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STATEMENT OF ENVIRONMENTAL EFFECTS

Demolition works and construction of a shop top housing development

396 – 402 SYDNEY ROAD BALGOWLAH

Statement of Environmental Effects

Demolition works and construction of a shop top housing development

396 – 402 Sydney Road, Balgowlah

Prepared on behalf of

398 Balgowlah Pty Limited

By

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ANNEXURES

1.0 INTRODUCTION

This document has been prepared as a component of a development application proposing the demolition of existing site structures and the construction of a multi storey shop top housing development incorporating 6 x ground floor retail/ business tenancies, integrated basement car parking for 36 vehicles and 16 x residential apartments over on the subject allotment. The application also proposes the implementation of an enhanced site landscape regime.

The project architect has responded to the client brief to design a contextually responsive building of exceptional quality which takes advantage of the sites superior locational attributes whilst providing high levels of amenity for future occupants. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of this infill site having regard to the height, proximity, shadowing impact and orientation of adjoining residential and commercial development including that recently approved on the adjoining property No. 404 Sydney Road (DA2018/0890).

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 Balgowlah Local Centre, but also the minutes arising from formal pre-DA discussion with Council on 24th October 2017. Importantly, the proposal maintains appropriate residential amenity to the immediately adjoining residential properties to the south and having frontage to Woodland Street.

This submission will demonstrate that such outcomes have been achieved whilst providing for a highly articulated, modulated and visually stimulating building form which will provide 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 as amended;
- Manly Local Environmental Plan 2013;
- Manly Development Control Plan 2013;
- State Environmental Planning Policy No. 55 – Contaminated Lands;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy (Infrastructure) 2007; and

- The Apartment Design Guide.

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, SEPP 65 Design Verification Statement, Traffic and Parking Assessment, Accessibility Report, landscape plan, Geotechnical Assessment, concept drainage plans, BCA Report and Fire Safety Schedule, shadow/ solar gain diagrams, a schedule of finishes, cost summary, Acoustic Report, Waste Management Plan, BASIX Certificate, montages and perspectives.

The proposal is permissible and in conformity with the intent of the development standards contained within Manly Local Environmental Plan 2013 as they reasonably relate to this form of development on this particular site and the built form guidelines contained within Manly Development Control Plan 2013 as they relate to mixed use development within an emerging urban townscape. The proposal satisfies the design quality principles contained within Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the objectives and controls contained within the Apartment Design Guide (ADG).

Whilst the proposal requires the consent authority to give favourable consideration to a variation to the building height standard strict compliance has been found to be unreasonable and unnecessary having regard to the developments performance when assessed against the objectives of the standard and the particular environmental planning circumstances including the attainment of an appropriate contextual fit and general paucity of streetscape and residential amenity impacts. Sufficient environmental planning grounds exist to justify the variation sought with the clause 4.6 variation request well founded.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Environmental Planning and Assessment Act, 1979 (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 properties are legally described as Lots A and B, DP 85983, No's 396 – 402 Sydney Road, Balgowlah. The properties are located on the northern side of the street and at the western edge of the Balgowlah Town Centre.

The consolidated development site is generally rectangular in shape having frontage and address to Sydney Road of 19.365 metres, depth of 42.67 metres and an area of 813.8 square metres. The allotment falls approximately 1.8 metres across its surface in a northernly direction as depicted on the survey at Figure 1.

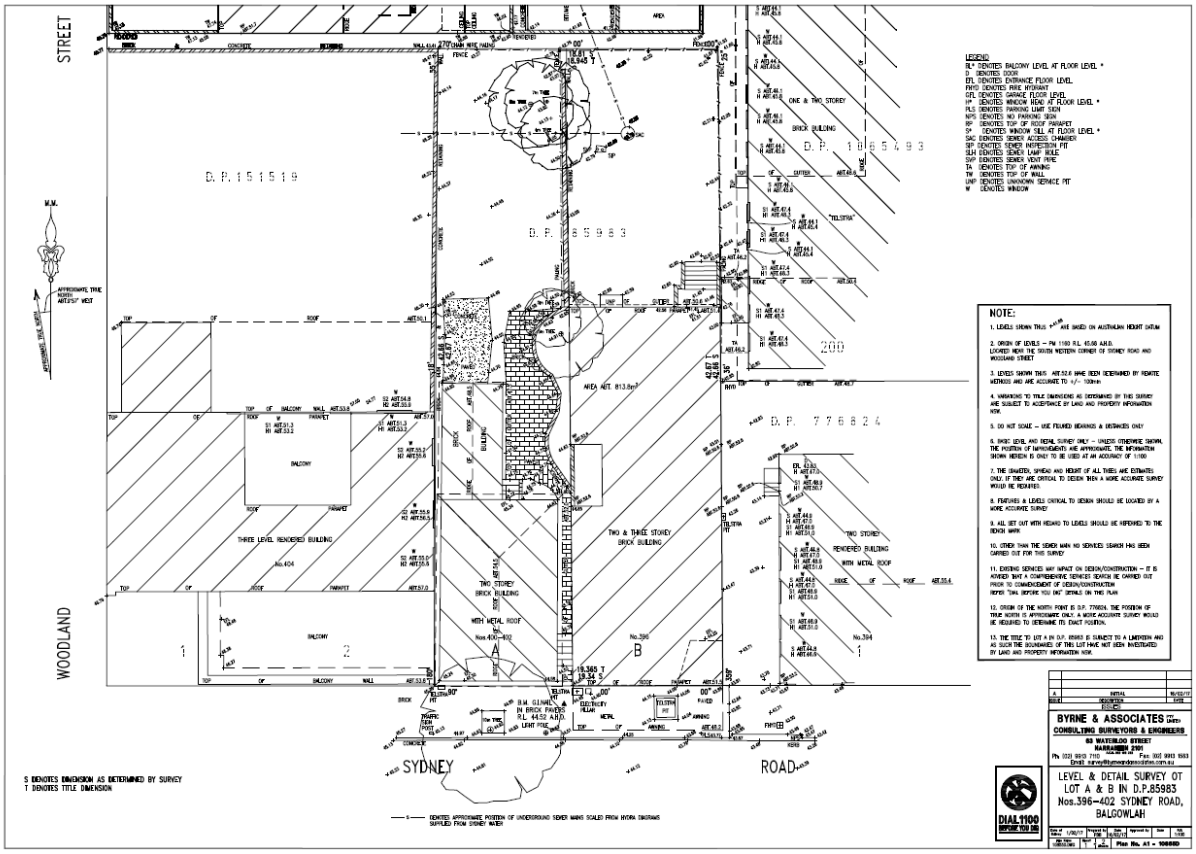
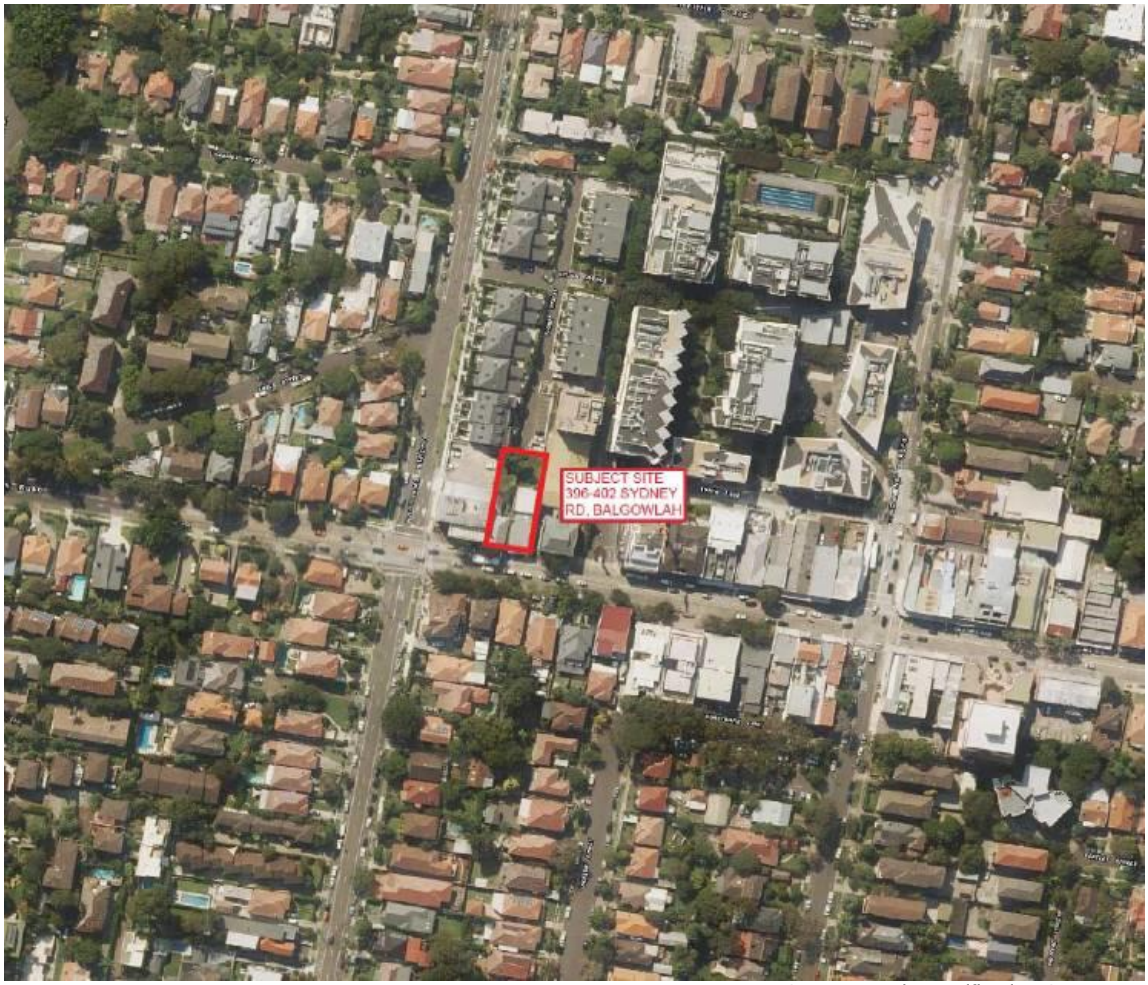


Figure 1 – Site Survey

Existing development on the site comprises 2 and 3 storey commercial buildings located adjacent to Sydney Road and informally landscaped rear yards. The properties have no off-street car parking and no vehicle access from Sydney Road. An aerial location/ context photograph is at Figure 2 over page.



Source: Design verification Statement

Figure 2 - Aerial photograph of site location and context

The properties to the east of the subject site are occupied by 2 storey commercial buildings and 4 and 5 storey mixed use buildings accessed from a shared access road from the rear. Stockland Balgowlah Shopping Centre is to the north-east of the site. The property to the west, No. 404 Sydney Road, is located on the corner of Sydney Road and Woodland Street North and is occupied by a 2 storey commercial building with at-grade parking accessed from the secondary street frontage. At the time of finalisation of this report development application DA2018/0890 had been approved for the demolition of the existing site structures and the construction of a 5 storey shop top housing development on this adjoining property. The western adjoining property is depicted in Figure 5.

Source: Google Maps

Figure 3 – Subject properties as viewed from Sydney Road

Source: Google Maps

Figure 4 – View looking north east down Sydney Road towards the vehicular entrance to Stockland Balgowlah Shopping Centre.

Figure 5 – Approved and constructed 5 storey shop top housing development No. 374 Sydney Road, Balgowlah

Source: Google Maps

Figure 5 – View looking towards the western adjoining property

Source: Google Maps

Figure 6 – View looking west past subject site

The property to the north is occupied by a townhouse development with private internalised driveway accessed from Woodland Street North. Development located on the southern side of Sydney Road, directly opposite the subject site is characterised by low density detached and semi-detached style housing.

The subject site is located within walking distance of a range of services and facilities and a regular bus service. Such attributes, including its location within the Balgowlah Local Centre, makes the site ideally suited to increased residential density.

Source: Google Maps

Figure 7 – View looking east towards northern townhouse development

3.0 PROPOSED DEVELOPMENT

This document has been prepared as a component of a development application that proposes the demolition of existing site structures and the construction of a multi storey shop top housing development incorporating 6 x ground floor retail/ business tenancies, integrated basement car parking for 36 vehicles and 16 x residential apartments over on the subject allotment. We confirm that 4 apartments are adaptable.

The scope of the works is depicted on the following architectural plans prepared by PBD Architects:

DA 000	COVER PAGE
DA 001	PROJECT SUMMARY
DA 002	DEMOLITION PLAN/EXCAVATION PLAN
DA 003	SITE PLAN/SITE ANALYSIS
DA 100	BASEMENT 2 PLAN
DA 101	BASEMENT 1 PLAN
DA 102	GROUND FLOOR PLAN
DA 103	LEVEL 1 PLAN
DA 104	LEVEL 2 PLAN
DA 105	LEVEL 3 PLAN
DA 106	LEVEL 4 PLAN
DA 107	ROOF PLAN
DA 200	SOUTH & NORTH ELEVATION
DA 201	EAST & WEST ELEVATION
DA 300	SECTION A & B
DA 301	SECTION C
DA 302	SECTION D, E, F & G
DA 400	MATERIAL SCHEDULE
DA 410	PERSPECTIVES
DA 420	PHOTOMONTAGE 1
DA 421	PHOTOMONTAGE 2
DA 500	GFA DIAGRAMS
DA 510	APARTMENT MIX
DA 520	PRIVATE & COMMUNAL OPEN SPACE
DA 530	STORAGE DIAGRAM
DA 540	CROSS VENTILATION
DA 550	SOLAR STUDY 1
DA 551	SOLAR STUDY 2
DA 560	SHADOW DIAGRAMS
DA 570	VISUAL PRIVACY ANALYSIS 1
DA 571	VISUAL PRIVACY ANALYSIS 2
DA 572	VISUAL PRIVACY ANALYSIS 3
DA 573	VISUAL PRIVACY ANALYSIS 4
DA 574	VISUAL PRIVACY ANALYSIS 5
DA 580	ADAPTABLE UNITS

The development provides for the following apartment mix:

Apartment Mix	No.
1 Bed	4 (25%)
2 Bed	11 (69%)
3 Bed	1 (6%)
Total	**16**

This application is accompanied by a Design Verification Statement prepared by the project Architect which contains the following design summary:

> *The contemporary architectural style coupled with the orientation and configuration of the*
> *site enables a highly articulated aesthetic broken down in the following elements:*
>
> - *The elevations are varied in expression and designed primarily to respond to sun, setbacks and street activation. The building has a modern and clean aesthetic, mixture of hard and soft surfaces, light and dark colours.*
>
> - *The proposal adopts a set of elegantly curved solid balcony walls along Sydney Road, framed within a 2-storey box in off-form concrete, with bi-folding screens and glass balustrade. It is adjacent to a 2-storey more solid and simple off-form concrete form which provides an acoustic barrier for bedrooms, with a slight curve leading to the entries. The various scaled architectural features allow it to break down the façade into proportions similar to the adjacent buildings and creates an articulated and interesting outlook along the streetscape.*
>
> - *Considering the materiality of the existing neighbourhood and new developments, the proposal features a modern palette of quality materials such as off-form concrete, timber-look screens and metal cladding. Vibrant colours are also proposed for a few balcony walls to make a design statement to the streetscape, as a modern apartment building.*
>
> *All materials selected will be durable and hard wearing so the development does not prematurely age. This will enhance the long-term image of the building with its careful composition of building elements, textures, materials, colours, internal design and structure contributing positively to the desired character of the vicinity.*

Specifically, the application provides for the following built form outcome:

Basement Levels

The basement is accessed via a driveway from Sydney Road and contains parking over 2 levels for 36 vehicles comprising 24 resident, 3 visitor and 9 commercial spaces. These levels also contain storage areas for each apartment with lift and stair access to the levels above.

Ground Floor Level

This floor plate contains 6 retail/ business tenancies with a shared lobby having a total GFA of 406 square metres or 25% of total GFA. The lobby provides access to a rear communal commercial terrace with unisex bathroom facilities and a waste storage room accessed from the property frontage. A separate residential lobby accommodates a lift providing access to the residential floor plates above.

Level 1

This floor plate contains 4 x 2 and 1 x 1 bedroom apartments accessed from the central lift/ stair core and designed around internalised courtyard areas. All apartments have direct access from the living areas to either north or street facing balconies with communal open space areas orientated to the courtyards and accessed from the circulation corridor. Apartment 104 is adaptable.

Level 2

This floor plate contains 4 x 2 and 1 x 1 bedroom apartments accessed from the central lift/ stair core and designed around internalised courtyard areas. All apartments have direct access from the living areas to either north or street facing balconies. Apartment 204 is adaptable.

Levels 3

This floor plate contains 3 x 2 and 2 x 1 bedroom apartments accessed from the central lift/ stair core and designed around internalised courtyard areas. All apartments have direct access from the living areas to either north or street facing balconies. Apartments 301 and 304 are adaptable.

Level 4

This floor plate contains 1 x 3 bedroom apartments accessed from the central lift/ stair core with direct access from the living area to a north facing balcony and from the entrance lobby to a private south facing terrace.

The site is to be landscaped in accordance with the landscape plan prepared by Conzept Landscape Architecture which incorporates ground level plantings at the front and rear of the site, internal courtyard plantings and landscaping along balcony edges at each level of the development.

The acceptability of the access, parking and servicing circumstances are detailed in the accompanying Traffic and Parking Impact Assessment prepared by Varga Traffic Planning Pty Limited with all stormwater collected and disposed of to the existing Council drainage infrastructure via the required OSD tanks, as depicted in the drainage plan prepared by ITM Design Pty Limited.

The acceptability of the excavation proposed is addressed in detail in the accompanying Geotechnical Assessment report prepared by Douglas Partners with the proposal's compliance with the statutory accessibility provisions detailed in the report prepared by Accessible Building Solutions.

The application is accompanied by montages, perspective images and a schedule of finishes which collectively depict the architectural facade design and treatments incorporated to ensure an appropriate building presentation in the round.

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/ business premises with all residential apartments located within a single building form and above basement car parking incorporating both retail and commercial car parking spaces. 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 ground floor retail/ business uses 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 broader urban design 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 12.5 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 building height of 17.5 metres measure to the north eastern section of roof parapet above Unit 401 and the lift overrun beyond. This represents a variation of 5 metres or 40%. The variable extent of non-compliance is diagrammatically depicted in Figure 7 below with the recently approved shop top housing development at No. 404 Sydney Road shaded for comparative purposes. The building height proposed provides an appropriate stepped transition in the bulk and scale in response to existing topography and the recently approved development at No. 404 Sydney Road.

NORTH ELEVATION

SOUTH ELEVATION

Figure 7 – Height compliance diagrams

Clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied with such statutory provisions addressed in detail the formal variation request at ANNEXURE 1.

Such variation request demonstrates that strict compliance is both unreasonable and unnecessary given the developments ability to satisfy the objectives of the height of buildings standard and the complimentary and compatible streetscape/ urban design and built form outcome achieved. The development is of exceptional design quality with the height, scale and massing of the proposed development entirely consistent with that of the approved and constructed shop top housing development at No. 374 Sydney Road to the east of the site and that recently approved at No. 404 Sydney Road immediately to the west of the site.

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 height of the proposed development offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of existing and approved development within the sites visual catchment. The upper level is highly recessive and set well back from the street, rear and eastern boundaries such that it will not be readily discernible in a streetscape context or as viewed from adjoining properties. Accordingly it can be reasonably concluded that the proposal is compatible with its surroundings and able to co-exist in harmony with surrounding development.

Further, it is considered that there are sufficient environmental planning grounds to justify the variation sought namely the contextually appropriate building height proposed which is consistent with the existing and desired future streetscape as demonstrated through Council's approval of the 5 storey shop top housing development at No's 374 and 404 Sydney Road as previously identified. The exceptional design quality of the development and absence of unreasonable or unacceptable streetscape and residential amenity impacts also gives weight to the acceptability of the variation sought.

We have formed the considered opinion that a better environmental planning/ built form/ urban design outcome is achieved through approval of the variation proposed with the enforcement of strict compliance resulting in a development unable to achieve anywhere near the anticipated FSR of 2:1 on a site located in an established centre and ideally suited to increased residential densities. 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. We rely on the clause 4.6 variation request at ANNEXURE 1.

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.

4.1.3 Floor Space Ratio

Pursuant to Clause 4.4 MLEP 2013 the maximum FSR for development on the site is 2:1 representing a gross floor area of 1626 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 has a gross floor area of 1625 square metres representing a floor space ratio of 1.998:1 and therefore compliant with the FSR standard. Pursuant to clause 4.15(2) of the Act:

> *If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:*
>
> *(a) is not entitled to take those standards into further consideration in determining the development application, and*
> *(b) must not refuse the application on the ground that the development does not comply with those standards, and*
> *(c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,*
>
> *and the discretion of the consent authority under this section and section 4.16 is limited accordingly.*

Accordingly, as the numerical standard is satisfied the proposal is deemed to comply with the associated objectives.

4.1.4 Acid Sulphate Soils

Pursuant to clause 6.1 MLEP 2013 the site is mapped as part Class 5 on the Acid Sulfate soils map.

No further investigation is required given that there are no proposed works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

The clause 6.1 MLEP 2013 provisions are satisfied.

4.1.5 Active Street Frontages

Pursuant to clause 6.11 MLEP 2013, development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use. We confirm that the development incorporates an appropriately activated street frontage in strict accordance with these provisions with a generously proportioned commercial breezeway/ lobby enticing passing pedestrian traffic into the ground floor retail/ business tenancies beyond the front façade alignment.

These provisions and associated objective are satisfied.

4.1.6 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.

4.1.7 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 406m² representing 25% of the total gross floor area of the building in strict accordance with the control. This calculation is depicted on plan DA500(A).

4.2 Manly Development Control Plan 2013

Note: Only provisions of Manly DCP which do not derogate from SEPP 65 and the ADG have been addressed. For SEPP 65 / ADG compliance refer to ANNEXURES 3 and 4.

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 development has regard to the scale, proportion and line of visible parapets and facades with the highly articulated building form stepping away from the street, rear boundary and eastern boundaries at the upper level in a highly articulated and modulated building form and providing appropriate facade treatment and visual interest to visible building facades.

- The floor levels proposed a consistent with those established by adjoining properties providing an appropriate built form relationship.

- The materials, textures and colours proposed will ensure a contextually appropriate presentation having regard to the sites immediate built form context.

- The scale and footprint of the development are entirely consistent with that established by adjoining development and mixed use development generally within the B2 Local Centre zone.

- 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 ground floor level of the premises is at footpath level.

- The retail frontage/ breezeway/ lobby of the development occupies approximately 50% of the frontage of the site and provides for an appropriate streetscape presentation and 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

In accordance with the provisions of clause 3.3 of Manly DCP the site is to be landscaped in accordance with the landscape plan prepared by Conzept Landscape Architecture which incorporates ground level plantings at the front and rear of the site, internal courtyard plantings and landscaping along balcony edges at each level of the development.

The landscaping proposed will provide a vegetative buffer to the adjoining residential zoned land to the north of the site with the development softened through the provision of balcony edge plantings.

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 (including that proposed at No. 404 Sydney Road) 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 the front and rear of the site 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. In this regard appropriate privacy and security will be maintained between adjoining development as depicted on plans DA570(A) – DA574(A).

Careful consideration has also 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.

Accordingly, we have formed the considered opinion that a view sharing scenario is maintained in accordance with the principles established by the Land and Environment Court in the matter of Tenacity Consulting v Warringah [2004] NSWLEC 140.

In relation to solar access, the accompanying shadow diagrams on plan DA560(A) prepared by the project Architect demonstrate that due to the orientation of the site and position to the south of the adjoining town house development that there will be no additional shadowing impact on these northern adjoining properties at any time between 9am and 3pm on 21st June.

Further, the solar gain diagrams on plans DA550(A) and DA551(A) demonstrate that at least 70% of apartments within the proposed shop top housing development at No. 404 Sydney Road will receive a minimum of 2 hours of solar access between 9am and 3pm on 21st June in strict accordance with the ADG requirement.

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. Please refer the accompany SEPP 65 Design Verification Statement prepared by the project Architect at ANNEXURE 3.

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

Having regard to those provisions of the application is accompanied by an accessibility assessment report prepared by Accessible Building Solutions. The report confirms that Apartments 104, 204, 301 and 304 have been designed as adaptable units and that the development as whole can achieve compliance with the access provisions of the BCA, SEPP 65 and the essential requirements of AS4299 – Adaptable Housing.

4.2.1.6 Stormwater Management

All stormwater collected and disposed of to the existing Council drainage infrastructure via the required OSD tanks, as depicted in the drainage plan prepared by ITM Design Pty Limited.

4.2.1.7 Waste Management

The application is accompanied by a Waste Management Plans prepared by the project Architect and Elephants Foot Recycling Solutions.

In this regard, waste storage areas have been provided on the ground floor of the development with the integrated garbage storage facilities conveniently accessed from the individual apartments and retail tenancies. Garbage bins are able to be conveniently wheeled to the street frontage when required to await collection or alternatively be collected by Council staff from the waste storage area.

4.2.1.8 Mechanical Plant Equipment

In accordance with these provisions all mechanical plant will comply with the applicable environmental noise legislation as detailed in the accompanying Acoustic Assessment prepared by Renzo Tonin & Associates. No objection is 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 are 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.*

We confirm that the front, side and rear boundary setbacks have been designed through detailed site and contextual analysis and having regard to the spatial separation provisions of the Apartment Design Guide ("ADG").

Spatial separation considerations are detail on plans DA570(A) to DA574(A) and as identified within the accompanying ADG compliance table at ANNEXURE 3. It is important to note that all apartments and associated private open space areas have been orientated to the front or rear of the site to prevent direct overlooking opportunities between adjoining development. All elevations are highly articulated and modulated with the architectural detailing and finishes proposed contributing to a visually stimulating, unique yet compatible urban design outcome. The development has been constructed to the street alignment to maintain the rhythm of development in the streetscape with the upper levels setback from the levels below to maintain a complimentary and compatible 3 storey podium/ wall height to the street with recessive levels above.

The consent authority can be satisfied that the setbacks proposed 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

The design, layout and quantum of parking proposed has been assessed in the traffic and parking report prepared by Varga Traffic Planning Pty Limited. The report contains the following conclusion:

> *In summary, the proposed parking facilities satisfy the relevant requirements specified in Council's DCP as well as the Australian Standards and it is therefore concluded that the proposed development will not have any unacceptable parking implications.*

4.2.3 Balgowlah Local Centre

4.2.3.1 Wall Height on the Street Frontage

Within the LEP building height development standard, this DCP limits the wall height at the street frontage to 10.5m which is determined to be the established maximum height of street facades for the Local Centre particularly along Sydney Road and is significant in preserving local characteristics of the townscape.

The proposed building has a maximum wall height of about 10 metres to Sydney Road with levels 3 and 4 recessed back beyond this front alignment. This podium wall height is consistent with those proposed/ constructed at No's 374 and 404 Sydney Road as depicted in Figure 8 with the upper levels clearly recessive in a streetscape context. The facade is appropriately articulated and broken by balconies and other architectural design features.

4.2.3.4 Design Excellence in the Design of Street Facades and Onsite Parking

In the provision and design of onsite parking the development is to exhibit design excellence which protects and enhances the streetscape and quality of the public realm under LEP clause 6.13(c) by ensuring that:

i) vehicular access does not interfere with the continuity of retail frontage or interrupts the frontage of the property in other ways that would conflict with any other provisions of this DCP, in particular the townscape objectives and established street facades.

ii) the movement of vehicles to and from the site will not conflict with pedestrian movements, special servicing arrangements for pedestrianised areas or contribute to congestion at key intersections.

As detailed at section 4.1.5 of this report the development incorporates an appropriately activated street frontage noting that there is no alternate vehicular access location other than from Sydney Road. The commercial façade and generously proportioned commercial breezeway/ lobby will entice passing pedestrian traffic into the ground floor retail/ business tenancies beyond the front façade alignment.

4.2.4 Balgowlah Shopping Centre Urban Design Plan 1999

The Balgowlah Shopping Centre Urban Design Controls (UDC) 1999 came into force in 1999 and were updated in 2003. It would appear that the main purpose of these controls was to set the development climate for the redevelopment of the Totem Shopping Centre with a new shopping centre and apartment buildings (redeveloped by Stockland).

That said, having reviewed the controls and associated objectives we have formed the considered opinion that the proposal is consistent with such provisions having regard to the detail of the application as previously outlined.

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 is for the erection of a 5-storey building, as defined, containing 16 apartments and 5 retail/ business 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 Design Verification Statement at ANNEXURE 2.

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 3.

Accordingly, it can be demonstrated the development is of appropriate design quality and satisfies the controls and objectives of the architectural and design quality provisions of the DCP and the SEPP 65 Design Principles.

We also confirm that the development complies with the clause 30(a), (b) and (c) standards pertaining to car parking, internal area and ceiling heights and to that extent these matters cannot be used as grounds for refusal.

4.5 State Environmental Planning Policy (Infrastructure) 2007

Clause 102 of the policy applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers it likely to be adversely affected by road noise or vibration:

(a) a building for residential use,
(b) place of public worship,
(c) a hospital,
(d) an educational establishment or child care centre.

If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

(a) in any bedroom in the building — 35 dBA at any time between 10 pm and 7 am,
(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) — 40 dBA at any time.

Compliance with these requirements is detailed acoustic report prepared by Renzo Tonin and Associates with no objection raised to a condition requiring compliance with the recommendations contained therein.

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.

This report clearly and comprehensively addresses all relevant planning provisions of MLEP 2013 and the relevant provisions of the subordinate DCP. The development has also been found to be consistent with the design quality principles of SEPP 65 and the design guidelines of the Apartment Design Guide.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic 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 relationship of the development with its context and setting has been addressed in detail under 'State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development' in this report. In summary the proposed development is of a high architectural quality and will significantly improve the streetscape.

The development provides an appropriate response to the form and character of the Balgowlah Local Centre whilst ensuring that the development does not result in any significant impacts on the adjoining residential development in terms of loss of solar access, acoustic or visual privacy impacts.

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 medium density and mixed use urban environment.

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?***

The building is conveniently located within the Balgowlah Local Centre and within immediate proximity of regular bus services. The immediate proximity to public transport will assist in minimising traffic generation and dependency on motor vehicles.

The development provides appropriately for car parking as detailed within section 4.2.4 of this report.

Public domain

The development will contribute positively to the public domain. The maintenance of a retail use with frontage to Sydney Road will maintain the existing activated public domain interface on the site.

Utilities

Existing utility services will adequately service the development.

Flora and fauna

The site does not contain any significant flora or fauna. The site is to be landscaped in accordance with the landscape plan prepared by Conzept Landscape Architecture which incorporates ground level plantings at the front and rear of the site, internal courtyard plantings and landscaping along balcony edges at each level of the development.

Waste

The application is accompanied by a Waste Management Plans prepared by the project Architect and Elephants Foot Recycling Solutions.

In this regard, waste storage areas have been provided on the ground floor of the development with the integrated garbage storage facilities conveniently accessed from the individual apartments and retail tenancies. Garbage bins are able to be conveniently wheeled to the street frontage when required to await collection or alternatively be collected by Council staff from the waste storage area.

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 business that occupies the non-residential tenancies and through the employment of building and strata managers for the building.

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 as detailed in the accompanying report prepared by Building Control Group. 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 significantly improves the public domain interface of the site providing for active ground level uses. These outcomes are achieved without unacceptable impacts on the amenity of surrounding development. 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 Manly Local Environmental Plan 2013 as they reasonably relate to this form of development on this particular site and the built form guidelines contained within Manly Development Control Plan 2013 as they relate to mixed use development within an emerging urban townscape. The proposal satisfies the design quality principles contained within SEPP 65 and the objectives and controls contained within the Apartment Design Guide.

The project architect has responded to the client brief to design a contextually responsive building of exceptional quality which takes advantage of the sites superior locational attributes whilst providing high levels of amenity for future occupants. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of this relatively small infill site having regard to the height, proximity, shadowing impact and orientation of adjoining residential and commercial development.

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 Balgowlah Local Centre, but importantly to ensure that appropriate residential amenity is maintained to the immediately adjoining residential properties. This submission will demonstrate that such outcomes have been achieved whilst providing for a highly articulated, modulated and visually stimulating building form which will provide 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 a variation to the building height standard strict compliance has been found to be unreasonable and unnecessary having regard to the developments performance when assessed against the objectives of the standard and the particular environmental planning circumstances including the attainment of an appropriate contextual fit and general paucity of streetscape and residential amenity impacts. Sufficient environmental planning grounds exist to justify the variation sought with the clause 4.6 variation request well founded.

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 proposed development offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the sites visual catchment.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) 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

10th October 2018

The General Manager
Northern Beaches Council
PO Box 82
Manly NSW 1655

Dear Sir,

Clause 4.6 variation request – Height of buildings
Proposed Shop top housing development
396 – 402 Sydney Road, Balgowlah

Pursuant to Clause 4.3 of Manly Local Environmental Plan 2013 the height of a building on the subject land is not to exceed 12.5 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 building height of 17.5 metres measure to the north eastern section of roof parapet above Unit 401 and the lift overrun beyond. This represents a variation of 5 metres or 40%. The variable extent of non-compliance is diagrammatically depicted in Figure 1 below with the recently approved shop top housing development at No. 404 Sydney Road shaded for comparative analysis.

NORTH ELEVATION

SOUTH ELEVATION

Figure 1 – Height compliance diagrams

Clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied with such statutory provisions addressed in detail at ANNEXURE 1.

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

Zone and 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 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/ business premises with all residential apartments located within a single building form and above basement car parking incorporating both retail and commercial car parking spaces. 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 ground floor retail/ business uses 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 broader urban design impacts.

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

Height of Buildings Standard and Objectives

The standard, objectives and proposed building height variation have been previously identified. Having regard to the stated objectives it is considered that strict compliance is both unreasonable and unnecessary for the following reasons:

- Detailed site analysis identified a number of site specific constraints and opportunities the majority of which relate to the height, proximity and orientation of adjoining development and the height of proposed/ established by development along this section of Sydney Road. Through such analysis appropriate setbacks, building envelopes and transitional building heights were identified providing for the highly articulated and modulated building form currently proposed.

In this regard, we have formed the considered opinion that the proposed building heights and roof forms are consistent with the topographic landscape, prevailing building height and desired future streetscape character of this section of Sydney Road as demonstrated by the recent approval of development application DA2018/0890 proposing the construction of a 5 storey shop top housing development immediately to the west of the site at No. 404 Sydney Road and the 5 storey shop top housing development at No. 374 Sydney Road. The fall of the land towards the rear of the site also contributes to the extent of building height breach.

- The proposed development is fully compliant with the 2:1 floor space ratio development standard with the additional building height reflecting the contextually responsive and appropriate distribution of floor space across this particular site.

- The height, bulk and scale of the building are entirely consistent with the built form characteristics proposed by adjoining development and more recently constructed development along this section of Sydney Road as depicted in Figure 2 and 3.

Figure 2 – Perspective showing proposed development in context of approved/ constructed development at No's 374 and 404 Sydney Road

Figure 3 – Perspective showing subject development in context of the recently approved development at No. 404 Sydney Road

- Careful consideration has also been given to the impact of non-compliant potion of the development on existing public and private 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 public or private view impacts

  Accordingly, we have formed the considered opinion that a view sharing scenario is maintained in accordance with the principles established by the Land and Environment Court in the matter of Tenacity Consulting v Warringah [2004] NSWLEC 140.

- In relation to solar access, the accompanying shadow diagrams on plan DA560(A) prepared by the project Architect demonstrate that due to the orientation of the site and position to the south of the adjoining town house development that there will be no additional shadowing impact on these northern adjoining properties at any time between 9am and 3pm on 21st June.

  Further, the solar gain diagrams on plans DA550(A) and DA551(A) demonstrate that at least 70% of apartments within the recently approved shop top housing development at No. 404 Sydney Road will receive a minimum of 2 hours of solar access between 9am and 3pm on 21st June in strict accordance with the ADG requirement.

The building height variation will not give rise to unacceptable shadowing impact on the public domain.

- 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 height of the proposed development offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of existing and approved development within the sites visual catchment. A compliant 3 storey podium height is maintained to the street with the upper level highly recessive and set well back from the street, rear and eastern boundaries such that it will not be readily discernible in a streetscape context or as viewed from adjoining properties.

  Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings and able to co-exist in harmony with surrounding development.

- 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, we have formed the considered opinion that there are sufficient environmental planning grounds to justify the variation sought namely the contextually appropriate building height proposed which is consistent with the existing and desired future streetscape as demonstrated through Council's approval of 5 storey shop top housing development at No. 374 Sydney Road to the east of the site and No. 404 Sydney Road immediately to the west of the site. The exceptional design quality of the development and absence of any unreasonable or unacceptable streetscape or residential amenity impacts also gives weight to the acceptability of the variation sought.

We have formed the considered opinion that a better environmental planning/ built form/ urban design outcome is achieved through approval of the variation proposed with enforcement of strict compliance resulting in a development unable to achieve anywhere near the anticipated FSR of 2:1 on a site located in an established centre and ideally suited to increased residential densities. 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.

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.

Boston Blyth Fleming Pty Limited

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

ANNEXURE 2

SEPP 65 Design Verification Statement

SEPP 65 DESIGN VERIFICATION STATEMENT

[REV A]

Prepared to accompany the Development Application submitted for the proposed mixed-use development at:

396-402 Sydney Road, Balgowlah NSW 2093

Prepared on behalf of:

398 Balgowlah Pty Ltd

Date: September 2018

Prepared by:

PBD | ARCHITECTS

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Member Australian Institute of Architects

PBD Architects + Project Managers Pty Ltd

Verification of Qualifications/ Statement of Design

Paul Buljevic is a Registered Architect in New South Wales and a member of the Australian Institute of Architects - Registration number is 7768. He is a qualified Architect with extensive experience in the design of residential housing developments of varying scale.

Paul Buljevic has been responsible for the design of this project since its inception and has worked with a professional consultant team in preparing the revised Development Application.

Statement of Design

PBD Architects has been responsible for the design of the project since its inception and have worked with related professional and experts in respect of the matter. The project has been designed to provide a development that is respectful of local planning and design controls and that responds to the best practice design principles of SEPP No. 65.

PBD Architects verify that the design quality principles set out in Schedule 1, Design quality principles of the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development are achieved for the proposed development described in the following document.

Paul Buljevic
Director
Registered Architect NSW, No. 7768

SEPP65 Design Statement [A] – 396-402 Sydney Rd, Balgowlah | 2

Site Description

The subject site known as 396-402 Sydney Road, Balgowlah is near the corner of Sydney Road and Woodland Street, southwest fringe of the Stockland Balgowlah Shopping Centre area. Towards southwest on Sydney Road it leads to Spit bridge and east direction towards Manly Beach. It is well connected within the local bus network with multiple routes to and from the City, Chatswood, Manly, Collaroy, Milsons Point etc.

The site is of a rectangular-shaped parcel and consisted of 2 lots of land (Lot A & B of DP85983), currently occupied by a two-storey brick building and three-storey brick building of retail and commercial tenancies. The width and length of the site is approximately 29m by 42.6m with a total site area of 813 sqm.

Under Manly Local Environmental Plan 2013, the subject site is identified within the B2 Local Centre zone.

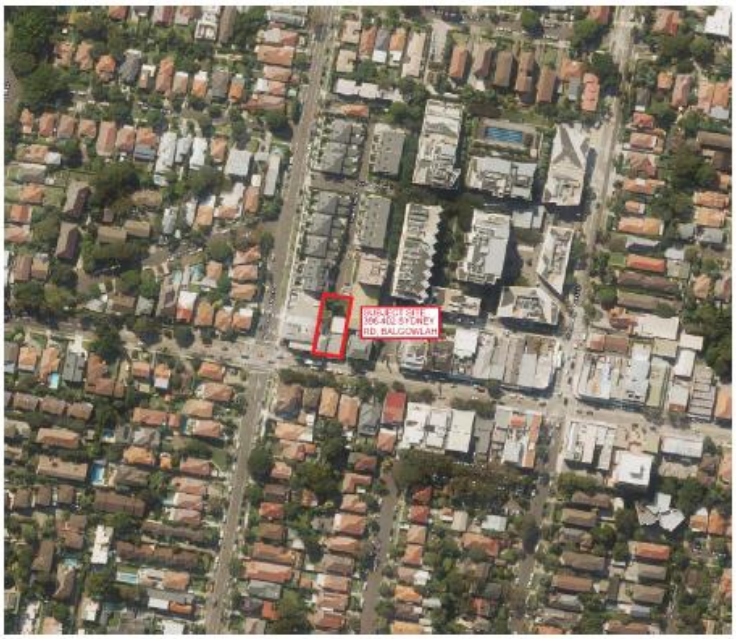

***Image 1** – Aerial view of subject site and existing context*
Source: SIX Maps

Surrounding Context

The surrounding neighbourhood is comprised of predominantly 2-5 storey mixed-use buildings along Sydney Road towards east, multi-storey shopping centre complex along Condamine Street to north and 1-2 storey single dwellings to westerly area of the site. Local retail shops, cafes, restaurants and natural reserves can be found in close proximity. Bus stops are conveniently located along Sydney Road, one is directly located on Sydney Road opposite the subject site.

***Image 2** – Corner of Sydney Road & Woodland Street (view towards east)*

***Image 3** – Subject site at 402 Sydney Road frontage (building to the right).*

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***Image 4** – Subject site at 396 Sydney Rd*

***Image 5** – Street view of 374 Sydney Road, Balgowlah – approved and constructed 5 storey*

PBD Architects + Project Managers Pty Ltd

Image 6 *– Street view of 396-402 Sydney Road, Balgowlah – looking west towards Woodland St*

Image 7 *– Street view of 396-402 Sydney Road, Balgowlah – looking east along Sydney Rd*

SEPP65 Design Statement [A] – 396-402 Sydney Rd, Balgowlah| 6

PBD Architects + Project Managers Pty Ltd

Design Proposal

The Development Proposal incorporates:

- Demolition of existing 2-3 storey brick buildings and associated hardstand areas on site.
- Excavation and construction of a 2-level basement car parking comprising a total of 36 car parking bays catering for both the residents, offices & visitors, with driveway entry via Sydney Street.
- Construction of a 4 storey shop top housing development with ground level offices accessed off Sydney Street.
- Construction of 16 residential apartments comprising of the following mix, inclusive of 4 adaptable apartments.

Apartment Mix	No.
1 Bed	4 (25%)
2 Bed	11 (69%)
3 Bed	1 (6%)
Total	**16**

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Principle 1: Context and Neighbourhood Character

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

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

The site is on Sydney Road near the corner of Woodland Street to the west. The immediate context includes a mixture of low-scaled terrace group dwellings to the north at the rear of the site, mixed-use buildings to the east and west. Along Sydney Road, ground level retail premises begin to appear gradually along the street from the subject site and becomes a highly activated street frontage further towards Condamine street junction, where both sides of Sydney road are zoned as B2 Local Centre. To northeast area of the site locates the Stockland Shopping Centre as a multi-storey mixed-use complex which is highly used as a modern retail-style urban structure. The site is zoned in a B2 local centre area.

With the intention to increase the activation to the fringe of the local centre area, the planning strategy for the proposal adopts a shop-top housing typology to increase the density that boosts the desirable integration into the low-scaled residential neighbourhood.

The proposed development responses to the existing character in the local area with a glazed and highly articulated building frontage design to Sydney Road.

Varying setbacks from 3m, 6m to 9m is established at ground level to delineate and differentiate the different uses along the street interface and invite activation and participation with pedestrians. Zero setback is maintained along the street frontage from level 1 and 2, with increased setback and subtle massaging to the bulk on level 3 so as to play with building presentation across different parts of the development. On the 4th residential level, the proposal is much further setback from the building below to maintain a minimal visual appearance from the street, and does not contribute to the bulk and scale of the development (refer Image 9).

The proposal adopts the lowest point of the site on Sydney Street for vehicular entry and furthest away from the prominent corner to maintain the pedestrian and street linkage.

A mixture of off-form concrete, metal feature cladding and vibrant paint finishes are proposed as a modern design palette, ensuring a sophisticated yet modern integration into the existing context.

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Image 8– *View of proposed development from Sydney Road, towards east (level 4 residential unit is not visible from the street)*

Image 9 – *View of proposed development from Sydney road, towards west (level 4 residential unit maintains minimal visual appearance from the street and does not contribute to the bulk or scale of the development)*

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Principle 2: Built Form and Scale

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

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

With the surrounding buildings varying between larger scaled mixed-use buildings that are 3-5 storeys on Sydney Road side and 1-2 storey low scaled residentials on Woodland Street, the proposal adopts a built form and scale that fits within the surrounding street context.

The proposal is considered a large improvement from the existing monolithic building mass to a highly articulated building that showcases linear balcony bands, framing features to highlight the fluidity of the building.

The proposal incorporates connection internally to breezeways that are open to a large 3-storey lightwell centrally located, to allow for northerly sun, cross ventilation and landscaping for visual amenity to the apartments.

For level 4, the building bulk is positioned with deep setbacks from the main building edges below with no visual appearance from street level perspectives.

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***Image 10** – Proposed development viewed front-on on Sydney Rd, showing predominant building masses separated by deep recessed balcony zone marking the combined office/residential entries at ground level*

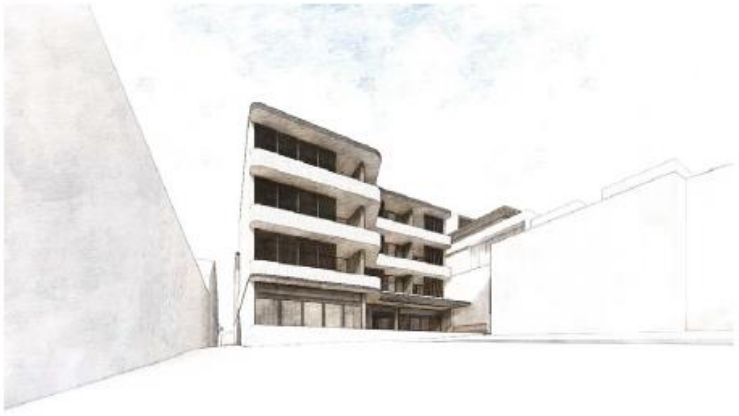

***Image 11** – Proposed development viewed from the private Thomas St laneway, showing linear balcony banding creating fluid and soft edge to the rear of the building*

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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 proposed shop top housing development provides a medium density urban housing that comprises 16 apartments on a site area of 813sqm, with ground level office suites. The office and residential component of the proposal are considered appropriate for the subject site and the immediate locality.

The proposed apartment mix presents a mixture of 4 x one-bedroom apartments, 11 x two-bedroom and 1 x three-bedroom apartments, reflecting the market demand in relation to typologies and living patterns of the local area.

The density of the development is considered sustainable within the existing availability of infrastructure, public transport, community facilities and environmental qualities of the site. As such the proposal provides an appropriate density for a residential development in the immediate context.

Additionally, the basement carpark houses 24 residential car spaces (including 4 accessible car spaces), 3 for residential visitors, and 9 retail car spaces.

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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.

A comprehensive analysis of the building has been undertaken as part of the BASIX Assessment however we note the following general inclusions as part of the proposal:

- A high degree of cross flow ventilation for the apartment units.
- Internal layouts and orientation have been arranged so as to provide good natural daylight and solar access to primary living areas, external private open space and courtyards.
- Typical floor plates from Level 1 to Level 3, minimising structural transfers and false ceilings.
- Central external lightwells to provide opportunities for solar access and cross flow ventilation for south facing apartments. It minimizes the need for mechanical ventilation and lighting, as well as reducing energy demands.
- Appropriate overhang depths, awning and bifold metal screening to facades.
- Fully landscaped lightwell for a sustainable outlook for all building users.
- Water storage and on-site detention tanks are integrated into the ground level above the driveway concealed behind the carpark entry doors.
- Energy efficient appliances and fixtures as part of the internal fit out to minimize water consumption of resources.
- Centralized hot water system

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Principle 5: Landscape

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

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

- All apartments house generous balconies positioned to flow from primary living spaces and take advantage of orientation and outlook.
- Level 1 and 3 north facing apartments benefit from planting along the full width of the balcony and unit to promote good visual amenity and privacy for each apartment
- Landscaping within the external light wells provide visual amenity and privacy between apartments
- With a general focus on low maintenance, the proposal incorporates selective planting of various types and density with an overall desire to soften the harsh edges and outlook on Sydney Road streetscape

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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

The future residents of the development will benefit from a good level of amenity assisted with provision made for the following:

- A good variety of apartment sizes, layouts and general configuration.
- Appropriate connections and subtle separation of spaces within the apartments to capture northern light
- The building layout accommodates ventilation to all bedrooms and habitable spaces, with 81% of apartments (13 units) achieving cross ventilation which exceeds the min requirement of 60%. A range of awning windows, sliding doors to balconies, privacy screen and generous living areas facing lightwells provide the residents a variety of options when it comes to altering their own internal environment.
- Private recreational areas accessed directly from main living spaces for each apartment.
- Adequate day lighting and solar access for all rooms within the apartments.
- Carefully considered privacy measures to any balconies and bedroom windows facing both Sydney road
- Our solar study has indicated that 81% of the apartments (13 units) achieve over min. 2 hours solar access on June 21 to the living areas. For private open space, 75% of the apartments (12 units) achieve the minimum 2 hours requirement of solar access. This is considered an excellent outcome for the residents' amenity despite the low number of units.

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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.

Safety and security will be provided for both future occupants and the public domain through the following design measures:

- Clearly identifiable main building entrances and generous open entry areas allow for adequate surveillance. It is clearly visible from the street with an open security gate installed with surveillance camera and intercom.
- All apartments are above street level with a keyed system incorporating a high level of occupant security
- Residential apartments have been designed in such a way as to have the main living areas and balconies facing the street/ public areas
- Secure basement car parking provided with keyed access. Fire stairs at both of each split level carpark provide paths for all residents from basements to street level and separate stairs within the building core provides escape paths from top to street level. Clear circulation paths in the basement allow safe pedestrian movement, in particular when waiting at the lift and access to individual parking space and storage area.
- Careful screening measures adopted to openings of building
- A clear definition between public and private spaces with clear, safe access points and adequate lighting of entrances and pedestrian areas including a separate accessway for pedestrian and for vehicles with a clear visibility.

Principle 8: Housing Diversity and Social Interaction

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

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

- Offering opportunities for intimate social interactions for the residents and the neighbourhood, the proposed development uses the ground level office spaces to engage with the local communities.
- The proposal will increase the availability of well-designed dwelling configurations to the vicinity without having adverse effects on the character and amenity of the immediate area, with a general healthy unit mix of 25% of one-bedroom apartments, 69% of two-bedroom apartments and 6% of three-bedroom apartment.
- The size, configuration and mix of the apartments associated with the development provides an appropriate response to the market demand of future occupants
- In addition, the development has also provided generous width of lobbies for ease of accessibility. The lobby corridors are well-lit and ventilated naturally.
- The site is located within close proximity to necessary facilities including public transport, shops, supermarkets, educational and services stations as well as schools and healthcare, including the following:
  - Shops, amenities and banks located nearby at the Stockland Balgowlah Shopping Centre
  - Health: Woodland Street allied Health Centre across Sydney road, Balgowlah Village Medical Practice at the nearby Shopping Centre.
  - Restaurants & Cafes in the vicinity along Sydney Road to the east and additionally in the nearby Stockland shopping centre.
  - Local Woolworths redevelopment is currently underway with construction on Alexander Street
  - Recreational: North Harbour Reserve to the southeast including Welllings Reserve and waterfront North Harbour Walk. Manly Golf Club to the north east direction.
  - Education: Balgowlah Heights Public School approximately 1.3km to the south
  - Childcare/Preschool: Balgowlah Preschool within 180m to the west of subject site
  - Transport: bus stop along Sydney Road servicing routes to and from the City, Chatswood, Manly, Wynyard, Warringah and Collaroy Plateau.

Principle 9: Aesthetics

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

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

The contemporary architectural style coupled with the orientation and configuration of the site enables a highly articulated aesthetic broken down in the following elements:

- The elevations are varied in expression and designed primarily to respond to sun, setbacks and street activation. The building has a modern and clean aesthetic, mixture of hard and soft surfaces, light and dark colours.
- The proposal adopts a set of elegantly curved solid balcony walls along Sydney Road, framed within a 2-storey box in off-form concrete, with bi-folding screens and glass balustrade. It is adjacent to a 2-storey more solid and simple off-form concrete form which provides an acoustic barrier for bedrooms, with a slight curve leading to the entries. The various scaled architectural features allow it to break down the facade into proportions similar to the adjacent buildings and creates an articulated and interesting outlook along the streetscape.
- Considering the materiality of the existing neighbourhood and new developments, the proposal features a modern palette of quality materials such as off-form concrete, timber-look screens and metal cladding. Vibrant colours are also proposed for a few balcony walls to make a design statement to the streetscape, as a modern apartment building.

All materials selected will be durable and hard wearing so the development does not prematurely age. This will enhance the long-term image of the building with its careful composition of building elements, textures, materials, colours, internal design and structure contributing positively to the desired character of the vicinity.

Refer Image 10 & 11.

ANNEXURE 3

Apartment Design Guide Compliance Table

Table 1 – APARTMENT DESIGN GUIDE – DESIGN OBJECTIVE AND DESIGN CRITERIA

396-402 SYDNEY ROAD, BALGOWLAH NSW 2217

OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMMENT
Part 3 - Siting the Development			
3A **Site Analysis**	**Objective 3A-1** Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and the relationship to the surrounding context	**Complies**	Proposal considers boundary -to-boundary built form on ground floor similar to neighbouring buildings within the local business zone. Compatible setbacks are adopted to the residential levels with strategic perimeter landscaping. Building frontages are maximized with balconies and glazing for solar and cross-flow amenity.
3B **Orientation**	**Objective 3B-1** Building types and layouts respond to the street and site while optimizing solar access within the development	**Complies**	The orientation of the built-form maximizes solar access and views.
	Objective 3B-2 Overshadowing of neighbouring properties is minimized during mid-winter	**Complies**	Strategic building massing &form and minimizes overshadowing impact on western neighbouring property.
3C **Public Domain Interface**	**Objective 3C-1** Transition between private and public domain is achieved without compromising safety and security	**Complies**	Office usage to street frontage – Sydney Road – with office suites accessed from a central office lobby breezeway running the full length of the site. Apartments are secure from the street and are accessed through the central lobby.
	Objective 3C-2 Amenity of the public domain is retained and enhanced	**Complies**	Landscaping, Office 1 street entry, wide and inviting lobby entries, deep setback for vehicle entry, along Sydney Road at streel level provides for inviting and appealing street interface.

3D **Communal and Public Open Space**	**Objective 3D-1** And adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21st June (mid-winter)	**Satisfactory**	Communal open space is not provided on ground floor level due to the site being within a business zone. Required communal open space at 25% of site area = 203m² Proposed communal open space is provided in two light wells at Level 1 with a total area of 107m²
	Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting		**N/A**	N/A
	Objective 3D-3 Communal open space is designed to maximize safety		**N/A**	N/A
	Objective 3D-4 Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood		**N/A**	N/A
3E **Deep Soil Zone**	**Objective 3E-1** Deep soil zone 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	Deep soil zones are to meet the following minimum requirements: **Site Area** / **Min. Dimensions** / **Deep Soil Zone (% of the site area)** Less than 650m² / - / 7% 650m² - 1500m² / 3m / 7% Greater than 1500m² / 6m / 7% Greater than 1500m² with significant tree cover / 6m / 7%	**Complies**	N/A *Objective 3E-1: Design guidance notes that achieving deep soil zones may not be possible on some sites such as in local centres.* Adequate landscaping is provided in two light wells at Level 1 and balcony planter boxes to all residential apartments.
3F **Visual Privacy**	**Objective 3F-1** Adequate building separation distances are shared equitably between neighbouring sites, to	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	**Complies**	Minimum 6m boundary setback to habitable spaces has been achieved.

	achieve reasonable levels of external and internal visual privacy. *Note: Separation distance's between buildings on the same site should combine required building separations depending on the type of room.*	**Building Height** Up to 12m (4 storeys) Up to 25m (5-8 storeys) Over to 25m (9+ storeys)	**Habitable rooms and balconies** 6m 9m 12m	**Non-habitable rooms** 3m 4.5m 6m		Objectives achieved with reasonable levels of external and internal visual privacy. *Refer drawings DA570-4 for visual privacy analysis.*
	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**	Façade articulations and vertical blades provide separation whilst enhancing living environments *Refer drawings DA570-4 for visual privacy analysis.*
3G **Pedestrian Access and Entries**	**Objective 3G-1** Building entries and pedestrian access connects to and addresses the public domain				**Complies**	Pedestrian entry from street frontage. Secure equitable access is also available via the shared basement level.
	Objective 3G-2 Access, entries and pathways are accessible and easy to identify				**Complies**	An accessible pathway, raised planter boxes and feature blade walls create a focal point to the development.
	Objective 3G-3 Large sites provide pedestrian links for access to streets and connection to destinations				**N/A**	

3H **Vehicle Access**	**Objective 3H-1** Vehicle access points are designed and located to achieve safety, minimize conflicts between pedestrians and vehicles and create high quality streetscapes.		**Complies**	The vehicle access point has been designed to provide a better street presentation and is strongly integrated with the building.
3J **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: • On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or • On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use of 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. The car parking needs for a development must be provided off street.	**Complies**	*Traffic report is submitted with Development Application.*
	Objective 3J-2 Parking and facilities are provided for other modes of transport		**Complies**	Traffic report is submitted with Development Application.
	Objective 3J-3 Car park design and access is safe and secure		**Complies**	Secure underground car park with lift access to all residential levels.
	Objective 3J-4 Visual and environmental impacts of underground car parking are minimised		**Complies**	Underground car parking structure designed to minimize visual and environmental impacts above ground.
	Objective 3J-5 Visual and environmental impacts of on-grade car parking are minimised		**Complies**	No on-grade parking provided.
	Objective 3J-6 Visual and environmental impacts of above ground enclosed parking are minimised		**Complies**	No above ground parking provided.

Part 4 – Designing the Building				
4A **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 of direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	**Complies**	13/16 apartments = 81% (Living space) 12/15 apartments = 75 % (POS) Receives min 2hr direct sunlight to living rooms and private open space.
		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 9am and 3pm at mid winter	**N/A**	
		3. A maximum of **15%** of apartments in a building receive no direct sunlight between 9am and 3pm mid winter.	**Complies**	2/16 apartments = 12% of apartments receive no direct sunlight between 9am to 3pm mid-winter. *Refer drawings DA550-1 for solar access study.*
	Objective 4A-2 Daylight access is maximized where sunlight is limited		**Complies**	Full height balcony windows/ door to maximize daylight access.
	Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months		**Complies**	Strategic built-form, extended roofs and privacy screens will minimise glare and provide shade in warmer months.
4B **Natural Ventilation**	**Objective 4B-1** All habitable rooms are naturally ventilated		**Complies**	All habitable rooms are naturally ventilated
	Objective 4B-2 The layout and design of single aspect apartments maximizes natural ventilation		**Complies**	Openings in single aspect apartments have full height operable doors and windows to a balcony to allow maximum natural ventilation. Living and bedroom rooms are offset to create difference in pressure regions and promote airflow.

	Objective 4B-3 The number of apartments with natural cross ventilation is maximized 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	**Complies** **Complies**	13/16 Apartments achieve cross ventilation = 81% Max. depth = Approx. **15m**
4C **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: **Minimum ceiling height for apartment and mixed use buildings** 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	**Complies**	A 2.7m high habitable space can be achieved in 3.1m floor to floor with 200mm concrete slab. A minimum of 2.4m high ceiling can be achieved to all non-habitable rooms.
	Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms		**Complies**	Kitchens attached to living spaces have a lowered ceiling to express a larger volume of living space.
	Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building		**Complies**	General allowance has been made to flexibility of building use on ground level, to accommodate all different types of spaces including retail, café or restaurant in the future.

<table>
<tr>
<td rowspan="3">4D
Apartment Size and Layout</td>
<td rowspan="3">Objective 4D-1
The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</td>
<td>1. Apartments are required to have the following minimum internal areas:
<table>
<tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr>
<tr><td>Studio</td><td>35m2</td></tr>
<tr><td>1 bedroom</td><td>50m^2</td></tr>
<tr><td>2 bedroom</td><td>70m^2</td></tr>
<tr><td>3 bedroom</td><td>90m^2</td></tr>
</table>
The minimum internal areas include only one bathroom.
Additional bathrooms increase the minimum internal area by 5m^{2}each
A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m^{2}each</td>
<td>Complies</td>
<td>All apartments comply with minimum internal areas.

1 Bed between 52-58m^2
2 Bed between 78-85m^2
3 Bed at 118m^2</td>
</tr>
<tr>
<td>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</td>
<td>Complies</td>
<td>All habitable room have a minimum glass area of 10% of the floor area of the room</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td rowspan="2"></td>
<td>Objective 4D-2
Environmental performance of the apartment is maximised</td>
<td>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</td>
<td>Complies

Complies</td>
<td>All habitable room depths are less than 2.5x the ceiling height

Window to kitchen dimension in open plan living ranges between 4m to 8m</td>
</tr>
<tr>
<td>Objective 4D-3
Apartment layouts are designed to accommodate a variety of household activities and needs</td>
<td>1. Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)

2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)

3. Living rooms or combined living/dining rooms have a minimum width of:
• 3.6m for studio and 1 bedroom apartments
• 4m for 2 & 3 bedroom apartments</td>
<td>Complies

Complies

Complies</td>
<td>Master bedrooms range from 3.4 x 3.0m (10 sqm) to 4.2x 3.5m (14 sqm)

Other bedrooms range from 3.0 x 3.0m (9 sqm) to 3.6 x 3.2m (11 sqm)

Living spaces to all 2 & 3 bedroom apartments have minimum width of 4.0m

Living spaces to all 1 bedroom apartments have minimum width of 3.6m</td>
</tr>
</table>

<table>
<tr><td></td><td></td><td>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</td><td>Complies</td><td>All cross-through apartments have minimum dimensions of 4.0m</td></tr>
<tr><td>4E
Private Open Space and Balconies</td><td>Objective 4E-1
Apartments provide appropriately sized private open space and balconies to enhance residential amenity</td><td>1. All apartments are required to have primary balconies as follows:
<table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio Apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 Bedroom Apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 Bedroom Apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ Bedroom Apartments</td><td>12m²</td><td>2.4m</td></tr></table></td><td>Complies</td><td>All balconies achieve the minimum depth of 2m (1 &2 bedroom apartments) and 2.4m depth (3bedroom apartments) including compliance with relevant minimum areas.</td></tr>
<tr><td rowspan="4"></td><td></td><td>The minimum balcony depth to be counted as contributing to the balcony area is 1m
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</td><td>N/A</td><td>N/A</td></tr>
<tr><td colspan="2">Objective 4E-2
Primary private open space and balconies are appropriately located to enhance liveability for residents</td><td>Complies</td><td>Private open space is directly to a living space, orientated to allow for maximized solar access and ventilation</td></tr>
<tr><td colspan="2">Objective 4E-3
Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</td><td>Complies</td><td>Balconies and private open spaces is integrated with the building form and facade</td></tr>
<tr><td colspan="2">Objective 4E-4
Private open space and balcony design maximises safety</td><td>Complies</td><td>Balconies have been designed with details that avoids opportunities for climbing and falls, including the bifold screens with vertical batten design.</td></tr>
</table>

<table>
<tr><td rowspan="2">4F
Common Circulation and Spaces</td><td>Objective 4F-1
Common circulation spaces achieve good amenity and properly service the number of apartments</td><td>1. The maximum 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</td><td>Complies
N/A</td><td>The maximum number of units off a lift core in this development is 5.</td></tr>
<tr><td colspan="2">Objective 4F-2
Common circulation spaces promote safety and provide for social interaction between residents</td><td>Complies</td><td>Legible, well-lit and open lobby/corridor provide direct surveillance.</td></tr>
<tr><td rowspan="2">4G
Storage</td><td>Objective 4G-1
Adequate, well designed storage is provided in each apartment</td><td>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:
<table><tr><th>Dwelling Type</th><th>Storage Size Volume</th></tr><tr><td>Studio apartments</td><td>4m²</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td></tr><tr><td>2 bedroom apartments</td><td>8m²</td></tr><tr><td>3+ bedroom apartments</td><td>10m²</td></tr></table>At least 50% of the required storage is to be located within the apartment</td><td>Complies</td><td>All apartments have the storage requirement for each apartment.

Refer drawings DA530 for storage diagram.</td></tr>
<tr><td colspan="2">Objective 4G-2
Additional storage is conveniently located, accessible and nominated for individual apartments</td><td>Complies</td><td>Basement storage cages are provided for apartments adjacent to car parking space.</td></tr>
<tr><td rowspan="2">4H
Acoustic Privacy</td><td colspan="2">Objective 4H-1
Noise transfer is minimised through the siting of buildings and building layout</td><td>Complies</td><td>Where possible storage, circulation and non-habitable rooms are located to buffer external noise sources</td></tr>
<tr><td colspan="2">Objective 4H-2
Noise impacts are mitigated within apartments through layout and acoustic treatments</td><td>Complies</td><td>Where possible, rooms with noise requirements are grouped together</td></tr>
<tr><td rowspan="2">4J
Noise and Pollution</td><td colspan="2">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</td><td>Complies</td><td>Habitable rooms are generally setback from external noise of Sydney Road through balconies. Additional screens & solid planter walls have been provided to assist mitigating further traffic noise.</td></tr>
<tr><td colspan="2">Objective 4J-2
Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</td><td>Complies</td><td>Apartments facing Sydney Road have been nominated with acoustically rated glazing in accordance with acoustic report prepared by Renzo Tonin & Associates.</td></tr>
</table>

4K **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**	A mix of 1, 2 and 3 bedroom apartments spread over the residential floors.
	Objective 4K-2 The apartment mix is distributed to suitable locations within the building	**Complies**	A mix of 1, 2 and 3 bedroom apartments spread over the residential floors.
4L **Ground Floor Apartments**	**Objective 4L-1** Street frontage activity is maximised where ground floor apartments are located	**N/A**	N/A
	Objective 4L-2 Design of ground floor apartments delivers amenity and safety for residents	**N/A**	N/A
4M **Facades**	**Objective 4M-1** Building facades provide visual interest along the street while respecting the character of the local area	**Complies**	The facades scale is further broken down by horizontal and vertical building envelopes, setbacks and screens - balanced with the incorporation of planter boxes, glazed balustrade and extended roofs. The composition of massing and detailing, building elements, textures, materials and colours contribute to the consideration of scale within the building design
	Objective 4M-2 Building functions are expressed by the facade	**Complies**	The offices, building entry for office and residential, and vehicle entry, are identified by feature blade screens with planter boxes on ground level.
4N **Roof Design**	**Objective 4N-1** Roof treatments are integrated into the building design and positively respond to the street	**Complies**	To reduce the perceived building bulk from the streets, further setbacks have been applied to both level 3 & 4 to minimize the impact of the built form. Street awnings have been designed to peel back and break down the built form.

	Objective 4N-2 Opportunities to use roof space for residential accommodation and open space are maximised	**Complies**	Apartments on level 3 & 4 have been designed with private balconies utilizing open roof space of lower level apartments.
	Objective 4N-3 Roof design incorporates sustainability features	**Complies**	Continuous lightweight awning, as well as balcony slabs over windows and doors to habitable spaces to control sunlight
4O **Landscape Design**	**Objective 4O-1** Landscape design is viable and sustainable	**Complies**	Landscaping and plant selection provides shading and privacy, and contributes to the local climate. Selection of native and low water usage planting to reduce water usage and maintenance.
	Objective 4O-2 Landscape design contributes to the streetscape and amenity	**Complies**	*Refer landscape drawings submitted with the Development Application*
4P **Planting on Structures**	**Objective 4P-1** Appropriate soil profiles are provided	**Complies**	Refer to Landscape Consultant detail
	Objective 4P-2 Plant growth is optimised with appropriate selection and maintenance	**Complies**	Refer to Landscape Consultant detail
	Objective 4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces	**Complies**	Refer to Landscape Consultant detail
4Q **Universal Design**	**Objective 4Q-1** Universal design features are included in apartment design to promote flexible housing for all community members	**Complies**	3 of 16 (18%) apartments are designed to meet silver level Livable Housing Guide. *Refer access report submitted with the Development Application*
	Objective 4Q-2 A variety of apartments with adaptable designs are provided	**Complies**	No structural changes are required for the 4 adaptable units.

	Objective 4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs	**Complies**	All apartments have open plan living allowing flexibility on the use.
4R **Adaptive Reuse**	**Objective 4R-1** New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	N/A	Brand new development
	Objective 4R-2 Adapted buildings provide residential amenity while not precluding future adaptive reuse	N/A	Brand new development
4S **Mixed Use**	**Objective 4S-1** Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	N/A	
	Objective 4S-2 Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	N/A	
4T **Awnings and Signage**	**Objective 4T-1** Awnings are well located and complement and integrate with the building design	N/A	
	Objective 4T-2 Signage responds to the context and desired streetscape character	**Complies**	Signage to future detail to be integrated to entries, façade and lobby design.
4U **Energy Efficiency**	**Objective 4U-1** Development incorporates passive environmental design	**Complies**	Adequate light and ventilation to all habitable rooms
	Objective 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	**Complies**	BASIX assessment submitted with the development application
	Objective 4U-3 Adequate natural ventilation minimises the need for mechanical ventilation	**Complies**	Apartments designed with appropriate depths, ceiling heights and planning to promote airflow and natural ventilation.
4V **Water Management and Conservation**	**Objective 4V-1** Potable water use is minimised	**Complies**	Water reducing fixtures and low water usage landscaping implemented
	Objective 4V-2 Urban storm-water is treated on site before being discharged to receiving waters	**Complies**	Refer to hydraulics engineer reports and drawings

	Objective 4V-3 Flood management systems are integrated into site design	**Complies**	Refer to hydraulics engineer reports and drawings
4W **Waste Management**	**Objective 4W-1** Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	**Complies**	Waste storage is located on ground and basement floor, screened, secured and unobtrusive on the streetscape
	Objective 4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling	**Complies**	Waste management report prepared for DA submission.
4X **Building Maintenance**	**Objective 4X-1** Building design detail provides protection from weathering	**Complies**	Building detailing will provide protections to opening and control leaching etc.
	Objective 4X-2 Systems and access enable ease of maintenance	**Complies**	Majority of the windows and doors can be maintained within the balcony. Other windows will be design and specified to be easily maintained and cleaned.
	Objective 4X-3 Material selection reduces on-going maintenance costs	**Complies**	The proposed material is considered durable which may be easily cleaned.