration elements & proportions. The new common Stair 04 roof form will be complimentary to the shape of the existing parapets. The new level 4 frameless glass balustrades will provide safety and building code compliance and be located inside the existing parapets to be visually unobtrusive and appear as secondary elements to the existing parapets.	Complies
DCP 3.2.2 Alterations or Additions to Heritage Items or Conservation Areas	Development in the vicinity of Heritage Items or Conservation Areas requires consideration on the effect upon the heritage significance of the item	Heritage Item I65 Local Significance 2 Commercial Buildings including the "Rose Building"	Heritage Assessment Required	Complies Refer Part 6.3 Heritage Compliance Statement
DCP 3.2.5.1 Exceptions to Parking Requirements for Heritage Developments	Council may consider exceptions to providing the required onsite parking for i) alterations and additions to a heritage item if the carparking adversely impacts upon the item	The subject heritage listed site item I-65 does not contain any existing onsite carparking	The provision of 7x required onsite carparking spaces to comply with DCP clause 4.1.6.1 will adversely impact upon the heritage item & existing ROW burdening the property.	Non-Compliant Exemption Sought as per Existing Condition Refer Part 6.9 DCP Non-Compliance Justifications

DCP 3.2.5.2 Exceptions to FSR Development Standards for Heritage Developments	Council may consider exceptions to providing the required FSR where compliance with the standard is for i) alterations and additions to a heritage where conservation of the item depends upon allowing the exception & the development does not impact upon the significance of the heritage listed item I-65	As per LEP FSR_003 Zone N & DCP 4.1.3 the existing FSR of 523.5m ² = 146% of the permissible FSR of 360m ² allowable on the subject site.	The proposed FSR = 522.6m ² = 146% of the permissible 360.0m ² . The total GFA reduction proposed = 0.9m ² resulting from offsetting the additional area of the new retail bin store against the reduced area of the Level 4 common Laundry & the internal Unit 2 staircase.	Non-Compliant Exemption Sought as per Existing Condition Refer Part 6.7 DCP Non-Compliance Justifications
DCP 3.3 Landscaping	Objectives include 1/ encouraging appropriate tree planting and maintaining existing vegetation & 2/ retaining and augmenting important landscape features and vegetation remnant populations of native flora & fauna	The rear courtyard is generally lawn with small shrubs and screen planting to the ROW. The subject site is not coloured on the Residential Open Space Areas DCP Schedule 1 – Map B	The proposed new bin centre landscaping shall provide screen planting to the ROW & the green roof will provide visual relief when viewed from above from the subject site & neighbouring sites.	Complies
DCP 3.4.1.1 Overshadowing Adjoining Open Space	A maximum of 1/3 loss of solar access to private open space of adjacent properties between 9am - 3pm on 21 st June	The existing shadows cast do not result in a loss of solar access to private open space of adjoining properties.	No additional loss of solar access to adjacent properties private open space arises	Complies
DCP 3.4.1.2 Maintaining Solar Access to Living Rooms of Adjacent Properties	For adjacent buildings the level of solar access must not be reduced for a period of 2 hours with an east west orientation & 4 hours for a north south orientation from 9am - 3pm on 21 st June	The existing shadows cast do not result in a loss of solar access to living areas of adjoining properties.	No additional loss of solar access to adjacent living areas arises	Complies
DCP 3.4.1.3 Overshadowing Solar Systems	No overshadowing of existing adjacent solar collectors or hot water heaters between 9am & 3pm at any time of the year	The existing shadows cast do not result in a loss of solar access to solar collectors	No additional loss of solar access to solar collectors arises	Complies
DCP 3.4.2.1 Privacy & Security – Window Design & Orientation	Windows close to boundaries must be off-set from those in adjacent buildings to restrict direct viewing	The existing southern & western residential windows are	No change to existing window setbacks.	Complies

	& mitigate impacts on privacy	built adjacent road frontage boundaries and are elevated to mitigate privacy. The eastern windows face a solid masonry wall & the northern windows have greater than 3m setbacks.		
DCP 3.4.2.2 Privacy & Security – Balconies & Terraces	Screens must be provided to limit overlooking of nearby properties	The existing roof terraces have solid masonry parapets to increase privacy security & safety	The proposed roof terraces will be upgraded to include glass balustrades fitted inside the existing parapet walls to be visually recessive and increase safety. No additional privacy or security issues arise.	Complies
DCP 3.4.2.3 Acoustical Privacy	Consideration to be given to the protection of acoustical privacy of neighbours bedrooms & living areas.	The neighbouring residential properties do not incur acoustic privacy issues arising from the subject site.	There are no new or additional unreasonable privacy issues arising from the proposed development.	Complies
DCP 3.4.3 Maintenance of Views	Iconic, Water & District Views to be retained	The subject site is located near the crest of the hill & the existing building bulk is established	There is no additional significant building bulk & no loss of views will arise from the proposed development.	Complies
DCP 3.5 Sustainability	Passive Solar Access, Ventilation & Energy Efficient Appliances optimise Sustainability	The existing Units 2 & 4 enjoy solar access & cross ventilation.	The existing Unit 2 solar access & cross ventilation will be maintained and unit 4 solar access will be increased.	Complies
DCP 3.6 Accessibility	All residential development with more than 4 dwellings are to ensure that reasonable, achievable equitable and cost effective access to buildings and facilities within buildings is provided for people with disabilities	There is currently no accessible means of access to any floors of the building.	The proposed alterations and additions to Units 2 & 4 and common property areas are not defined as substantial and comprise only a nil increase to existing GFA and do not increase public usage. Full compliance with the Disability Discrimination Act	Hardship Exemption Sought Refer Access Compliance Statement contained in Part 6.5 of this SEE

			1992 is impractical in this case & would cause unnecessary hardship to the applicant. An application for an exemption to Part 4 of the Premises Standards is sought.	
DCP 3.7 Stormwater Management	All developments must comply with Manly Council Stormwater Control Policy		Refer to consulting Civil Engineer's Stormwater management documentation.	Complies
DCP 3.8 Waste Management	Waste Management Plan to be lodged	Existing residential waste is located on site with retail waste storage collected by commercial contractors with storage located off site	Waste Management Plan included in DA submission with proposed relocation of retail waste to "on site" with new retail Bin Store forming part of this DA.	Complies
DCP 3.9.2 Mechanical Plant	Roof Top Plant is to be inconspicuous from the street and located away from neighbours and boundaries	Minimal existing rooftop plant is visible from the street or from neighbours.	No additional roof top plant is proposed to be visible from the street.	Can comply
DCP 4.1.1.1 Residential Density	The subject site is not coloured on the Residential Areas DCP Schedule 1 – Map A			Not Applicable
DCP 4.1.2.1 Height of Buildings including Wall Height	Maximum Height of Buildings map HOB_003 = Zone I = 8.5m Wall Height = Slope of Land on West Boundary = 1:9.1m Max wall height = 7.3m	Existing max building height West boundary = 12.3m Non-compliant = 145% Existing maximum wall height = 11.9m Non-compliant = 163%	Existing & proposed max building height West boundary = 12.4m Non-compliant = 146% Existing & proposed wall height = 11.9m Non-compliant = 163%	Non-Compliant Existing to remain with new roof sheeting Refer SEE Part 6.2 for LEP Clause 4.6 Exceptions & SEE Part 6.6 for DCP Non-Compliance Justifications
DCP 4.1.2.2 Number of Storeys	Max 2 storeys	4 Storeys	No change to existing number of storeys proposed	Existing to Remain
DCP 4.1.3 Floor Space Ratio	Refer Map FSR_003 Zone N Permitting 1.0:1 site area = 360.0 m2 x 1.0 = 360.0m2	Existing FSR approx. = 136.2m2 Retail & 387.3m2 Residential = 523.5m2 = 1.46:1	Proposed FSR approx. = 135.0m2 Retail & 387.6m2 Residential = 522.6m2 = 1.46:1	Non-Compliant Similar to Existing Refer SEE Part 6.1 LEP Clause 4.6 Exceptions & SEE Part 6.7 for DCP Non-Compliance Justifications
DCP 4.1.4.1 Front Setback	Min 6.0m or in relation to prevailing	Existing Shopfronts &	No changes are proposed to the	Existing to Remain

Including DCP 4.2.8 Zone B1 Setbacks	building lines of neighbouring buildings Adjacent Retail @ No 150 Sydney Road = 0.0m Adjacent Building & Balcony @ No 2 William Street = 1.8m	Residential Over = 0m Setback	existing South & West setbacks facing Sydney Road & William Street.	
DCP 4.1.4.2 Side Setbacks Including DCP 4.2.8 Zone B1 Setbacks	DCP 4.1.4.2 = 1/3 Wall Height 4.2.8 = Buildings to conform to nil side setback unless the site adjoins land zoned residential	North: 3.4m setback & 10.2 - 10.6m wall height East: Zero Boundary wall setback + 5.9m east wall setback = 10.3m wall height	No changes are proposed to the existing unit 4 boundary wall. The new Unit 4 Deck is proposed with a zero boundary offset & 2.1m above ground level existing. The new retail Bin Store is proposed with a 20mm boundary offset and the top of roof garden is proposed at 2.8m above ground level existing. The adjacent boundary wall of No 150 Sydney Road is generally around 8m above ground level existing & no loss of amenity will arise.	Complies Both new eastern boundary structures are less than 3m above ground level existing & no loss of amenity.
DCP 4.1.4.4 Rear Setbacks	8.0m Corner Allotment with 2x front boundaries & 2x side boundaries			Not Applicable
DCP 4.1.5 Total Open Space Requirements	The subject site is not coloured on the Map of Open Space Areas DCP Schedule 1 – Map B			Not Applicable
DCP 4.1.5.2 (c) Native trees	Existing Lot size = 360m2 & min number of native trees for lot area <500m2 Zone C = 1 tree	Existing = 0x native trees	Proposed = 1x native trees	Complies
DCP 4.1.5.3 Principal Private Open Space Including DCP 4.2.8.3 B1 Zone	Minimum 20m2 for each dwelling with minimum dimension of 3m & to receive 3 hours sunlight between 9am & 3pm in midwinter	Existing PPOS Unit 1 = 0m2 Unit 2 = 9.9 + 18.1m2 = 28.0m2 Unit 3 = 4.8m2 Unit 4 = 0m2 = Units 1,3 & 4 Non-Compliant	Proposed PPOS Unit 1 = 0m2 (Existing) Unit 2 = 9.9 + 18.1m2 = 28.0m2 (Existing) Unit 3 = 4.8m2 (Existing) Unit 4 = 6.9m2 Units 1,2,3 & 4 Non-Compliant	Improvement to existing but remains Non-Compliant Refer SEE Part 6.8 DCP Non-Compliance Justifications
DCP 4.1.6.1 Parking Requirements	DCP Schedule 3 Retail parking spaces required = 1 per 40m2 serviced retail area & 1x resident space per business zone dwelling + 0.16 visitor spaces for	Existing serviced retail area = 62.1m2 = 2 retail parking spaces required & 0 spaces	No changes proposed to existing retail serviced area or number of residential units or proposed parking spaces. 7 parking spaces required &	Nil Existing and Proposed Non-Compliant Refer SEE Part 6.9 DCP Non-Compliance Justifications

	each dwelling	provided 4x dwellings = 4 spaces + 4x 0.16= 0.64 = 1.0 spaces = 5x residential spaces required and 0 spaces provided	Existing 0 spaces proposed. No on-site vehicle parking spaces can reasonably be provided without part demolition of the existing heritage listed building or reduction of the rear courtyard landscape open space. The site is well serviced by public transport buses and has convenient access on foot.	
DCP 4.1.6.3 Bicycle Parking Requirements	1x bicycle stand for each 3x car parking spaces with a minimum of 1 per premise	7 car parking spaces required = 3 bicycle spaces required & 0 spaces provided.	The existing rear courtyard & path provide opportunity for informal bicycle parking spaces.	Can Comply
DCP 4.1.6.4 Vehicular Access	Vehicles to enter & exit site in a forward direction	No on-site vehicle parking exists.	No on-site vehicle parking can reasonably be provided without part demolition of the existing heritage listed building or reduction of the rear courtyard landscape open space. The site is well serviced by public transport buses and has convenient access on foot.	Nil Existing to Remain
DCP 4.1.6.5 Driveways & Crossings	Designed to maximise kerb side parking	Existing 1x driveway & crossing subject to illegal public parking in front subject site's driveway & crossing	Existing driveway & crossing to remain with no parking painted signage line demarcation & no parking street signs proposed to prevent public parking in front of new retail waste collection point for 660L & 1100L contractor wheelie bins.	Complies
DCP 4.1.10 Fencing	Max 1m high or max 1.5m high with 30% transparency above 1m, unless subject to significant street noise	Corner allotment with no existing front fences	No front fences proposed	Not Applicable
DCP 4.2.8 - B1 Business Zone Neighbourhood Centres	Consideration of Exceptions to LEP development Standards under LEP clause 4.6 may be given where no unreasonable			Refer Part 6 LEP Clause 4.6 Exceptions & DCP Non- Compliance Justifications

	adverse impacts arise from the development for proposed - height increases - boundary setbacks - landscaping and private open space - others as listed			
Non Applicable DCP Controls	4.1.7.1 First floor Additions 4.1.7.2 Habitable Rooms in the Roof Structure 4.1.8 Development on Sloping Sites 4.1.9.1 Swimming Pools Spas & water Features 5.4.1 Foreshore Scenic Protection 5.4.3 Flood Prone land 5.4.4 Riparian Land and Watercourses 5.5 Road Widening & Realignment Bushfire Prone Land Map 2012			

5. Pre-DA Lodgement Meeting

As the proposed development is minor in nature & does not have any significant impacts upon the existing building bulk & footprint and results in “substantially the same development” with no unreasonable neighbouring amenity issues likely to arise, an *in person appointment* with Northern Beaches Council duty officer was undertaken on Tuesday 08 November 2022.

The owners Philip & Nigel Rose **SRFR** & the architect & applicant Robert Costello of Costello Graham Design **CGD** met with Northern Beaches Council Duty Planner Steve Arthurs **NBC** to review the proposal in general & discuss the Development Application documentation requirements. Council’s duty planner was briefed of the proposed development with the general outcomes paraphrased as:

1. **NBC** noted to confirm & develop justification for not providing a SEPP 65 Residential Housing Design Code Compliance Report based upon the proposed works not considered substantial
2. **SRFR** owner to confirm waste collection information / times & days for **CGD** to add to SEE Statement of Environmental Effects & Waste Management Report
3. **CGD** to add heritage officer contact attempts into HIS Heritage Impact Statement
4. **CGD** to show no parking road signs for council’s traffic engineer to assess
5. **CGD** to complete council’s cost of works forms
6. **NBC** confirmed 2x basix certificates considered appropriate rather than energy performance report
7. **NBC** confirmed shadows added to site analysis appropriate

A formal Pre-DA Lodgement Meeting was not undertaken.

6. LEP Clause 4.6 Exceptions, Design Compliance Statements & DCP Non-Compliance Justifications

6.1 Floor Space Ratio FSR_006 LEP Clause 4.6 Exception

The applicant requests a variation to the Floor Space Ratio FSR standard, as prescribed in clause 4.4 of Manly Local Environmental Plan LEP 2013.

The proposed development is located within Zone N of the Manly LEP Floor Space Ratio Map FSR_003 which has a floor space ratio to site area control for the zone of 1.0:1. With 360.0m² of site area, the allowable floor space permitted on the site is 360.0m². The existing mixed use building identified as heritage item I-65 of local environmental significance is understood to have been built in 1934 in the style described as *Inter War Spanish Mission*. The existing development on Lot 1 of DP 329155 contains 4x retail units and 4x residential units which have an approximate existing GFA gross floor area of 523.5m² resulting in an existing floor space ratio of 1.46:1. The existing heritage listed mixed use building has a percentage variation of 146% of the development standard.

The proposed development includes a redistribution of the residential units 2 & 4 floor areas and a reduction to the level 4 common areas without any net change to the building footprint on levels 2, 3 or 4. The new works proposed include a new retail Bin Store on level 1 which increases the retail floor space by 6.5m². The total proposed net combined residential & retail GFA is 522.6m² which results in a total net GFA reduction of -0.9m².

The additional 6.5m² of retail floor space on level 1 arises from the owners initiative to relocate the retail waste generated on site and provide a new retail bin storage facility on the subject site.

The existing retail waste storage consist of 1x 1100L & 1X 600L wheelie bins which are collected by contract waste services multiple times per week. After the proposed development, the existing waste collection service will be ongoing & the current collection times are as follows:

660L Red Bin M W F between 5.00am - 6.00am

1100L Blue Bin Tu Th between 9.00am - 10.00am

As per the table below, the proposed new GFA = 522.6m² which retains the existing floor space ratio of 1.46:1. The proposed alterations to the heritage listed mixed use building retains the existing percentage variation of 146% of the development standard.

The objectives of LEP floor space ratio clause 4.4 include ensuring the bulk and scale of development are consistent with the existing and desired streetscape character and to minimise adverse environmental impacts on the use or enjoyment of the adjoining land & public domain. With the proposed location of the new retail bin store within the rear courtyard and the proposed landscape screening and new roof garden, there are no increased adverse environmental impacts anticipated and the proposed reduction of 0.9m² of gross floor area does not create any additional building bulk that is visible from the public domain. The proposed bulk and scale of the development will be consistent with the bulk & scale of the existing mixed use building. The proposal is compliant with the objectives of the clause 4.4 for floor space ratio.

The large retail bins require generally level & convenient access to the street & the proposed new retail bin store could not reasonably be located within the existing heritage listed building without modifying the existing streetscape and changing the façade of the heritage listed building which would result in an undesirable outcome.

Manly Local Environment Plan – Clause 4.4 – Floor Space Ratio				
Development Control	LEP Requirements	Existing	Proposed	Comments
Floor Space Ratio MAP FSR_003	Zone N = 1.0:1 site area = 360.0 m ² x 1.0 = 360.0m ²	523.5m ² = 1.46:1	522.6m ² = 1.46:1	* Areas are Approximate
GFA = Gross Floor Area m ² Retail + Commercial	GFA – Level 1	44.2m ²	50.7m ²	*
	GFA – Level 2	224.5m ²	224.8m ²	*
	GFA – Level 3	206.3m ²	206.3m ²	*
	GFA – Level 4	48.5m ²	40.8m ²	*
	Total GFA	523.5m ²	522.6m ²	*
	% Variation from LEP Standard	146%	146%	*

With a proposed total reduction of 0.9m² of floor area, the resulting floor space to site ratio will remain unchanged from existing at 1.46:1 with the existing percentage variation of 146% of the development standard. With the objectives of the clause being met for building bulk & streetscape, strict compliance with LEP clause 4.4 for floor space ratio is not possible without a detrimental impact upon the existing heritage listed building and considered unreasonable & unnecessary in this case.

The proposed works will result in a development that is “substantially the same” and the environmental impacts of the proposed development are minimal. The proposed development will be in the public interest because it is consistent with the objectives of the standard and there are sufficient environmental & heritage grounds to justify contravening the development standard. The consent authority can use their degree of flexibility to grant development consent under clause 4.6 of Manly Local Environment Plan to permit a variation to development standard clause 4.4 of Manly Local Environment Plan 2013, in this particular case.

6.2 Height of Buildings HOB_003 LEP Clause 4.6 Exception

The applicant requests a variation to the HOB Height of Buildings standard, as prescribed in clause 4.3 of Manly Local Environmental Plan LEP 2013.

The proposed development is located within Zone I of the Manly LEP Height of Buildings Map HOB_003 which permits a maximum building height of 8.5m. The existing mixed use building identified as heritage item I-65 of local environmental significance is understood to have been built in 1934 in the style described as *Inter War Spanish Mission*. The existing building presents as a 2 storey retail and shop top housing development to Sydney Road forming part of the Fairlight Shops. On the corner allotment fronting William Street the land falls approximately 4m from Sydney Road towards the northern boundary & adjacent 2 storey town houses at No 2 William Street.

The existing maximum building height facing the western boundary is 12.3m above ground level existing. The existing heritage listed mixed use building has a percentage variation of 145% of the development standard. The proposed development includes re-sheeting the original roof with battens & a new metal deck roof sheeting laid over the existing. A nominal allowance of 80mm has been allowed to top-up & or replace the original roof sheeting. As per the table below, the proposed heritage listed mixed use building new height of building HOB = 12.4m resulting in a proposed percentage variation of 146% of the development standard.

The objectives of LEP height of buildings clause 4.3 include providing for building heights and roof forms that are consistent with the topographical landscape, prevailing building heights and desired future character of the streetscape. The Manly LEP 2013 recognises the significance of the existing building and its role as a strategic neighbourhood centre with its B1 Land Zoning resulting from its contribution to the local streetscape and as a community landmark, forming part of the "Fairlight Shops".

The proposed bulk and scale of the development will be consistent with the bulk & scale of the existing mixed use building. The proposal is compliant with the objectives of the clause 4.3 for building height.

Manly Local Environment Plan – Clause 4.3 – Height of Buildings				
Development Control	LEP Requirements	Existing	Proposed	Comments
Height of Buildings MAP HOB_003	Zone I = 8.5m	12.3m	12.4m	Similar to & consistent with the existing building & streetscape
	% Variation from LEP Standard	145%	146%	

With only 80mm of additional building height proposed, the resulting height of building will remain similar to the existing at 146% of the standard which will result in only a 1% increase to the percentage variation from the standard. With the objectives of the clause being met for building bulk & streetscape, strict compliance with LEP clause 4.3 for height of buildings is not possible without a detrimental impact upon the existing heritage listed building and considered unreasonable & unnecessary in this case.

The proposed works will result in a development that is "substantially the same" and the environmental impacts of the proposed development are minimal. The proposed development will be in the public interest because it is consistent with the objectives of the standard and there are sufficient environmental & heritage grounds to justify contravening the development standard. The consent authority can use their degree of flexibility to grant development consent under clause 4.6 of Manly Local Environment Plan to permit a variation to development standard clause 4.3 of Manly Local Environment Plan 2013, in this particular case.

6.3 Heritage Compliance Statement

The subject site at 152-154 Sydney Road Fairlight is identified on Manly Local Environmental Plan 2013 Heritage Map HER_003 as being a Heritage Item General and listed as item I-65 under Manly LEP 2013 Schedule 5 Environmental Heritage Local. Schedule 5 describes the item as 2 *commercial buildings, including the Rose Building*. Its significance is stated as “*An unusually intact representative example of Inter War Spanish Mission style commercial development.*”

The 2x retail shops, shop top housing and awnings facing Sydney Road are generally either intact or sympathetic to the original style of the building which is understood to have been constructed in 1934. The facade displays elements of expressed rendering with ornamental recesses and projections. The proud ornamental tiling elements display curved barrel forms consistent with Mediterranean roof tiles. The timber windows are double hung and have small rectangular fenestrations. The parapet is painted and steps up to a curved arch at the top of the parapet which provides symmetry balance & a focus or fulcrum to the Sydney Road building façade.

The Spanish mission style façade elements continue along William Street and the facade increases in height as the footpath & ground level descend towards the north. At approximately 3/5th of the façade length an additional Level 1 retail story is revealed below the Sydney Road Fairlight shops level referred to as Level 2 for this development proposal. The William Street façade also increases in height to accommodate a 4th residential floor level at a height consistent with the adjoining property at number 150 Sydney Road. Even though there is no obvious joint in the façade rendering, the 4th level residential floor is understood to have been built in 2 subsequent stages as additions to the original building. No searches of Council records have been undertaken to confirm the history for any approvals including any subsequent staged building works.

Similar to the Sydney Road façade, the William street façade also includes a curved arch but also features projecting bay windows and a balcony with textured spandrel tiles. The windows are generally similar double hung timber with inconsistent north west aluminium windows likely to have been added at a later stage. The Level 4 awning which provides rain protection to the exposed roof terrace 02 can be seen from William Street. The northern facade and inner courtyard walls are finished in face brickwork.

		
Spanish Mission Style Elements Corner of Sydney Road & William Street Fairlight	Spanish Mission Style Elements Northern Corner of William Street Fairlight with inconsistent windows & Increased building bulk	Face Brick elements within the internal courtyard

There are no works included in the Development Application proposed for the existing retail shops, or units 1 & 3. The William street retail shop awnings are proposed to be replaced with new awnings that are similar and complement the existing building.

The proposed works to unit 4 being the new deck & glazing are only visible from within the rear courtyard and will not have any significant impact upon the heritage item. The new glazed timber doors will have materials and proportions that complement the existing *desirable* window fenestration.

The proposed new retail Bin Store on Level 1 will be a small detached element that is only visible from the rear courtyard and screened by new landscaping and will not detract from the heritage significance of the building.

The proposed works to unit 2 being a refurbishment & upgrade of the existing apartment are generally internal works which will not have any significant visual impact upon the heritage item. There are no significant changes to the existing skyline or building bulk. The proposed new unit 2 glazed timber windows and doors will have materials and proportions that complement the existing *desirable* window fenestration as per email correspondence with NBC Northern Beaches Council's Heritage Advisor dated 02 December 2012. The unit 2 refurbishment works will include new glazed balustrades fitted inside of the existing Level 4 Terraces 01 & 02, as required to provide safety & balustrade heights compliant with the requirements of the Building Code of Australia. To minimise any visual impact from the proposed new works as seen from the street approximately 10m below, the construction of the new balustrades are proposed to be mounted inside of the existing parapets and shall be of frameless glass to minimise the visibility of the new elements.

The new awning to Terrace 02 is proposed to provide shelter & be retractable to reduce the visible impact upon the streetscape and the Heritage significance of the building.

The proposed curved form of the new stepped roof to common stair 04 is designed to complement the gentle curve of the existing adjacent parapet. The roof element will be positioned inside of the existing masonry parapet to appear as a secondary element to the original façade and minimise any impact to the streetscape and heritage significance of the building. Refer to the additional section provided as drawing 03/A26 in response to NBC's Heritage Advisors email dated 02 December 2022 demonstrating that minimal head rooms are proposed within the stair well, whilst providing the new stair with compliant stair flights & landings replacing the previously BCA non-compliant stair flight and roof covering. The bulk and visual impact of the new stair 04 roof form has been mitigated.

The majority of the *Rose Building's* facade shall remain untouched with generally only minor works visible from the streetscape.

The objectives of LEP Heritage Conservation clause 5.10 are to conserve the environmental heritage of Manly and the significance of any heritage items. With the proposed considered design & careful selection of new building elements as demonstrated within this development application & with good building practices undertaken by a reputable & licensed builder, the objectives of LEP Heritage Conservation Clause 5.10 to conserve the Heritage significance of the "Rose Building" can be met.

6.4 Acid Sulphate Soils Compliance Statement

The subject site is identified on Manly Local Environmental Plan 2013 Acid Sulphate Soils Map CL1_003 as being land within Acid Sulphate Soils Class 5. The objectives of LEP Acid Sulphate Soils Clause 6.1 are to ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage.

The existing 4 storey Mixed Use Building is understood to have been constructed in 1934 and the new footings for the proposed new retail Bin Store include cut and fill of approximately 1.2m to the existing landscaped courtyard @ RL 51.9m, resulting in ground level disturbances to approx. RL 50.70m AHD. Other proposed works including the new deck do not involve significant cut & fill or any significant new footings.

Within 500m of the subject site, Council's Acid Sulphate soils map – Sheet CL1_003 identifies land on Manly Flats as being of class 4 acid sulphate soils. These sites are at an estimated RL of approximately 10m AHD and significantly below the elevated RL of 51.9m for the subject site.

The likelihood of the proposed excavations to the subject site lowering the water table by more than 1.0m depth on Manly Flats resulting in the disturbance, exposure or draining of acid sulphate soils or the causing of any environmental damage is negligible.

As a result of the proposed works, the water table will not be lowered below 1 meter AHD on adjacent class 1,2,3 or 4 land and the LEP objectives for protection of Acid Sulphate Soils clause 6.1 can be met.

6.5 Accessibility Compliance Statement

Manly Development Control Plan clause 3.6 seeks to guide applicants in achieving state & federal accessibility requirements. Objective 1 includes ensuring that any refurbishments to existing buildings provide improved levels of access and facilities for people with disabilities. However, clause 3.6.1.2 b) 1) states that compliance with the building code of Australia and Australian Standards AS1428.2 & 3 is only required for development involving alterations and additions where an applicant proposes substantial changes or alterations to over 50 percent of an existing building.

In this case, the proposed works do not involve changes or alternations to over 50% of the building and are limited to generally internal & facade works to unit 2; deck, staircase, french door windows skylight and internal works to unit 4; common property works including a new retail bin store Stair 04 roof replacement, plus other works of a minor nature. There are no works proposed to residential units 01 & 03, or the 4x retail shops. Further descriptions of the proposed works are included in Part 2 of this SEE.

The proposed works will include BCA upgrades as proposed in the Building Code Report prepared by All State Building Surveying Pty Ltd. The total proposed GFA Gross Floor Area will decrease from 523.5m² existing to 522.6m² totalling 0.9m² which equates to a 0% change to floor space to site ratio. This is significantly below the 50% alterations trigger requiring accessibility upgrades to be carried out for the whole development.

The alterations & additions proposed do not represent a substantial development and as per the Accessibility checklist included in 9.0 *Appendix* from Manly DCP Schedule 5, the existing building does not comply with the Disability Discrimination Act 1992. Access to all residential units 1 2 3 & 4 is via steps from the street level footpath on William Street. Refer to existing floor plan drawing DA02 & existing elevation drawing DA03. From the residential ground floor landing which is up 2 steps from street level a staircase ascends to Level 2 providing access to unit 1 & ascends further to Level 3 providing access to units 2 & 3. A separate staircase from the rear courtyard, provides access to unit 4. There are 4 residential units within the subject site on Lot of DP 329155 and there is no existing disabled access to any lobbies or public areas within the residential parts of the building. There are no works proposed to the existing retail shops and whilst access may currently be available directly from the street, this work is excluded from this accessibility compliance statement.

There are no lifts, no accessible bathroom facilities and no accessible car parking was provided or required at the time of construction. Section 23 of the Disability Discrimination Act 1992 recognises that it may not be possible or fair to enforce the requirements of access to premises in all situations.

There is no increase in the proposed public use of the building and in this case, unjustifiable hardship would arise to the applicants if compliance with the Disability Discrimination ACT 1992 was a required condition as part of the development consent and an exemption to Part 4 of the Premises Standards is sought.

In addition to fire safety upgrades throughout the building, the building code report included with the Development Application recommends upgrades to fire safety & means of egress within the common staircase including new slip resistant and contrasting colour stair nosings. These upgrades will improve accessibility for ambulant users of the residential part of the building.

Refer to ASBS Building Reports Pty Ltd documentation.

6.6 Wall Height - DCP 4.1.2.1 Justification for Non-Compliance

The maximum permissible wall height calculated as per Manly DCP 2013 table 4.1.2.1 for the slope of land on the west boundary with a ratio of 1: 9.1m = 7.3m. The existing & proposed maximum wall height is 11.9m which represents 163% of the development standard. As there are no changes proposed to the existing maximum wall height and the proposed alterations and additions do not increase the existing overall wall height an exception to DCP clause 4.1.2 for Wall Height is sought, as is permissible under DCP clause 4.1.2 b).

Refer also LEP clause 4.6 Exception request for HOB Height of Buildings contained in part 6.1 of this SEE.

6.7 Floor Space Ratio - DCP 4.1.3 Justification for Non-Compliance

The maximum permissible FSR floor space ratio calculated as per Manly LEP map FSR_003 for Zone N = $1.0 \times \text{site area} = 1.0 \times 360.0 = 360\text{m}^2$. The total GFA gross floor area for the existing mixed use building for both retail & residential uses = 523.5m^2 . The existing FSR is 1.46:1 which represents 146% of the development standard. The proposed minor reduction to overall GFA arising from the new retail Bin store & removal of level 4 common staircase & the new unit 2 internal staircase equates to a net reduction of -0.9m^2 GFA. The resultant proposed GFA of 522.6m^2 represents 146% of the development standard and a nil change from the existing condition.

As the existing mixed use building is a heritage listed item of local environmental significance referred to as the "Rose Building" Heritage Item I-65, strict compliance with the development standard for FSR floor space ratio requiring a reduction of 46% of the existing floor space would not be possible without significant adverse impacts to the existing heritage building. In this case strict compliance with DCP clause 4.1.3 for FSR floor space ratio is considered unnecessary & unreasonable.

Refer also LEP clause 4.6 Exemption request for FSR Floor Space Ratio contained in part 6.1 of this SEE.

6.8 Business Zone B1 Landscaping Private Open Space & Solar Access - DCP 4.2.8.3 Justification for Non-Compliance

The objectives of DCP clause 4.1.5 for Open Space & Landscaping include maximising soft landscaped area and open space at ground level and to encourage tree planting and to maintain & enhance amenity including sunlight. The DCP 4.2.8.3 Zone B design standard for POS private open space for mixed use developments includes a minimum area per dwelling of 20m^2 with a minimum dimension of 3m and to be designed to receive 3 hours of direct sunlight between 9am & 3pm in midwinter.

The existing POS private open space for the 4x existing residential unit dwellings do not comply with the current standard referenced in DCP clause 4.2.8.3. Existing Units 1 & 4 do not contain any outdoor space and only have access to the common open space within the rear courtyard. The POS for unit 2 located on existing Terraces 01 & 02 have areas of 9.9m^2 & 18m^2 with Terrace 02 receiving 3 hours of sunlight. Unit 3 has an undersized 4.8m^2 balcony which receives 3 hours of sunlight. Due to the constraints of the existing building, there is no change proposed to the existing POS size or solar access available to units 1, 2 & 3. However, the design proposals do include an improvement to the amenity of residential unit 4 with the provision of a new north facing deck with an area of 7.0m^2 constrained and wedged between the existing unit 4 wall and the adjacent boundary wall. The new deck complies with the objective of providing adequate principle private open space in higher density areas as defined in DCP clause 3.3.1 a) ii) which is to maximize residential amenity.

As the existing mixed use building is a heritage listed item of local environmental significance referred to as the "Rose Building" Heritage Item I-65, strict compliance with the development

standard for POS Private Open Space requiring increased areas of POS would not be possible without significant adverse impacts to the existing heritage building.

The objectives of the POS Private Open Space DCP clause 4.1.5.3 are to provide sufficient usable outdoor space for resident amenity and whilst there will be a numerical increase in total POS the proposal will remain non-compliant. In this case strict compliance with DCP clauses 4.1.5.3 & 4.2.8.3 for POS Private Open Space is considered unnecessary & unreasonable.

6.9 Carparking - DCP 4.1.6.1 Justification for Non-Compliance

DCP Schedule 3 prescribes minimum parking spaces including visitor requirements for retail and residential spaces within Business Zone B1. The schedule requires 1x space per 40m² of serviced retail area and 1x space per resident unit, plus 0.16 visitor spaces for each dwelling.

The total required spaces = 2x retail spaces, 4x residential spaces & 1x visitor space = 7 car parking spaces. There are zero existing car parking spaces provided on site. However, the site is well located for both public transport, pedestrian traffic & retail amenity. There are 2x bus stops within 300m of the site with regular bus services to multiple destinations. Travelling by foot ambulant residents can also walk to Manly for recreation and entertainment or the ferry services with 15 minutes.

As the local Fairlight shops which include the "Rose Building" also provide very convenient local shopping & retail amenity, exceptions to the DCP requirement for parking for the subject site should be considered.

Additionally, as the existing mixed use building is a heritage listed item of local environmental significance referred to as the "Rose Building" Heritage Item I-65, strict compliance with the development standard for Carparking requiring the provision of 7x car spaces on site would not be possible without significant adverse impacts to the existing heritage building. In this case, strict compliance with DCP clause 4.1.6.1 for carparking is considered unnecessary & unreasonable.

6.10 SEPP 65 Compliance Requirement

The requirement to comply with SEPP 65 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development is contained in Preliminary Part 1 clause 4 (1) (a) (ii) which states that:

4 Application of Policy

- (1) This policy applies to development for the purposes of a residential flat building, shop top housing or mixed use development with a residential accommodation component if –
 - (a) The development consists of any of the following-
 - (i) the erection of a new building,
 - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
 - (iii) the conversion of an existing building, and
 - (b) The building concerned is at least 3 or more stories (not including levels below ground level (existing) or levels that are less than 1.2m above ground level (existing) that provide for carparking), and
 - (c) The building concerned contains at least 4 or more dwellings

In this particular case, the proposed development **does not** consist of

- (i) the erection of a new building, or
- (ii) the substantial redevelopment, or the substantial refurbishment of an existing building as
the proposed GFA results in a net 0% change to the existing GFA/site ratio & the increased area is for the non-habitable retail Bin Store and no works involving development assessment are proposed or required for residential units 1 & 3 or any of the 4x retail units, or

(iii) the conversion of an existing building.

Consequently, for these minor works there is no requirement to comply with the design requirements for SEPP 65 State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.

7. Architectural Drawing List

DA 00	Notification Plan
DA 01	Site Plan
DA 02	Existing Plans
DA 03	Existing Elevations
DA 04	Existing Sections
DA 05	Site Analysis Shadows & Landscape Plan
DA 10	Level 1 Plan
DA 11	Level 2 Plan
DA 12	Level 3 Plan
DA 13	Level 4 Plan
DA 14	Roof Plan
DA 20	Elevations 01
DA 21	Elevations 02
DA 22	Elevations 03
DA 25	Sections 01
DA 26	Sections 02
DA 95	Statement of Environmental Effects
DA 96	Waste Management Plan

8. Conclusion

The alterations & additions proposed to the existing heritage listed mixed use Building at 152-154 Sydney Road Fairlight are described in Part 2 of this SEE & generally include a new retail Bin Store to be located in the rear courtyard; a new deck stair & glazed doors & windows to unit 4; a refurbishment of the existing unit 2 apartment including new windows and doors and building code compliance and safety upgrades as proposed for approval within the ASBS Building Reports Pty Ltd documentation.

The proposed new works that are the subject of this DA Development Application are generally minor in nature and have minimal environmental impacts to any adjacent neighbouring properties. The local significance of the B1 zoned building which forms a key part of the local neighbourhood & Fairlight Shops is not impacted by the proposed works.

With the existing building understood to have been constructed in 1934, strict compliance with the current Building Code of Australia cannot realistically be achieved without undue & unreasonable hardship to the owners. An Accessibility Compliance Statement is included as Part 6.5 of this SEE to address disability discrimination issues and it is noted that there is no increase in the proposed public use of the building and the proposed works are not considered substantial. The proposed refurbishments to the existing buildings will however provide improved levels of access and facilities for people with disabilities & in particular ambulant users of the building.

The proposed fire safety upgrades recommended for approval as an alternative solution to the building Code of Australia in the ASBS Building Reports Pty Ltd documentation for the construction certificate stage will increase the current egress capability of the building & the resultant fire & life safety for the occupants will also be improved.

There are only minimal changes proposed to the existing building height, building bulk, dwelling mix & occupancy and LEP clause 4.6 exceptions addressing the existing and proposed FSR floor space ratio & HOB height of buildings are included in SEE parts 6.1 & 6.2 to allow the authority to provide consent to the proposed developments which are “substantially the same” development.

Justifications for the existing and proposed building’s DCP non-compliances are included in SEE parts 6.6 Wall Height, 6.7 Floor Space Ratio, 6.8 Landscaping Private Open Space & Solar Access, and 6.9 Carparking, to allow the authority to provide consent to this development application.

The subject site is identified on Manly Local Environmental Plan 2013 Heritage Map HER_003 as being a Heritage Item General and listed as item I-65 under Manly LEP 2013 Schedule 5 Environmental Heritage Local. Schedule 5 describes the item as *2 commercial buildings, including the Rose Building*. Its significance is stated as “*An unusually intact representative example of Inter War Spanish Mission style commercial development.*”

As per the Heritage Compliance Statement included as part 6.3 of this SEE, the objectives of LEP Heritage Conservation clause 5.10 are to conserve the environmental heritage of Manly and the significance of any heritage items. With the proposed considered design & careful selection of new building elements as demonstrated within this development application & with good building practices undertaken by a reputable & licensed builder, the objectives of LEP Heritage Conservation Clause 5.10 to conserve the Heritage significance of the “Rose Building” can be met. The existing heritage facade visible from the streetscape generally remains intact and only minor works are proposed.

As included in SEE Part 6.4 Acid Sulphate Soils Compliance Statement, the minor excavations and new footings proposed for this development application will comply with the LEP objectives for the protection of Acid Sulphate soils arising as a result of the proposed development.

A basix certificate has been obtained for the works to Units 2 & 4 with sustainable building commitments for building fabric, water conservation & energy use.

The proposed new works that are the subject of this DA Development Application have minimal environmental impacts to any adjacent neighbouring properties and are generally minor in nature and the proposed developments are “substantially the same” development.

Justifications for providing approval for the proposed development have been documented and the consent authority can & should grant development consent & approval for the proposed alterations & additions to the existing mixed use heritage listed *Rose Building* at 152-154 Sydney Road Fairlight.

END

9. Appendix

Manly DCP Schedule 5 – Accessibility Checklist

Schedule 5 - Part A - Checklist for all development

Note: This checklist is intended to highlight key access requirements when preparing a DA Submission. It is a summary and does not include every specification of the Disability (Access to Premises - Buildings) 2009 or the BCA 2009.

Access Feature	Complies	
Accessible Path of Travel (AS1428.1 Cl.5.1.2)		
1. The continuous accessible path of travel provides dignified and equitable access from the allotment boundary and accessible car space to the main pedestrian entrance.	Yes	No
2. The most commonly used and direct entrance to the building does not have any steps or trip hazards.	Yes	No
Walkways and Landings (AS1428.1 Cl.5.2 & 5.3)		
Ramps and Landings		
1. Walkways and Ramps are appropriate width.	Yes	No
2. Walkways and Ramps have appropriate gradients and length between landings.	Yes	No
3. Sufficient passing and turning spaces are provided.	Yes	No
4. Pathways are constructed to be non-slip and as smooth as possible.	Yes	No
Doorways and Entrance Lobbies (AS1428.1 Cl. 7)		
1. Located on an accessible path of travel with sufficient clear opening width.	Yes	No
2. No step at door threshold.	Yes	No
3. Level circulation space on either side of the door.	Yes	No
Sanitary Facilities (AS1428.1 Cl. 10)		
1. Sanitary facility is unisex with separate entrance to male and female toilets.	Yes	No
2. The dimensions of the unisex toilet facility to be sufficient for a wheelchair user.	Yes	No
3. For inward opening doors, be capable of being opened outwards in case of an emergency.	Yes	No
4. Accessible toilet facility to be provided in accordance Part F2.4 BCA.	Yes	No
Car Parking Facilities (AS2890.1)		
1. Accessible car spaces to be located as close as possible to main entrance and linked by an accessible path of travel.	Yes	No
2. Designed in accordance with minimum dimensions required.	Yes	No
3. Access car spaces to be provided in accordance with Table D3.5 of the BCA.	Yes	No
Lifts (AS1735.12)		
1. Accessible Lifts to be provided as an accessible path of travel for buildings over 3 storeys.	Yes	No
Stairways (AS1428.1 Cl.9)		
1. Handrails on both sides and continuous around landings.	Yes	No
2. Install warning contrast strips on edge of stair nosing.	Can Comply	No
3. Tactile indicators on the top and bottom of the stairs.	Can Comply	No

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