

**Four Towns  
Planning**

*Planning and property consultant*

## **STATEMENT OF ENVIRONMENTAL EFFECTS**

**Alterations and additions  
to existing mixed-use  
development – addition of  
split-level residential  
apartment and two cold  
shells within existing  
building envelope**

**22 Central Avenue,  
Manly NSW 2095**

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**This report has been prepared to support a Development Application under the *Environmental Planning and Assessment Act 1979*.**

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Director – Four Towns Pty Ltd

**Report prepared for:**

The Owners Corporation – Strata Plan 7114

**13 September 2024**

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## Table of Contents

<b>1. Introduction and Background Information</b>	<b>4</b>
<b>1.1 Introduction</b>	<b>4</b>
<b>1.2 Background Information</b>	<b>4</b>
<b>2. Site Profile</b>	<b>5</b>
<b>2.1 Property Description</b>	<b>5</b>
<b>2.2 Site and Locality Description</b>	<b>5</b>
<b>3. Proposal</b>	<b>11</b>
<b>4. Statutory Planning Controls</b>	<b>12</b>
<b>4.1 Environmental Planning and Assessment Act 1979 (as amended)</b>	<b>12</b>
<b>4.2 State Environmental Planning Policies</b>	<b>12</b>
<b>4.3 Manly Local Environmental Plan 2013</b>	<b>16</b>
<b>4.4 Manly Development Control Plan 2013</b>	<b>37</b>
<b>5. Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning &amp; Assessment Act 1979 (as amended)</b>	<b>51</b>
<b>6. Summary and Conclusion</b>	<b>54</b>
<b>Appendix 1 – Apartment Design Guide</b>	<b>55</b>

## 1. Introduction and Background Information

### 1.1 Introduction

This report has been prepared as supporting documentation for a Development Application for alterations and additions to existing mixed-use development being the addition of a split-level residential apartment and two split level cold shells which can be converted to a residential apartment at a later date within the existing building envelope at 22 Central Avenue, Manly, within Strata Plan 7114 and Strata Plan 13245.

This report has been prepared following instructions from the clients, The Owners Corporation - Strata Plan 7114. In preparing this application consideration has been given to the following:

- *Environmental Planning and Assessment Act, 1979* (as amended) (EP&A Act);
- Environmental Planning and Assessment Regulation 2021;
- Relevant State Environmental Planning Policies;
- Manly Local Environmental Plan 2013 (MLEP 2013);
- Manly Development Control Plan (MDCP);
- Survey Plan prepared by C&A Surveyors;
- Survey Plan prepared by Byrne and Associates;
- Architectural Plans prepared by Urbaine Architecture;
- BCA Capability Assessment prepared by AED Group;
- BASIX and NatHERS Assessment prepared by Greenperch Pty Ltd;
- Waste Management Plan.

This Statement of Environmental Effects describes the proposed development having particular regard to the provisions of Section 4.15 of the EP&A Act 1979 and examines any potential environmental impacts with regard to the relevant sections of the Act, State policies and requirements of Northern Beaches Council's MDCP.

The conclusions of the Statement of Environmental Effects are that the proposed development, being alterations and additions to existing building is permissible with development consent and is consistent with the relevant statutory planning instruments including the Manly Local Environmental Plan 2013 and planning policies of the Manly Development Control Plan 2013.

Accordingly, the Development Application succeeds on its merits and should be approved by Council as submitted.

### 1.2 Background Information

The site has an extensive history with many applications pertaining to the site. It is noted that none of the recent applications relate or conflict the proposed works. The proposal was the subject of a pre-lodgement meeting PLM2024/0024 with Northern Beaches Council on 9 April 2024. The general consensus was that the proposal could be supported subject to review of minor adjustments as requested from the urban designer. In this regard, the proposal includes façade works to all areas to ensure the proposal is not "ad-hoc", while only obtaining consent to fit out one of the apartment areas.

It is noted a similar project was completed in 2014/15 and approved for alterations and additions to an existing building to create an additional dwelling (caretakers flat) with balcony. A modification was approved involving relocation of internal ensuite, changes to window, modification to ANSO1 to remove the restriction that the unit be used as caretaker's unit in perpetuity – Part 2.

## 2. Site Profile

### 2.1 Property Description

The subject allotment is described as 22 Central Avenue, Manly, legally known as Strata Plan 7114 and Strata Plan 13245. The site is zoned E1 Local Centre under the Manly Local Environmental Plan 2013.

The site is located on the Manly Foreshore Scenic Protection Area Map. The site is not identified as a heritage item nor is it located within a heritage conservation area.

### 2.2 Site and Locality Description

The site is located on the western side of Central Avenue to the south of the intersection with Raglan Street. It is noted the site has dual frontage to Central Avenue and Short Street. The site has a total area of 2782sqm.

The site is currently occupied by a multi storey concrete building with a concrete roof. The site has various vehicular access points off both Central Avenue and Short Street. The building has multiple land uses including commercial ground floor, offices above, Council public car park and car parking for lot owners and residential apartments. The building is 24 levels as per the strata plan, noting the split levels counted separately. The loading area existing has dual frontage at the northern end of the site

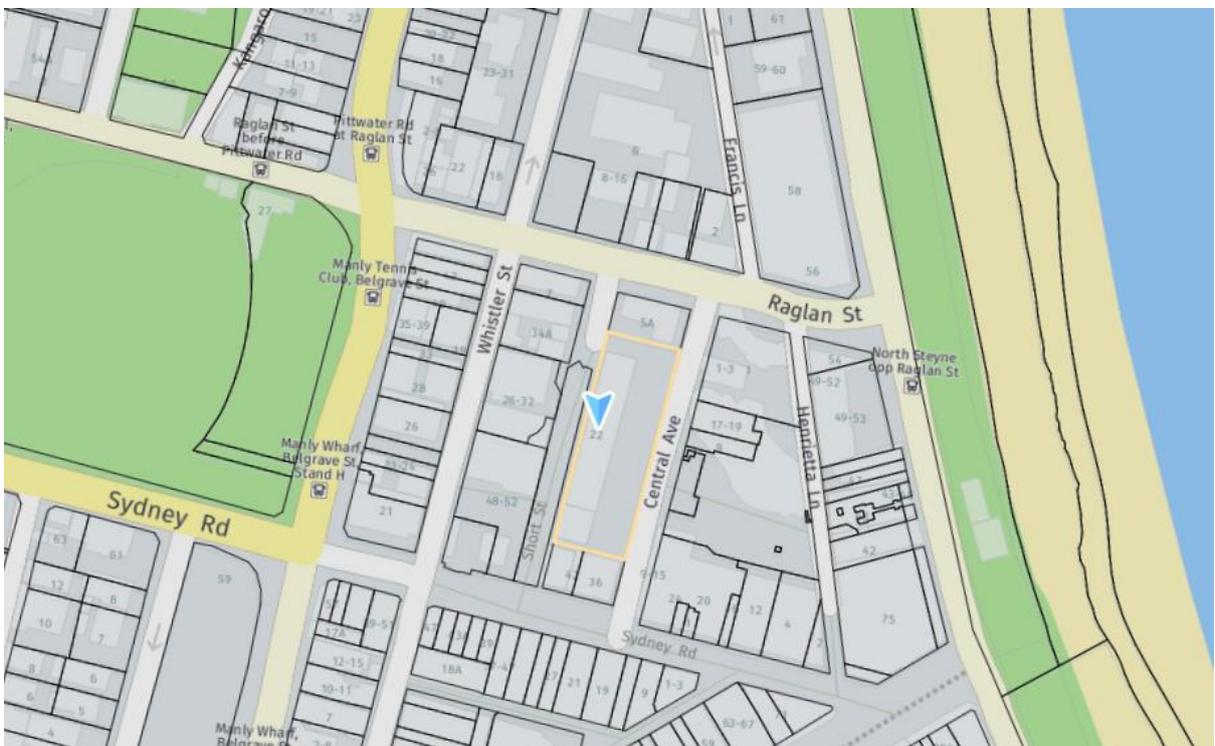
The locality has a variety of property types and sizes. The proposal is for alterations and additions to the loading area within a mixed-use development and is not out of context and will complement the existing streetscape of the precinct. Relevant photos are provided on the following pages highlighting the site and streetscape of the area.

The locality maps on the following page show the location and area of the site:

Locality Maps



Source: Nearmaps 2023



Source: Nearmaps 2023

**Visual and Streetscape Assessment**



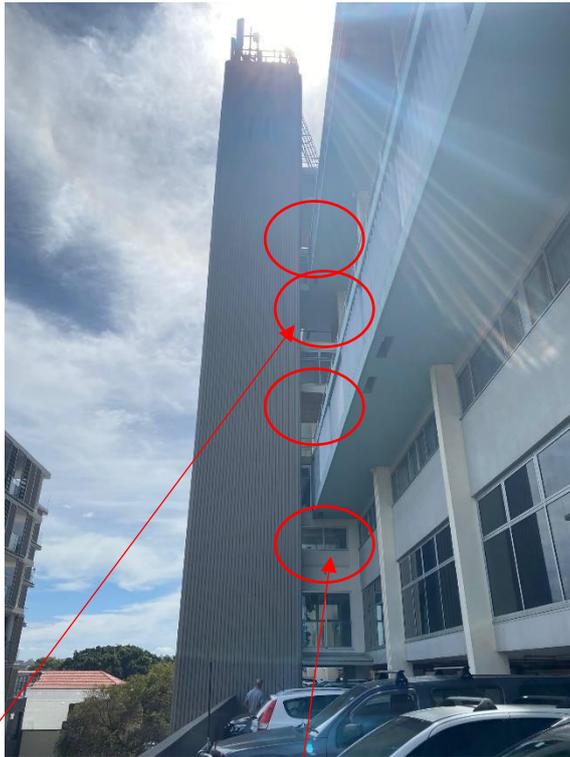
*Location of proposed front entrance on level 8 (upper level)*



*Location of lower level looking east along void existing*

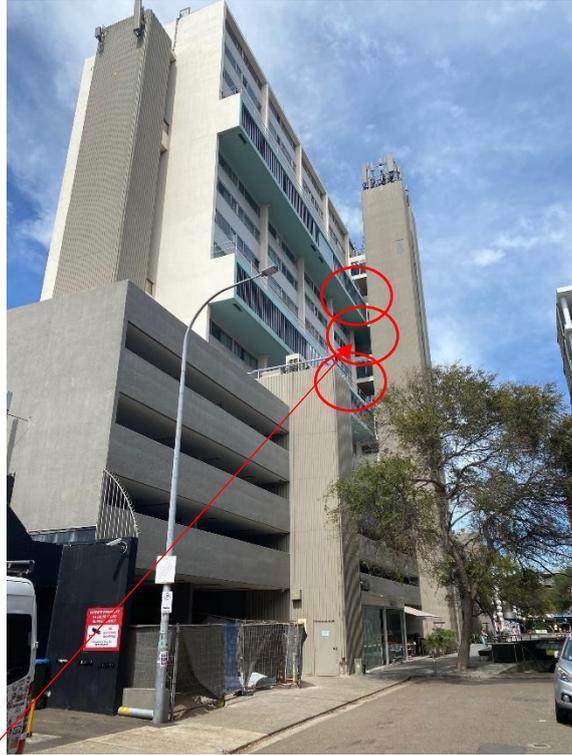


*Location of lower level looking west along void existing*

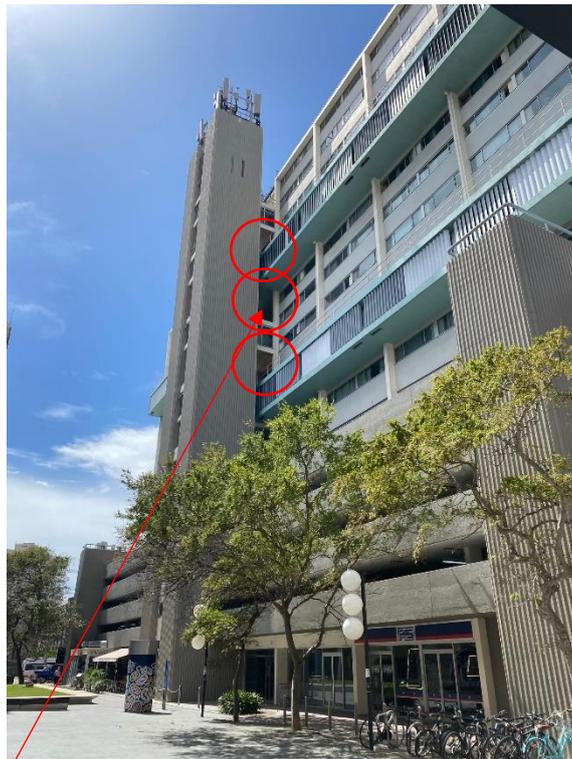


*Proposed areas of infill*

Approved apartment location from 2014/2015



*Proposed areas of infill – Photo taken from Short Street looking south*



*Proposed areas of infill – photo taken from Short St Plaza looking north*



Proposed areas of infill – photo taken from Central Avenue looking west

### 3. Proposal

The proposal seeks to incorporate three additional apartments within existing areas of the building including infilling existing void areas. The proposal is as follows:

#### Level 3 and 4 (Bottom Void)

- Use of space as residential apartment – to be subject to future DA for fit out works
- External works only for the addition of walls and glazing to enclose the area
- Internal stairs
- Total proposed GFA – 74.85sqm (additional proposed GFA – 55.05sqm)

#### Level 5 and 6 (Middle Void)

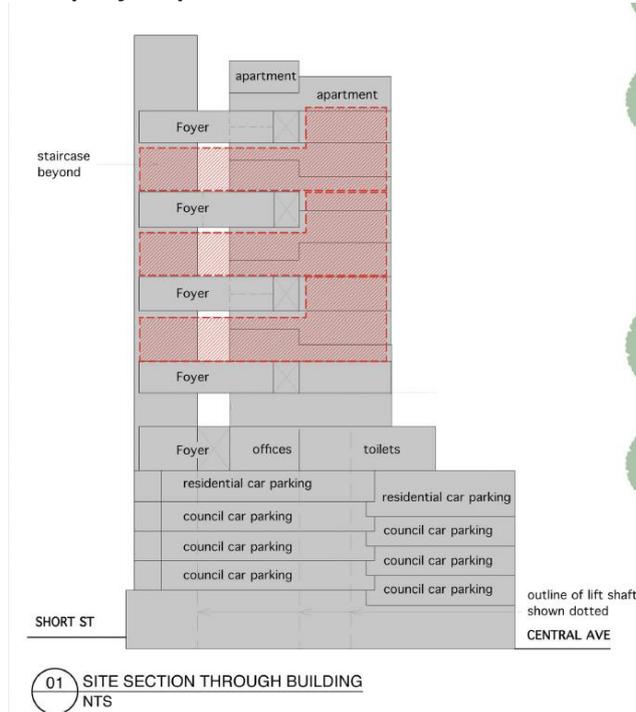
- Use of space as residential apartment
- External works including the addition of walls and glazing to enclose the area
- The proposed unit comprises two bedrooms, one of which is located on the upper level. An open plan living area and bathroom are located on the lower level, as well a balcony which is accessible via the bedroom and the living room having a sliding door with balustrade.
- Total proposed GFA – 74.85sqm (additional proposed GFA – 55.05sqm)

#### Level 7 and 8 (Top Void)

- Use of space as residential apartment – to be subject to future DA for fit out works
- External works only for the addition of walls and glazing to enclose the area
- Internal stairs
- Total proposed GFA – 74.85sqm (additional proposed GFA – 55.05sqm)

*\*Refer to architectural plans prepared by Urbaine Architecture for a full description of all works.*

**Excerpt of Proposed Areas shown below:**



## 4. Statutory Planning Controls

The proposal has been assessed in accordance with the following instruments and controls:

- *Environmental Planning and Assessment Act 1979*, and Environmental Planning and Assessment Regulation 2021;
- State Environmental Planning Policies;
- Manly Local Environmental Plan 2013; and
- Manly Development Control Plan.

### 4.1 *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)

The EP&A Act 1979 governs all environmental planning instruments within New South Wales. The proposal has been reviewed pursuant to the matters for consideration within Section 4.15 of the EP&A Act 1979.

The proposal is not Designated Development under Section 4.10 of the EP& A Act 1979 or Schedule 3 of the EPA Assessment Regulation 2021, therefore Northern Beaches Council is the Consent Authority. In addition, the proposal does not constitute an Integrated Development under the EP&A Act 1979, Section 4.46 with no further approvals from other Government agencies required.

### 4.2 State Environmental Planning Policies (SEPPs)

#### **SEPP (Transport and Infrastructure) 2021**

It is submitted that the proposal does not fall under the provisions of SEPP (Transport and Infrastructure) 2021 and therefore no assessment is required.

#### **State Environmental Planning Policy (Sustainable Buildings) 2022**

The proposal has been assessed in accordance with the relevant provisions of the SEPP (Sustainable Buildings) 2022. A BASIX Certificate has been prepared by Greenperch Pty Ltd and outlines the proposal's compliance with the provisions of BASIX and Energy Efficiency.

#### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

##### General

State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to various rescinded SEPPs that related to the preservation of trees and vegetation, koala habitat and bushland in urban areas.

The aims of this Policy are to protect the biodiversity values of trees and other vegetation, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The development remains consistent with the provisions of the SEPP as it does not propose the removal of any significant vegetation.

## SEPP (Resilience and Hazards) 2021

### Contamination

SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting of consent to the carrying out of any development on that land.

It is submitted that the site has been used for the purpose of a mixed-use development for decades, with the proposal utilising existing GFA areas or infilling three void areas. Therefore, no known high-risk contaminants are known for the site and the building would be considered low risk with no excavation requirements. The builder/contractors should take all measures to ensure if contamination is found during construction that relevant procedures are followed to report and remove contaminated materials.

### Coastal

The aims of Chapter 2 of the SEPP (Resilience and Hazards) 2021 is to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*, including the management objectives for each coastal management area by:

- a) *managing development in the coastal zone and protecting the environmental assets of the coast, and*
- b) *establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- c) *mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

### Coastal Use Area



Clause 2.11(1) of the SEPP (Resilience and Hazards) 2021 prescribes that development consent must not be granted to development on land that is within the coastal use area unless the consent authority

- i) *has considered whether the proposed development is likely to cause an adverse impact on the following—*
  - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
  - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
  - (iv) *Aboriginal cultural heritage, practices and places,*

- (v) cultural and built environment heritage, and*
- ii) is satisfied that—*
  - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
  - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- iii) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

The proposed works to an existing mixed-use development will not have any impact to the access to the foreshore or headland; cast additional shadowing, wind funneling or reduce views from public places and will uphold the scenic qualities of the foreshore area.

The consent authority can be satisfied that the proposed development does not contribute to any additional impacts as per the requirements of MLEP2013. The proposal will result in an acceptable impact to the coastal use area and adequately considers the surrounding coastal, the built environment and the bulk and scale of the development all of which will remain relatively unchanged.

#### **State Environmental Planning Policy (Housing) 2021**

The relevant aims of this policy are to improve the design quality of residential apartment development in New South Wales and recognise that the design quality of residential apartment development is of significance for environmental planning for the State due to economic, environmental, cultural and social benefits of high-quality design.

Clause 144 of Chapter 4 within Housing SEPP prescribes that this chapter applies development for the purposes of a residential flat development, shop-top housing or mixed-use development with a residential accommodation component if –

- (a) the development consists of any of the following—*
  - i) the erection of a new building,*
  - ii) the substantial redevelopment or the substantial refurbishment of an existing building,*
  - iii) the conversion of an existing building, and*
- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
- (c) the building concerned contains at least 4 or more dwellings.*

The subject development proposes additional apartments as alterations and additions which in our opinion would be considered a substantial redevelopment or substantial refurbishment of the existing building. Accordingly, the Housing SEPP is applicable to the proposed development.

Clause 147(1) of the Housing SEPP reads as follows:

- (2) *In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration)—*
- (a) the advice (if any) obtained from the design review panel, and*
  - (b) the design quality of the development when evaluated in accordance with the design quality principles, and*
  - (c) the Apartment Design Guide.*

An assessment has been carried out of the proposed development with respect to the relevant provisions of the Apartment Design Guide. Refer to Appendix 1 for assessment.

## 4.3 Manly Local Environmental Plan 2013 (MLEP2013)

The relevant matters to be considered under MLEP2013 are outlined below in the LEP summary compliance table.

<b>Part 1: Preliminary</b>		
<b>Standard</b>	<b>Control</b>	<b>Comments</b>
1.2 Aims of Plan	<p>The relevant aims of this plan that are applicable to the proposed development are as follows:</p> <p>(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,</p> <p>(a) in relation to all land in Manly—</p> <p>(i) to promote a high standard of urban design that responds to the existing or desired future character of areas, and</p> <p>(ii) to foster economic, environmental and social welfare so that Manly continues to develop as an accessible, sustainable, prosperous, and safe place to live, work or visit, and</p> <p>(iii) to ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increase in demand, and</p> <p>(iv) to ensure all development appropriately responds to environmental constraints and does not adversely affect the character, amenity or heritage of Manly or its existing permanent residential population,</p> <p>(g) in relation to Manly’s unique harbour, coastal lagoon and ocean beach setting—</p> <p>(i) to preserve and enhance the amenity of public places and areas visible from navigable water around Manly, and</p> <p>(ii) to retain open space, make more foreshore land available for public access and protect, restore and enhance riparian land along watercourses and foreshore bushland.</p>	<p>The proposal involves alterations and additions to create three additional units with only one to be completed with an internal fit out. As the proposal is within the existing building envelope, it is our opinion that the proposed works are compatible with the bulk, scale and appearance of the building existing and the context within the streetscape and town centre of Manly. In considering the above, the proposal will comply with the aims of the MLEP2013.</p>

Part 4: Principal Development Standards			
Standard	Permitted	Proposed	Comments
4.1 Minimum subdivision lot size	N/A	N/A	N/A
4.1AA Minimum subdivision lot size for community title scheme	N/A	N/A	N/A
4.1A Minimum lot sizes for manor houses and multi dwelling housing (terraces) in Zone R2	N/A	N/A	N/A
4.2 Rural subdivision	N/A	N/A	N/A
4.3 Height of buildings	25m	Existing Maximum Building Height – 46.16m  Proposed 41.82m to Central Avenue Façade  Proposed 37.56m to Short Street Façade	Merit Assessment - the proposed works are located within the existing building envelope; thus, no changes are proposed to the existing maximum building height. It is noted that the existing building exceeds the 25m limit. Accordingly, a Clause 4.6 report to support the existing height variation is submitted with this application.
4.3A Special height provisions	N/A	N/A	N/A
4.4 Floor space ratio	3:1	Existing 3.47:1 (9,644sqm)  Proposed 3.525:1 (9809.15sqm)	Merit Assessment – the proposal relates to infilling existing void areas within the building envelope. Refer to assessment under Clause 4.4 and Clause 4.6 after this table.
4.5 Calculation of floor space ratio and site area	Noted	N/A	Noted
4.6 Exceptions to development standards	Noted	Yes – Clause 4.3 and Clause 4.4	Refer to Clause 4.6 Written Requests Reports for both Clause 4.3 and Clause 4.4. It is my professional opinion that there are sufficient environmental planning grounds to justify the variations proposed.

<b>Part 5: Miscellaneous Provisions</b>	
<b>Provisions</b>	<b>Comments</b>
5.1 Relevant acquisition authority	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissible uses	N/A
5.5 (Repealed)	N/A
5.6 Architectural roof features	N/A
5.7 Development below mean high water mark	N/A
5.8 Conversion of fire alarms	N/A
5.9 Dwelling house or secondary dwelling affected by natural disaster	N/A
5.9AA (Repealed)	N/A
5.10 Heritage conservation	Refer to assessment after this table.
5.11 Bush fire hazard reduction	N/A
5.12 Infrastructure development and use of existing buildings of the Crown	N/A
5.13 Eco-tourist facilities	N/A
5.14 Siding Spring Observatory – maintaining dark sky	N/A
5.15 Defence communications facility	N/A
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones	N/A
5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	N/A
5.18 Intensive livestock agriculture	N/A
5.19 Pond-based, tank-based and oyster aquaculture	N/A
5.20 Standards that cannot be used to refuse consent—playing and performing music	N/A
5.21 Flood planning	Complies – the proposed works are located above the FPL identified for the site. Refer to assessment after this table.
5.22 Special flood considerations	N/A
5.23 Public bushland	N/A
5.24 Farm stay accommodation	N/A
5.25 Farm gate premises	N/A

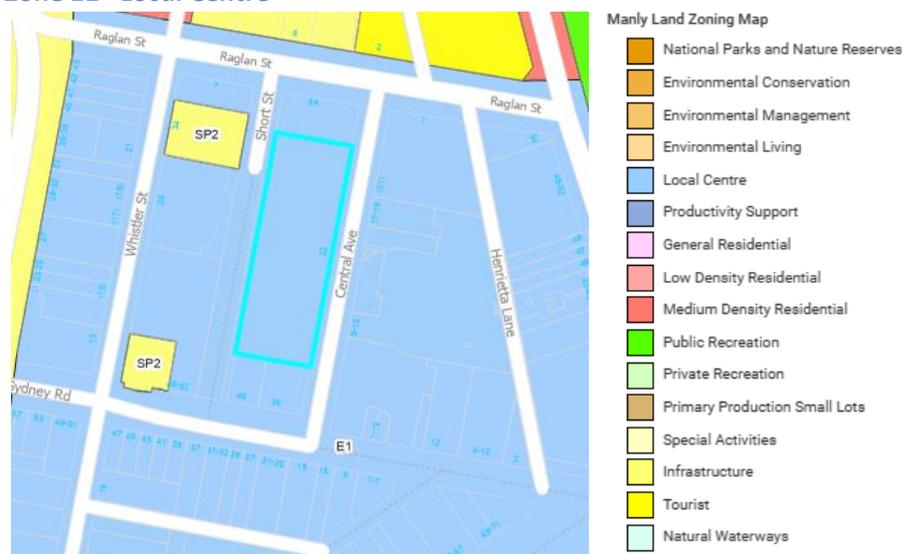
<b>Part 6: Relevant Additional Local Provisions</b>	
<b>Provisions</b>	<b>Comments</b>
6.1 Acid sulfate soils	The site is identified as class 4 acid sulfate soils. Refer to assessment after this table.
6.2 Earthworks	N/A
6.3 (Repealed)	N/A
6.4 Stormwater management	Not applicable - No change to the existing stormwater management through the existing building footprint.
6.5 Terrestrial biodiversity	N/A
6.6 Riparian land and watercourses	N/A
6.7 Wetlands	N/A
6.8 Landslip risk	N/A
6.9 Foreshore scenic protection area	The site is identified in the Manly foreshore scenic protection area map. Refer to assessment after this table.
6.10 Limited development on foreshore area	N/A
6.11 Active street frontages	N/A
6.12 Essential services	N/A – no change to existing provisions.
6.13 Design excellence	Complies – the proposal infills existing void areas and complements the existing façade. The proposal is compatible and will have no adverse impact to the streetscapes of Central Avenue or Short Street. Refer to assessment after this table.
6.14 Requirement for development control plans	N/A
6.15 Tourist and visitor accommodation	N/A
6.16 Gross floor area in certain areas	N/A – the proposal relates to existing residential areas and void areas. No reduction to existing commercial areas within the building.
6.17 Health consulting rooms in Zones E3 and E4	N/A
6.18 (Repealed)	N/A
6.19 Development in St Patrick’s Estate	N/A
6.20 Location of sex service premises	N/A
6.21 Noise impacts – licensed premises	N/A
6.22 Development for the purposes of secondary dwellings in certain residential and environmental protection zones	N/A

<b>Relevant Schedules</b>	
<b>Schedule</b>	<b>Comments</b>
Schedule 1 – Additional permitted uses	N/A
Schedule 2 – Exempt development	N/A
Schedule 3 – Complying development	N/A

Schedule 4 – Classification and reclassification of public land	N/A
Schedule 5 – Environmental heritage	N/A
Schedule 6 – Pond-based and tank-based aquaculture	N/A

## Zoning Provisions

### Zone E1 Local Centre



#### 1 Objectives of zone

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- 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.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.

#### 2 Permitted without consent

Home-based child care; Home businesses; Home occupations

#### 3 Permitted with consent

Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Creative industries; Early education and care facilities; Electricity generating works; Entertainment facilities; Environmental protection works; Flood mitigation works; Function centres; Group homes; Home industries; Hostels; Hotel or motel accommodation;

*Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Registered clubs; Respite day care centres; Roads; Service stations; Shop top housing; Signage; Tank-based aquaculture; Tourist and visitor accommodation; Veterinary hospitals; Waste or resource transfer stations*

#### 4 Prohibited

*Any development not specified in item 2 or 3*

#### Comment:

The site is zoned E1 Local Centre pursuant to MLEP2013. The proposed alterations and additions to the existing mixed-use building seek to introduce an additional three residential units within existing floor space and void areas of the building. The use as residential apartments is a permissible form of land use under the zone. The proposal in our opinion is consistent with the objectives of the zone, as follows:

- The proposal provides additional residential accommodation, which is functional and contributes to a vibrant and active local centre.
- The proposal enhances the existing urban form as the proposal has been designed to minimise any impacts to the established streetscape and bulk and scale of the precinct. The proposal includes all external works to ensure the proposal is no adhoc when viewed from a public place.
- The proposed works are within the existing building envelope, therefore viewed favorably in scale and architecture.

### Part 4 Principal development standards

#### 4.1 Minimum subdivision lot size



(1) *The objectives of this clause are as follows—*

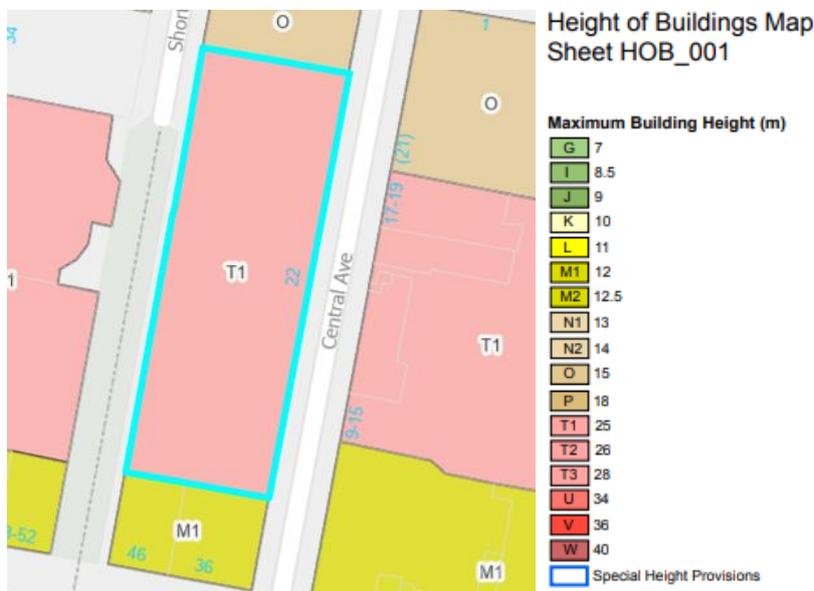
- (a) *to retain the existing pattern of subdivision in residential zones and regulate the density of lots in specific locations to ensure lots have a minimum size that would be sufficient to provide a useable area for building and landscaping,*
- (b) *to maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns,*
- (c) *to require larger lots where existing vegetation, topography, public views and natural features of land, including the foreshore, limit its subdivision potential,*

- (d) to ensure that the location of smaller lots maximises the use of existing infrastructure, public transport and pedestrian access to local facilities and services.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (3A) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.
- (4) This clause does not apply in relation to the subdivision of any land—
- (a) by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or
  - (b) by any kind of subdivision under the Community Land Development Act 1989.

**Comment:**

Not applicable – no subdivision proposed with this application.

**4.3 Height of buildings**



- (1) The objectives of this clause are as follows—
- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,
  - (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.

*(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

**Comment:**

Merit Assessment – the proposal is for alterations and additions to the existing mixed-use development which does not change the existing maximum building height for the site. It is important to acknowledge that the existing maximum building height for the building is over the 25m maximum height allowance, therefore any proposed works, albeit under the existing maximum building height, trigger the requirement for non-compliance.

The proposal alterations and additions to existing mixed-use development being the addition of a split-level residential apartment and two split level cold shells which can be converted to a residential apartment at a later date within the existing building envelope. The maximum building height for the proposed works is 41.82m (67.3% variation) which is above the maximum building height of 25m. It is noted that the building height breach is existing and not impacted by the proposed alterations and additions.

The proposal does not increase the building footprint, nor does it extend the building height as existing. The proposal is supported and in our opinion is consistent with the objectives of the Clause, as outlined below:

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

**Comment:** The proposed development retains the existing building height, bulk and scale and is therefore consistent as existing with the prevailing heights and roof forms. It is noted that notwithstanding the existing breach to the building height, this application and proposed works are below the existing maximum building height for the building, therefore the works are considered to be inconsequential to that existing and purely relate to façade works to infill three void areas. It is noted that notwithstanding the existing breach to the building height, other properties within the Manly LGA have similar breaches, and the approval would not result in significant impacts to the bulk and scale of Manly. It is important for Council to acknowledge the existing streetscape and built form of 22 Central Avenue, as existing, and that the proposed works are relatively minor alterations that are consistent with the desired future streetscape of the locality. This objective is met.

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

**Comment:** The proposal has been strategically designed by the project architect to infill the three void areas and retain the existing façade elements of the building. The proposal will not have an adverse visual impact and will not disrupt views, privacy or have amenity impacts to neighbouring properties. It is therefore considered that the bulk and scale of the existing building is retained.

The excerpt below of the eastern elevation shows the proposed works and the existing building height of the entire building. The proposal has been strategically designed to maintain the existing bulk and scale of the streetscape. The excerpt below shows the proposed infill areas with a red outline which are below the existing building height. This objective is met.

## Mixed-Use Development



22 Central Avenue East Elevation

*(c) to minimise disruption to the following—*

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
- (iii) views between public spaces (including the harbour and foreshores),*

**Comment:** The proposal relates to alterations and additions which infill existing void areas. The void areas do not provide any view corridors, therefore the proposal will have no impact to views from both adjoining properties and public spaces. This objective is met.

*(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

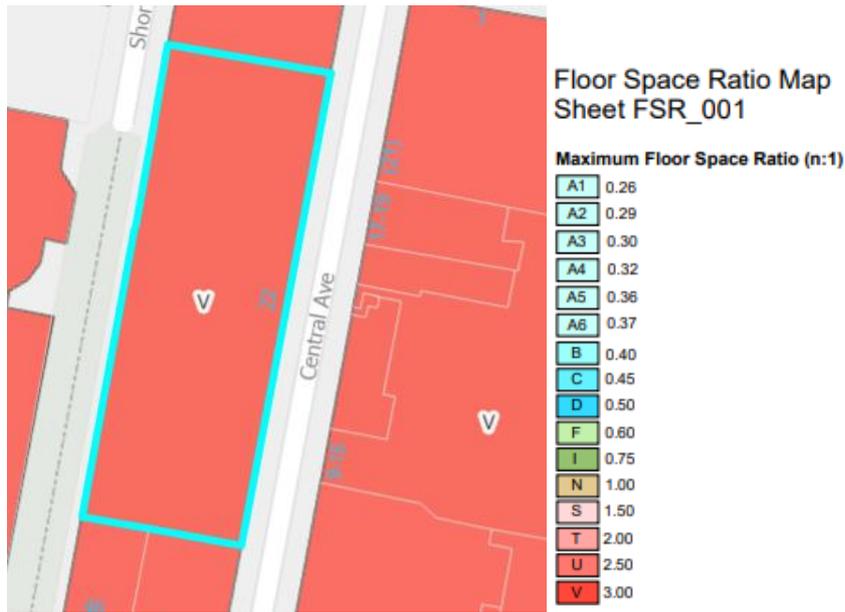
**Comment:** The proposal relates to alterations and additions which infill existing void areas. The proposal will have no impact to solar access from both adjoining properties and public spaces. This objective is met.

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

**Comment:** Not applicable – the site is not located within a recreation or environmental protection zone.

It is our professional opinion that the building, by virtue of its height, bulk and scale, is consistent with the locality and desired character of the area. We have formed the considered opinion that the project is a sympathetic design and development with no impact to existing bulk and scale and is consistent with the existing and future character of the area. The proposal is not offensive, or unsympathetic in a streetscape context nor the context from Manly, and therefore the variation can be supported by Northern Beaches Council.

#### 4.4 Floor space ratio



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

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

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) Despite subclause (2), the floor space ratio for a building on land in Zone B2 Local Centre may exceed the maximum floor space ratio allowed under that subclause by up to 0.5:1 if the consent authority is satisfied that at least 50% of the gross floor area of the building will be used for the purpose of commercial premises.

**Comment:**

Merit Assessment – The site existing has a non-compliance with the FSR control. A summary of existing to proposed is outlined below:

Site Area  
2,782sqm

Allowable GFA  
8,346sqm

Existing GFA  
9,644sqm (3.47:1 – 15.56% variation)

*Proposed Additional Area*

Three apartment areas x 55.05sqm of additional GFA

Total = 165.15sqm

*Total Proposed Area*

Existing GFA 9,644sqm plus proposed additional 165.15sqm =

Total 9,809.15sqm

*FSR Variation*

1,463.15sqm / 8,346sqm

= 3.525:1 (17.5% variation)

*\*Note – approval was granted under DA2023/1358 for additional floor space within the building. The DA has not started works and no construction certificate has been approved. On this basis, the GFA calculations are based on what is existing and not with the additional space approved.*

As noted above, the proposal requests a variation to Clause 4.4 FSR by 161.15sqm when combined with existing GFA a total of 1,463.15sqm (17.5% variation). The proposal is consistent with the objectives of Clause 4.4 and therefore the non-compliance should be supported by Council as justified below:

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

The additional non-compliant floor space is located within the established building envelope and to that extent will not contribute to the bulk and scale of the existing mixed-use building. The maintenance of the long-established building bulk and scale will ensure that the proposed works, although non-compliant with the FSR standard, are consistent with this objective.

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

The proposal is of a density and bulk applicable to the site and does not change existing landscaping within the site, therefore retaining the important landscape features. The proposal controls building density and bulk within the existing building envelope with no impact to important landscape and townscape features. The proposal therefore meets this objective.

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

The location of the additional non-compliant floor space on the site will ensure the maintenance of an appropriate visual relationship with the existing character and landscape of the area noting that the building footprint is not increased and there is no impact on any landscaping. Accordingly, this objective is satisfied notwithstanding the non-compliant FSR proposed.

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

The proposal has been strategically designed by the project architects who have worked with relevant consultants and the clients to achieve a design which meets the needs of the project while maintaining the streetscape (existing and future character), the privacy and amenity of adjoining properties.

*View impacts*

Having undertaken a wide-ranging site view I have formed the considered opinion that the additional non-compliant floor space has been designed, located and constrained to minimise disruption of views to nearby residential development from surrounding public spaces. In fact, I was unable to identify any public space from which views to nearby residential development will be adversely impacted as a consequence of the additional non-compliant floor space proposed. Having inspected the site, the void areas which will be infilled and its immediate surrounds I have formed the considered opinion that the additional non-compliant floor space will not give rise to any unacceptable view impacts from surrounding properties with view impacts clearly minimised.

*Visual privacy*

Given the maintenance of the established spatial relationship between surrounding development the additional non-compliant floor space will not give rise to any unacceptable visual privacy impacts.

*Shadowing impacts*

As the additional non-compliant floor space is located within the established building envelope it will not give rise to any additional shadowing impact to any surrounding public or private land.

We have formed the considered opinion that the additional non-compliant floor space minimises adverse environmental impacts on the use and enjoyment of adjoining land and the public domain and accordingly this objective is satisfied notwithstanding the non-compliant FSR proposed.

*(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.*

This objective is not applicable to the proposal.

As outlined above, the proposed development is consistent with the underlying objectives of the FSR standard, notwithstanding the proposed variation, and therefore compliance with the control is unreasonable and unnecessary and the variation should be supported and approved.

**4.6 Exceptions to development standards**

*(1) The objectives of this clause are as follows—*

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

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

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless—*

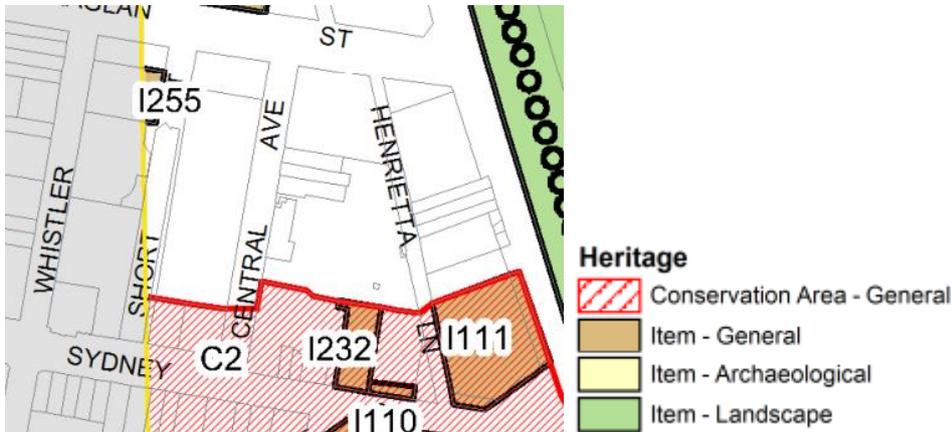
- (a) *the consent authority is satisfied that—*
- (i) *the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Planning Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Planning Secretary 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 Planning Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—*
- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
  - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- Note.** *When this Plan was made, it did not include land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition or Zone R5 Large Lot Residential.*
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following—*
- (a) *a development standard for complying development,*
  - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
  - (c) *clause 5.4,*
  - (ca) *clause 6.15,*
  - (cb) *a development standard on land to which clause 6.19 applies.*

**Comment:**

Complies – the proposal is supported by a Clause 4.6 Variation report to support the breach to Clause 4.3 Height of Building and Clause 4.4 Floor Space Ratio. It is our professional opinion that the variations are well founded, and environmental planning grounds provide justification that the enforcement of the control would be unreasonable and unnecessary in this instance.

**Part 5 Miscellaneous provisions**

**5.10 Heritage conservation**



*Note—Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.*

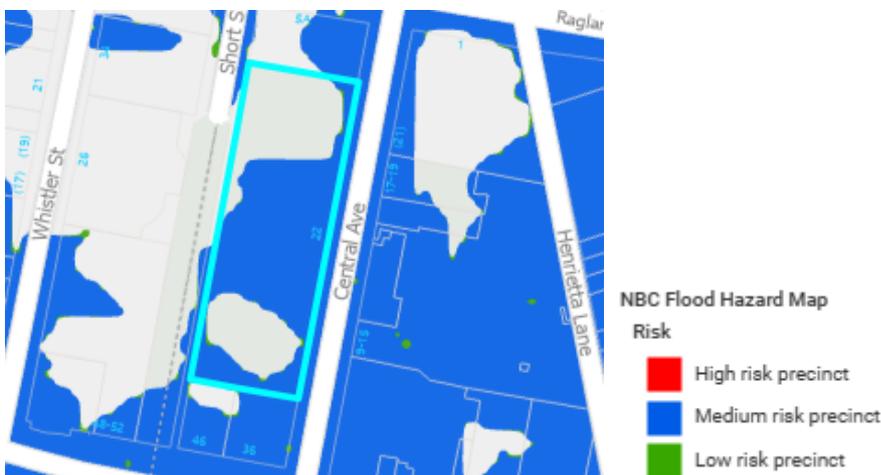
*(1) Objectives The objectives of this clause are as follows—*

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

**Comment:**

Not applicable - the site is not identified as a heritage item nor is it located within a heritage conservation zone. It is noted that the site is adjacent to the conservation area to the south and in proximity to heritage item I255. The location of the proposed works are within existing void areas which are not in close proximity to a heritage item, therefore no impact to heritage items or buildings. It is noted that the site is adjacent to the conservation area to the south. The proposal does not detract from the heritage qualities of Manly and therefore it's our opinion no further review is required. This is supported within the pre-lodgement notes PLM2024/0024 dated 9 April 2024.

**5.21 Flood planning**



(1) *The objectives of this clause are as follows—*

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.*

(2) *Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

(3) *In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—*

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

(4) *A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.*

(5) *In this clause—*

**Considering Flooding in Land Use Planning Guideline** means the Considering Flooding in Land Use Planning Guideline published on the Department's website on 14 July 2021.

**flood planning area** has the same meaning as it has in the Floodplain Development Manual.

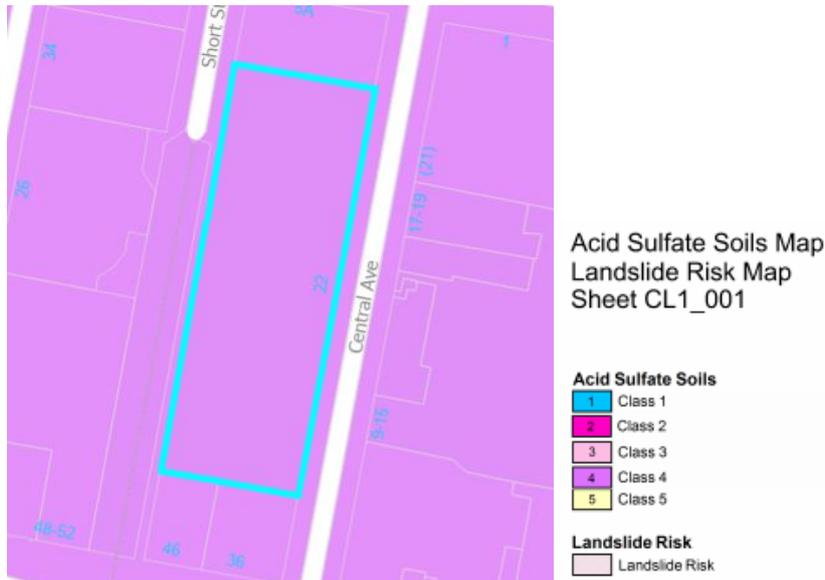
**Floodplain Development Manual** means the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

**Comment:**

Not applicable – it is noted that the site is identified within the flood hazard map, however the area of works are a minimum 26.7m above the ground level existing. Therefore, it is our professional opinion that the proposal, the subject of this application does not require a Flood Risk Assessment, as the works are above the FPL relating to the site.

**Part 6 Additional local provisions**

**6.1 Acid sulfate soils**



(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

Class of land	Works
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	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.

(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.

(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if—

(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and

(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—

- (a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,*
  - (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),*
  - (c) minor work, being work that costs less than \$20,000 (other than drainage work).*
- (6) Despite subclause (2), development consent is not required under this clause to carry out any works if—*
- (a) the works involve the disturbance of less than 1 tonne of soil, and*
  - (b) the works are not likely to lower the watertable.*

**Comment:**

Not applicable - the site is identified as class 4 acid sulfate soils. The proposal does not include earthworks, therefore not triggering the requirements of clause 6.1.

**6.2 Earthworks**

- (1) The objectives of this clause are as follows—*
- (a) to ensure that earthworks and associated groundwater dewatering for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
  - (b) to allow earthworks of a minor nature without requiring a separate development consent.*
- (2) Development consent is required for earthworks unless—*
- (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
  - (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*
- (3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*
- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
  - (b) the effect of the development on the likely future use or redevelopment of the land,*
  - (c) the quality of the fill or the soil to be excavated, or both,*
  - (d) the effect of the development on the existing and likely amenity of adjoining properties,*
  - (e) the source of any fill material and the destination of any excavated material,*
  - (f) the likelihood of disturbing relics,*
  - (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
  - (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

**Note.** *The [National Parks and Wildlife Act 1974](#), particularly section 86, deals with harming Aboriginal objects.*

**Comment:**

Not applicable – the proposal does not include earthworks.

**6.4 Stormwater management**

- (1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.*

(2) This clause applies to all land in residential, business, industrial and environmental protection zones.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and

(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

**Comment:**

Not applicable - No change to the existing stormwater management through the existing building footprint. The proposed works infill existing “horizontal” void areas, therefore no changes to existing roof areas on the site.

**6.9 Foreshore scenic protection area**



(1) The objective of this clause is to protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore in Manly.

(2) This clause applies to land that is shown as “Foreshore Scenic Protection Area” on the Foreshore Scenic Protection Area Map.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters—

(a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,

(b) measures to protect and improve scenic qualities of the coastline,

(c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,

(d) measures to reduce the potential for conflict between land-based and water-based coastal activities.

**Comment:**

Complies - the site is located within the foreshore scenic protection area map. The proposed works relate alterations to the existing building to include three additional residential units. The proposed

development is considered to be minor with regards to the existing size and height of the building and will have no adverse impacts to the scenic protection area.

The proposed works protect the visual aesthetic amenity and do not impact views to or from Sydney Harbour, the Pacific Ocean and the foreshore in Manly. The proposed alterations and additions meet the objectives of Clause 6.9.

### **6.12 Essential services**

*(1) 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.*

*(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any essential service referred to in this clause.*

#### **Comment:**

Complies - the site maintains access to the relevant essential services under clause 6.12.

### **6.13 Design excellence**

*(1) The objective of this clause is to deliver in Manly the highest standard of architectural and urban design of buildings and public spaces.*

*(2) This clause applies to development involving the erection of a new building or external alterations to an existing building—*

- (a) on land identified as “Gross Floor Area for Certain Commercial Premises” on the Key Sites Map, and*
- (b) on land to which clause 6.19 applies.*

*(3) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*

*(4) In considering whether development exhibits design excellence, the consent authority must give consideration to whether the development—*

- (a) contains buildings that consist of a form, bulk, massing and modulation that are likely to overshadow public open spaces, and*
- (b) is likely to protect and enhance the streetscape and quality of the public realm, and*
- (c) clearly defines the edge of public places, streets, lanes and plazas through separation, setbacks, amenity, and boundary treatments, and*
- (d) minimises street clutter and provides ease of movement and circulation of pedestrian, cycle, vehicular and service access, and*
- (e) encourages casual surveillance and social activity in public places, streets, laneways and plazas, and*
- (f) is sympathetic to its setting, including neighbouring sites and existing or proposed buildings, and*
- (g) protects and enhances the natural topography and vegetation including trees, escarpments or other significant natural features, and*
- (h) promotes vistas from public places to prominent natural and built landmarks, and*
- (i) uses high standards of architectural design, materials and detailing appropriate to the building type and location, and*

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

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

**Comment:**

Complies - pursuant to clause 6.13 development consent must not be granted for development on land in Zone E1 Local Centre unless the consent authority considers that the development exhibits design excellence. In considering whether development exhibits design excellence, the consent authority must give consideration to whether the development:

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

Complies - being located within the established building envelope the proposed alterations and additions will not result in additional overshadowing to the public or private domains. The works retain the form and massing noting the setback lines are retained.

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

Complies - this report clearly demonstrates that notwithstanding the alterations and additions proposed that the height, bulk, scale and form of development remains contextually appropriate.

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

Complies - the development continues to appropriately define the street edges and maintain active retail uses at street level in recognition of the zoning of the land.

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

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

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

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

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

Complies - the relatively minor works proposed will not alter the buildings spatial relationship with neighbouring properties.

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

Not applicable.

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

Complies - given that the relatively minor works are located within the established building envelope the proposed works will not give rise to any public or private view affectation.

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

Complies - the relatively minor works proposed will not compromise the architectural design of the existing building with materials and finishes to match those existing on-site.

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

Complies - the relatively minor works satisfy these provisions.

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

Complies - the development will not create any unusual or unacceptable demand for utility infrastructure such as to cause disruption at street level.

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

#### **6.16 Gross floor area in certain areas**

*(1) The objective of this clause is to provide for the viability of the land to which this clause applies 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.*

*(2) This clause applies to land identified as "Gross Floor Area for Certain Commercial Premises" on the [Key Sites Map](#).*

*(3) Development consent must not be granted to the erection of a building on the land to which this clause applies unless the consent authority is satisfied that at least 25% of the gross floor area of the building will be used as commercial premises.*

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

#### **Comment:**

Not applicable – the proposal does not change the existing commercial floor space within the building, noting that the void areas are within the residential component. It would therefore be unreasonable for Council to request that the void areas become commercial uses.

## 4.4 Manly Development Control Plan (MDCP)

In designing the proposed changes to the built form, due consideration has been given to the respective sections and objectives of MDCP2013, in particular:

- Part 3: General Principles of Development
- Part 4: Development Controls and Development Types

Key components of the DCP have been detailed below. The proposal is compliant with relevant provisions of the MDCP2013.

### **Part 3: General Principles of Development**

#### **3.1 Streetscapes and Townscapes**

##### *3.1 Streetscapes and Townscapes*

*Relevant DCP objectives to be met include the following:*

##### *Streetscape*

*Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.*

*Objective 2) To ensure development generally viewed from the street complements the identified streetscape.*

*Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.*

##### *Townscape*

*Objective 4) To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape.*

*Objective 5) To assist in maintaining the character of the locality.*

*Objective 6) To recognise the importance of pedestrian movements and townscape design in the strengthening and promotion of retail centres.*

*Objective 7) To minimise negative visual impact, in particular at the arterial road entry points into the Council area and the former Manly Council area, so as to promote townscape qualities.*

#### **Comment:**

Complies - the site is located within an established mixed-use precinct and involves alterations and additions to include an additional three split level apartments (only one to be fitted out at this stage). The works will not adversely alter the existing streetscape and maintain the existing maximum building height within the site. The proposed works are located within the existing building envelope and will be indistinguishable from the street, thus maintaining the character of the locality.

When having regard to the above, the proposal complies with Clause 3.1: Streetscape and Townscape within the Manly Development Control Plan 2013.

#### **3.1.1 Townscape (Local and Neighbourhood Centres)**

*Many areas of the former Manly Council area have a particularly important townscape character with an essentially unified townscape, giving rise to a particular individual character which should be maintained. This townscape character is derived as a result of the general scale and interest of the buildings and surrounds. This scale and interest exists even in areas with a limited number of heritage listed buildings with individual importance. The determination of the townscape of a locality should examine this sense of place and the sense of unity from a variety of perspectives identified in the following design principles.*

**Comment:**

The proposal enhances the existing townscape of Manly Town Centre through the integration of alterations and additions which are in line with the general scale and interest of the building and its surrounds.

**3.1.3.1 Design Principles**

*The following design principles and requirements at paragraphs 3.1.3.1.a) to i) should be achieved in all development involving the erection of a new building or external alterations to an existing building in order to:*

*☐ maintain and enhance the townscape of the former Manly Council area's LEP Business Zones:*

*☐ achieve the townscape objectives of this plan; and*

*☐ consider that the development exhibits design excellence in accordance with considerations of LEP clause 6.13(4) (as a statutory consideration for land in Zone B2 Local Centre and as a DCP consideration in other zones)*

*A scale and design of building appropriate to this local role should then be achieved.*

**Comment:**

Complies - the proposed alterations and additions will result in a functional use of "derelict" void areas within the building. The proposal implements a contemporary approach to development and will provide valuable residential housing within a town centre.

**3.2 Heritage**

*Relevant DCP objectives in relation to heritage in this plan include the following:*

*Objective 1) To retain and conserve environmental heritage and cultural significance of Manly including:*

- significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- the foreshore, including its setting and associated views; and*
- potential archaeological sites, places of Aboriginal significance and places of natural significance.*

*Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.*

*Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/ or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.*

*Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.*

*Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.*

**Comment:**

Not applicable – the site is not identified as a heritage item or located within a heritage conservation area. Further, the proposed alterations and additions are located away from the adjoining conservation area and heritage items in close proximity, therefore having no impact.

### **3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)**

*Relevant DCP objectives to be met in relation to these paragraphs include the following:*

*Objective 1) To protect the amenity of existing and future residents and minimise the impact of new development, including alterations and additions, on privacy, views, solar access and general amenity of adjoining and nearby properties including noise and vibration impacts.*

*Objective 2) To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.*

*Designing for Amenity*

*a) Careful design consideration should be given to minimise loss of sunlight, privacy, views, noise and vibration impacts and other nuisance (odour, fumes etc.) for neighbouring properties and the development property. This is especially relevant in higher density areas, development adjacent to smaller developments and development types that may potentially impact on neighbour's amenity such as licensed premises.*

*b) Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private viewpoints.*

*c) The use of material and finishes is to protect amenity for neighbours in terms of reflectivity. The reflectivity of roofs and glass used on external walls will be minimal in accordance with industry standards. See also Council's Administrative Guidelines regards DA lodgement requirements for materials and finishes.*

#### **Comment:**

Complies – the proposal relates to the alterations and additions within existing “horizontal” void areas in three parts of the building at 22 Central Avenue to allow for three additional residential units. The proposed works will have minimal impact on amenity in the locality noting no increase to existing overshadowing, no loss of views and no further impacts to privacy. The proposal will not have unreasonable levels of noise for an E1 Local Centre zone.

### **3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)**

*Relevant objectives in relation to this part include the following:*

*Objective 1) To ensure the principles of ecologically sustainable development are taken into consideration within a consistent and integrated planning framework that achieves environmental, economic and social sustainability in the short, medium and long term.*

*Objective 2) To encourage the retention and adaptation of existing dwellings including a preference for adaptive reuse of buildings rather than total demolition. Where retention and adaptation is not possible, Council encourages the use of building materials and techniques that are energy efficient, non-harmful and environmentally sustainable.*

*Objective 3) To minimise waste generated by development and embodied in the building materials and processes through demolition.*

*Objective 4) To encourage the use of recycled materials in landscape construction works.*

*Objective 5) To encourage the establishment of vegetable gardens and the planting of fruit trees.*

*Objective 6) To encourage energy efficient building design, construction and practices, that reduce energy consumption (primarily for heating and cooling), reduce the use of non-renewable fossil fuels, minimise air pollution, greenhouse gas emissions and reduce energy bills.*

*Objective 7) To require that residential site planning and building design optimise solar access to land and buildings.*

*Objective 8) To site and design development to optimise energy conservation and sustainability in accordance with BASIX legislation and encourage development to exceed requirement particularly to ensure energy efficient use of energy for internal heating and cooling.*

*See also Council's Administrative Guidelines*

*Objective 9) To site and design development to optimise energy conservation (in accordance with the energy hierarchy) and sustainability to which BASIX does not apply.*

*Objective 10) To ensure non-residential development involving a gross total floor area of greater than 500 sqm set and meet criteria for energy efficiency/conservation through an Energy Performance Report.*

*Objective 11) To ensure non-residential development complies with the Building Code of Australia energy efficiency provisions.*

**Comment:**

Complies – the proposal is supported by a BASIX and NatHERS Assessment prepared by Greenperch Pty Ltd.

**3.6 Accessibility**

*Objective 1) To ensure equitable access within all new developments and ensure that any refurbishments to existing buildings provide improved levels of access and facilities for people with disabilities.*

*Objective 2) To provide a reasonable proportion of residential units that should be designed to be adaptable and easily modified to promote 'ageing in place' and for people with disabilities.*

*Objective 3) To highlight consideration of access issues early in the development design process.*

*Objective 4) To continue improving understanding and awareness of access issues for people with disabilities through a commitment to implementation of best practice.*

*Objective 5) To ensure that the public domain, including public domain in new developments provides connectivity, legibility, flexibility and consistency to allow for equitable and safe access for all people.*

**Comment:**

Complies – the proposal retains accessibility to the building, as existing.

**3.7 Stormwater Management**

*Relevant objectives to satisfy relation to this part include the following:*

*Objective 1) To manage urban stormwater within its natural catchments and within the development site without degrading water quality of the catchments or cause erosion and sedimentation.*

*Objective 2) To manage construction sites to prevent environmental impacts from stormwater and protect downstream properties from flooding and stormwater inundation.*

*Objective 3) To promote ground infiltration of stormwater where there will be no negative (environmental) impacts and to encourage on-site stormwater detention, collection and recycling.*

*Objective 4) To make adequate arrangements for the ongoing maintenance of stormwater facilities.*

**Comment:**

Not applicable - The proposed development will retain the existing stormwater management systems onsite.

**3.8 Waste Management**

*Relevant objectives to satisfy in relation to this paragraph include the following:*

*Objective 1) To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development (ESD).*

*Objective 2) Encourage environmentally protective waste management practices on construction and demolition sites which include:*

- *sorting of waste into appropriate receptors (source separation, reuse and recycling) and ensure appropriate storage and collection of waste and to promote quality design of waste facilities;*
- *adoption of design standards that complement waste collection and management services offered by Council and private service providers;*
- *building designs and demolition and construction management techniques which maximises avoidance, reuse and recycling of building materials and which will minimise disposal of waste to landfill; and*
- *appropriately designed waste and recycling receptors are located so as to avoid impact upon surrounding and adjoining neighbours and enclosed in a screened off area.*

*Objective 3) Encourage the ongoing minimisation and management of waste handling in the future use of premises.*

*Objective 4) To ensure waste storage and collection facilities complement waste collection and management services, offered by Council and the private service providers and support on-going control for such standards and services.*

*Objective 5) To minimise risks to health and safety associated with handling and disposal of waste and recycled material, and ensure optimum hygiene.*

*Objective 6) To minimise any adverse environmental impacts associated with the storage and collection of waste.*

*Objective 7) To discourage illegal dumping.*

**Comment:**

Complies - the proposed works, alterations to an existing building will be completed as per the requirements of Councils Waste Management policies. A Waste Management Plan has been submitted to the Northern Beaches Council with respect to the construction waste that is associated with the proposed works. All waste generated during the construction of the building will be reuse, recycle and dispose of waste in an environmentally friendly and sustainable manner.

### **3.9 Mechanical Plant Equipment**

**Comment:**

Not applicable – no change to existing plant rooms.

### **3.10 Safety and Security**

*Relevant DCP objectives to be met in relation to these paragraphs include the following:*

*Objective 1) To ensure all development are safe and secure for all residents, occupants and visitors of various ages and abilities.*

*Objective 2) To ensure that the design process for all development integrate principles of ‘Safety in Design’ to eliminate or minimise risk to safety and security.*

*Objective 3) To contribute to the safety and security of the public domain.*

**Comment:**

Complies - The development maintains existing safety and security with the proposed works on the upper levels within existing “void” spaces.

## **Part 4: Development Controls and Development Types**

### **4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)**

*All DAs in local and neighbourhood centres are to consider townscape, design, diversity, interest and heritage values. Any departure from this plan and its controls will not be allowed where Council regards*

*these considerations and the objectives of the LEP as being compromised by the development. Relevant DCP objectives to be met in relation to these paragraphs include:*

*Objective 1) To introduce guidelines for the assessment of building heights, setback and other controls relating to building form and height in order to achieve a consistent and coherent townscape appropriate to the locality.*

#### **4.2.1 FSR (Consideration of Exceptions including Arcades)**

*Note: FSR is a development standard under LEP clauses 4.4 & 4.5 and applies to land shown on the LEP FSR Map. This paragraph details certain considerations for arcades in determining whether to grant an exception to the FSR standard in the LEP concerning whether 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case', and whether 'there is sufficient environment planning grounds to justify contravening the development standard' (LEP clause 4.6.3).*

*FSR gives a firm indication of the overall maximum scale of development considered. In practice many sites may be limited in the ability to achieve this scale given characteristics of the site itself, and the other requirements of this plan.*

*In addition to LEP Objectives at clause 4.4(1) this plan further details the control of FSR in the following objective:*

*Objective 1) To provide firm guidelines as to the potential development of a centre and an individual site. See also paragraph 3.2.5.2 Exceptions to FSR for development of Heritage Items.*

##### **4.2.1.1 Exceptions to FSR for Arcades**

*Arcades and other types of thoroughfares which are available for public use at all times may be excluded from the calculation of gross floor area for the purpose of determining the FSR.*

##### **4.2.1.2 Exceptions to FSR for Plant Rooms**

*In determining the exclusion of plant rooms in accordance with the LEP meaning of gross floor area, consideration must be given to paragraph 3.9 Plant Equipment of this plan with regard to the design and maximum area of plant and plant rooms when calculating the gross floor area for the purpose of calculating FSR.*

#### **Comment:**

Merit Assessment - Refer to assessment under Clause 4.4 Floor Space Ratio.

### **4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)**

*Note: Height of Building is a development standard contained under LEP clause 4.3 and applies to land shown on the LEP Height of Building Map. This DCP details certain considerations to townscape*

*principles \* in determining whether to grant an exception to the LEP standard concerning whether 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' and whether 'there is sufficient environment planning grounds to justify contravening the development standard' (LEP clause 4.6(3)).*

#### **4.2.2.1 Exceptions to Height for Design Excellence**

*In determining whether to grant an exception to the LEP height standard, the environmental planning grounds to justify contravening the development standard (LEP clause 4.6(3)) may include consideration of the design principles at paragraph 3.1.3.1 Design Principles in this DCP.*

**Comment:**

Merit Assessment - Refer to assessment under Clause 4.3 Height of Building.

#### **4.2.3 Setbacks Controls in LEP Zones B1 and B2**

*Relevant DCP objectives in this plan to be met in relation to this paragraph include the following:*

*Objective 1) To ensure unobstructed access between the private and public domain.*

*Objective 2) To maintain the existing streetscape of building to the boundary.*

*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 established 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, reduce the general availability of retail frontage or remove weather 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 in this plan for residential development at paragraph 3.1.1 will also apply. In relation to setbacks in Neighbourhood Centres, see also paragraph 4.2.8.2 which includes guidance for when development adjoins land zoned residential in the LEP.*

*d) Council considers the need for building works to be setback at corner lots/street intersections to provide for an unobstructed splay for the purpose of improved traffic visibility. The maximum dimension of this triangular shaped splay would be typically up to 3m along the length of the site boundaries either side of the site corner.*

**Comment:**

Not applicable - no change to existing building setbacks. The proposed units are contained within the existing building footprint and envelope.

#### **4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor**

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

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

**Comment:**

Merit assessment – the proposal does not include any additional parking spaces with the application noting that the proposal is the infill of existing voids areas within the building. The site is strategically

located within Manly Town Centre with any future occupants fully aware of the provisions of no parking. The strategic location to services and public transport ensures no adverse impacts to parking or the capacity of the street networks.

#### **4.2.4.1 Car Parking**

*a) The Council may be prepared to allow exceptions to the parking rate/requirements required in this DCP in the following circumstances:*

- (i) where it can be demonstrated that particular activities in mixed use developments have car parking demands which peak at different times;*
- (ii) where visitors are likely to use more than one facility per trip;*
- (iii) considering available car parking in the surrounding area, except in relation to Manly Town Centre where more particular exceptions are provided at paragraph 4.2.5.4 of this plan; or*
- (iv) where it is satisfied that reduced number of parking spaces will facilitate conservation of an item of the environmental heritage in accordance with LEP clause 5(10).*

#### **Comment:**

Merit assessment – the matter of parking was discussed within the pre-lodgement meeting with the following comments provided by Councils traffic engineers:

*It is not proposed to provide any additional parking and consideration could be given to allowing this given the proximity of the location to high frequency public transport, shops and services and noting the level topography at street level with good access to pedestrian and cycle facilities. A condition of consent would however be applied to any consent restricting residents of the unit from eligibility for resident parking permits as waiving of the parking requirements is on the basis that residents would have little need for private car ownership.*

Based on the above, the proposal can be supported with no objection to the proposed condition of consent restricting eligibility for a parking permit.

#### **4.2.4.2 Vehicular Access**

Vehicular Access is to be provided for all new buildings in such a manner that all vehicles enter and leave the site in a forward direction.

#### **Comment:**

Not applicable – no change to existing vehicular access points.

#### **4.2.4.3 Loading bays**

- a) Loading bays must be provided in sufficient number to meet anticipated demand. This demand is related to the total amount of floor space, the intensity of use and the nature of the activity.*
- b) The minimum dimensions for a loading bay are 7.6m length, 3m width and 3.4m height.*
- c) Access is to be provided to and from the loading bay areas in such a manner that there is sufficient room for trucks to manoeuvre. Greater head-height may be required, in consultation with NSW Roads Services (previously RTA) Guidelines, should this seem warranted by the nature of the development. Council will also have regard to the NSW Roads Services guidelines when assessing the required number and dimensions of loading bay facilities.*

*d) Off street loading facilities are to be provided to service the entire development in the LEP Business Zones considering the uses proposed on the site and to overall townscape considerations and in other LEP zones where the use requires regular servicing by commercial vehicles.*

*e) Where a residential building may require regular servicing by commercial vehicles, off street loading facilities must be provided with least 1 complying loading bay.*

**Comment:**

Not applicable.

**4.2.5 Manly Town Centre and Surrounds**

*Objective 1) To consolidate, promote and strengthen both retail activity in the Manly Town Centre as well as townscape in accordance with the townscape requirements of this plan.*

**Comment:** The proposal retains the retail and commercial tenancies within the mixed-use development with the proposed residential units located within the void areas of the residential component of the building.

**4.2.5.1 Design for Townscape**

*Council must be satisfied that the design of any development (not just heritage listed buildings) has given due attention to the site's position within, and the developments contribution to the overall existing and future townscape quality of the Manly Town Centre and surrounds.*

*In addition to the townscape principles at paragraph 3.1.3 which apply to all Centres including the Townscape Principles Map A for Manly Town Centre at Schedule 2 of this plan, additional townscape requirements for Manly Town Centre and Surrounds apply as follows:*

*a) Maintain the predominant pattern of narrow fronted buildings within the town centre with new buildings incorporating modulation of the street wall such as recesses or modulation in the building facade to visually reduce the length and perceived bulk of the street wall.*

*b) Maintain existing setbacks.*

*c) New development to enhance townscape characteristics, disregarding existing unsympathetic buildings.*

*d) Step back development around the intersection of Sydney Road and Whistler Street to reveal the historic building (church) at this intersection.*

*e) Develop new facade line in North Steyne to avoid unattractive end walls and sharp transitions in the vicinity of 46-48 North Steyne, Manly.*

*f) Height and setback of development must cause no undue affectation to properties to the south in terms of loss of sunlight or privacy (Pittwater Road, Manly).*

**Comment:**

Complies - the proposal has been designed as infill within the existing building envelope with no changes to existing building setbacks or building height. The proposal is consistent with the intent of design for the Manly Town Centre.

**4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre**

*Consideration of the appropriate heights within the maximum Building Height development standard and exceptions to the standard in the LEP includes the following:*

- a) Whether the final building height including any architectural embellishments adversely dominate the heights of end (corner) buildings in the same street block or that of adjoining buildings.*
- b) Whether the proposed development successfully demonstrates the most appropriate relationship to adjoining development in terms of fulfilling the Council's townscape objectives. New development provides opportunities to achieve the maximum height of building in the centre of the street blocks to obtain views and outlook over buildings on the block edge at a lower height.*
- c) Whether new development should be constructed to the same building envelope as existing buildings on a site in order to maintain interest and variety, provided the other objectives and requirements (including FSR) of this plan are achieved.*
- d) Whether new buildings equate with both the overall height as well as the level of each floor of adjoining buildings and in relation to particular architectural details like parapet details and with particular regard to important end-buildings in the particular street block.*

**Note:** *The height relationship of particular architectural details with adjoining buildings may often require particular consideration of floor to ceiling heights. The creation of an additional storey by reducing the typical floor to ceiling height in a manner inconsistent with adjoining buildings will not be permitted. The use of internal mezzanine levels may be considered in order to achieve the desired height levels, where necessary, within the total height of the building.*

**Comment:**

Not applicable - no change to existing building height.

**4.2.5.3 Security Shutters**

*Shop window security roller shutters are not permitted on the external face of the building. Such screens may only be used behind the window display.*

**Comment:**

Not applicable – the proposal does not include security shutters for windows.

**4.2.5.4 Car Parking and Access**

*See also paragraph 4.2.4 Parking, Access and Loading (in LEP Zones B1 and B2 generally).*

*See also Schedule 3 Minimum Parking Rates/ Requirements.*

*Exceptions to parking rates/ requirements in Manly Town Centre*

*a) In exceptional circumstances and having regard to the merits of the application, Council may be prepared to allow a reduction in the any parking rate/ requirements in Manly Town Centre (including residential and commercial) where the applicant has demonstrated that:*

- (i) in the case of all uses other than dwellings, the dimensions or topography of the site would physically prevent the provision of some or all of the required spaces;*
- (ii) the required access interferes with the continuity of retail frontage or interrupts the frontage of the property in other ways such that there would be a conflict with any other provisions of this DCP in particular the townscape objectives; or*
- (iii) the movement of vehicles to and from the site would cause unacceptable conflict with pedestrian movements, special servicing arrangements for pedestrianised areas or contribute to congestion at key intersections.*

*Application of Manly Section 94 Contributions Plan*

*b) In respect of onsite parking requirements generated by development under this plan in Manly Town Centre (other than dwellings, tourist accommodation and backpackers' accommodation), no more than 50 percent of the required car parking spaces is permitted to be provided onsite, with the remainder being provided by way of monetary contribution in accordance with the former Manly Council's Section 94 Contributions Plan.*

*Note: This provision supports parking in conjunction with development in accordance with long held*

*standards, at the same time limiting the number of cars brought into Manly Town Centre with ready access to public transport as well as existing and future public carparking stations.*

*Location of Driveways*

*c) No driveway crossover should be less than 10m from a major street intersection and vehicular crossovers should be minimal in size.*

**Comment:**

Refer to assessment under 4.2.4.

**4.2.5.5 Backpackers' Accommodation**

**Comment:**

Not applicable – the proposal is not for backpackers accommodation.

**4.2.5.6 Late Night Venues**

**Comment:**

Not applicable – the proposal is not identified as a late night venue.

**Part 4.4 Other Development (all LEP Zones)**

**4.4.1 Demolition**

*Relevant DCP objectives in this plan in relation to these paragraphs include:*

*Objective 1)*

*To protect the environment during demolition, site works, and construction phases of development.*

*Where development involves demolition, the applicant is to demonstrate that the degree of demolition considers any existing building on the land that should be retained and appropriately adapted in order to:*

*a) Meet ecologically sustainable development principles by conserving resources and energy and reducing waste from any demolition process; and*

*b) Conserve the cultural heritage of the existing building and that of the locality. An appropriate assessment of potential heritage significance must accompany any DA in relation to demolition. If the property has merit as a potential heritage item, the heritage controls and considerations in this plan apply, and*

*c) Comply with the requirements of the Northern Beaches Waste Management Policy*

**Comment:**

Complies – the proposal includes minor demolition works involved with the installation of the new façade works and the internal components.

**4.4.2 Alterations and Additions**

*Manly Council promotes the retention and adaptation of existing buildings rather than their demolition and replacement with new structures.*

*Extent to which this Plan Applies to Alterations and Additions*

*a) This paragraph defines alterations and additions in respect of how much of the building is to be demolished. If alterations and additions involve demolition of more than half of the building then the development will be assessed as new work and the controls of this plan will apply to the whole building i.e. to both existing and new development.*

*b) In paragraph a) above, the extent of demolition is calculated as a proportion of the existing external fabric being demolished including the surface area of the walls, the roof measured in plan form and the area of the lowest habitable floor.*

**Comment:**

Complies - the proposal is for alterations and additions to an existing development which infills existing horizontal void areas. The alterations and additions are considered to be relatively minor and maintain and enhance the streetscape through compatible materials and finishes.

**4.4.4.1 Awnings in LEP B1 and B2 Business Zones**

*Continuous footpath awnings must be provided on all street frontages generally consistent with the streetscape. The width, fascia height and method of support of all awnings in any street block must be consistent with entrances to public lands and through-site links allowed to be accentuated and generally in accordance with given dimensions (see Figure 46 – Awnings).*

*In particular, awnings may be permitted where:*

- a) development abuts pedestrian ways;*
- b) aligned with adjoining awnings in height and width;*
- c) it can be demonstrated the specific need for protection of goods or from weather and sun;*
- d) through site links are not obscured; and where*
- e) lighting under the awnings is provided for pedestrian safety and security*

**Comment:** Not applicable – no awnings proposed.

**4.4.5 Earthworks (Excavation and Filling)**

*Note: Before granting development consent for earthworks, consideration must be given to the matters listed in LEP clause 6.2(3)(a)-(h).*

*Relevant DCP objectives in this plan in relation to these paragraphs include:*

- Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:*
- Limiting excavation, “cut and fill” and other earthworks;*
  - Discouraging the alteration of the natural flow of ground and surface water;*
  - Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*
  - Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.*

*See also paragraph 4.1.8 Development on Sloping Sites (Planning Principles).*

*See also paragraph 3.3.2 Preservation of Trees and Bushland V.*

**Comment:**

Not applicable – the proposal does not include excavation works.

**Part 5 – Special Character Precincts, Areas and Sites**

**5.4.1 Foreshore Scenic Protection Area**

*LEP clause 6.9 designates land in the Foreshore Scenic Protection Area as shown on the LEP Foreshore Scenic Protection Area Map to protect visual aesthetic amenity and views both to and from Sydney Harbour, the Pacific Ocean and the Manly foreshore. Development in the Foreshore*

*Scenic Protection Area must not detrimentally effect the 'visual or aesthetic amenity of land in the foreshore scenic area nor must the development similarly effect the views of that land, including ridgelines, tree lines and other natural features viewed from the Harbour or Ocean from any road, park or land in the LEP for any open space purpose or any other public place. Any adverse impacts considered in this paragraph will be mitigated. In accordance with these LEP objectives Council seeks to conserve and preserve tree canopies and street trees, wildlife corridors and habitat and minimise cumulative impacts on escarpment, rock shelves and other natural landscape features.*

#### *5.4.1.1 Additional matters for consideration*

*LEP clause 6.9(3)(a) to (d) lists certain matters to be taken into account in relation to all development within the Foreshore Scenic Protection Area.*

*a) Further to matters prescribed in the LEP, the development in the Foreshore Scenic Protection Area must also:*

- i) minimise the contrast between the built environment and the natural environment;*
- ii) maintain the visual dominance of the natural environment;*
- iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;*
- iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;*
- v) locate rooflines below the tree canopy;*
- vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and*
- vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality.*

*b) Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly.*

*See also paragraph 4.1.4.5 of this DCP and LEP clause 6.10 in relation to Foreshore Building Lines and limited development in the Foreshore Area*

#### **Comment:**

Complies – refer to assessment under Clause 6.9.

### **5.4.3 Flood Prone Land**

#### ***Objectives***

*Protection of people.*

*Protection of the natural environment.*

*Protection of private and public infrastructure and assets.*

#### ***Requirements***

*1. Development must comply with the prescriptive controls set out in the Matrix below. Where a property is affected by more than one Flood Risk Precinct, or has varying Flood Life Hazard Category across it, the assessment must consider the controls relevant at each location on the property.*

*2. Development on flood prone land requires the preparation of a Flood Management Report by a suitably qualified professional.*

#### **Comment:**

Complies – refer to assessment under Clause 5.21.

**Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles**

*Note: For other development types not identified in this Schedule, parking shall be provided in accordance with the Roads and Maritime Services (RMS) Design Reference Documents located at [www.rta.nsw.gov.au/doingbusinesswithus](http://www.rta.nsw.gov.au/doingbusinesswithus). This site is a one-stop-shop to access a large range of information and programs to assist in the management of the NSW road network. It includes RMS's technical directions, updated survey data, specifications, guidelines, and information fact sheets*

**Application of Parking Rates/Requirements:**

*All calculations of required parking rates are to be rounded up to the next whole number. In the case of visitors spaces, the required rate is to be rounded up separately for the visitors parking (e.g. for 2x2b dwellings, the sum of rates are 2.4 resident spaces and 0.5 visitor spaces, these rates would be rounded to 3 resident spaces and 1 visitor space i.e. a total of 4 spaces.)*

**Residential Flat Buildings, Multi Dwelling Housing, Shop Top Housing, Attached Dwellings, Boarding Houses, Dual Occupancies, Group Homes, Hostels, Seniors Housing:**

*In Manly Town Centre Business Zone (LEP Zone B2- Local Centre)*

*0.6 resident parking space for each Studio or one bedroom dwelling, plus*

*1 resident parking space for each 2 bedroom dwelling, plus*

*2 resident parking spaces for each 3 or more bedroom dwelling, and plus*

*0.16 visitor parking space for each dwelling (irrespective of number of bedrooms).*

**Comment:**

Merit assessment – refer to assessment under MDCP 4.2.4.

## 5. Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979

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

### **(a) The provisions of:**

#### *(i) The provision of any Environmental Planning Instrument*

**Comment:** The proposal is permissible and consistent with the intent of the Manly Local Environmental Plan and Development Control Plan as they are reasonably applied to the proposed works.

#### *(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

**Comment:** Not applicable.

#### *(iii) Any development control plan*

**Comment:** The proposal has been reviewed and assessed under Manly Development Control Plan.

#### *(iiia) Any Planning Agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and*

**Comment:** Not applicable.

#### *(iv) The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

**Comment:** Not applicable.

#### *(v) (repealed)*

### **(b) 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*

**Comment:** The proposed split-level apartments will occupy existing void areas associated with the existing building and to that extent will not, in any readily discernible manner, alter the three-dimensional form and massing of the development nor give rise to any adverse streetscape, townscape, heritage conservation or residential amenity impacts in terms of views, privacy or solar access.

*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*

**Comment:** The proposal is compatible with adjacent and adjoining land uses and will not result in an unacceptable amount of noise.

***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*

**Comment:** The proposal retains the existing vehicular access points to the site.

***Public Domain***

**Comment:** The proposed development will have no adverse impact on the public domain.

***Utilities***

**Comment:** Existing utility services will connect to service the dwelling.

***Flora and Fauna***

**Comment:** The proposal does not impact flora and fauna.

***Waste Collection***

**Comment:** Normal waste collection applies with access to waste facilities within the loading area.

***Natural hazards***

**Comment:** The site is identified as flood prone land. The application relates to an area identified outside the flood hazard area.

***Economic Impact in the locality***

**Comment:** The proposed development will not have any significant impact on economic factors within the area notwithstanding that it will generate additional employment opportunities through the construction period with respect to the proposed works.

***Site Design and Internal Design***

*i) Is the development design sensitive to environmental considerations 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*

**Comment:** These matters have been discussed in detail earlier in this report. The proposed alterations and additions are suitable for the locality.

*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*

**Comment:** The proposed development can comply with the provisions of the Building Code of Australia. The proposal complies with the relevant standards pertaining to health and safety and will not have any detrimental effect on the occupants.

### **Construction**

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

- *The environmental planning issues listed above*
- *Site safety*

**Comment:** The proposal will employ normal site safety measures and procedures will ensure that no safety or environmental impacts will arise during construction.

### **(c) The suitability of the site for the development**

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development 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*
- *Are the site attributes conducive to development*

**Comment:** 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.

### **(d) Any submissions received in accordance with this act or regulations**

**Comment:** No submissions are available at this time.

### **(e) The public interest**

**Comment:** The proposed works are permissible and consistent with the intent of MLEP2013 and MDCP controls as they are reasonably applied to the proposed alterations and additions to the existing development. The development would not be contrary to the public interest. In our opinion, the development satisfies the planning regime applicable to development on this particular site having regards to the considerations arising from its context.

The proposal is acceptable when assessed against the heads of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (as amended), and is appropriate for the granting of consent and accordingly, is in the public interest.

## 6. Summary and Conclusion

The proposal alterations and additions to an existing mixed-use development being the addition of a split-level residential apartment and two split level cold shells which can be converted to a residential apartment at a later date within the existing building envelope at 22 Central Avenue, Manly, within Strata Plan 7114 and Strata Plan 13245, is permissible and consistent with the intent of the built form controls as they are reasonably applied to the proposed works. It is considered that the proposal is appropriate and is worthy of the granting of development consent for the following reasons:

- The merits of the application have been assessed in accordance with the provisions of the relevant requirements of MLEP 2013 and the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979 (as amended)*. There is no evidence that the impacts of the development would warrant amendment to the subject proposal or justify refusal. Where a variation is proposed, adequate documentation has been provided to support the application.
- The final design detailing is responsive to the minutes arising from formal pre-DA discussions with Council (PLM2024/0024) including the need to address urban design requirements for the façade treatments in one go.
- The proposed apartments achieve (or can achieve) the objectives contained within the Apartment Design Guide (ADG) as reasonably applied to an application proposing alterations and additions to an existing mixed-use building.
- Whilst the proposal requires the consent authority to give favourable consideration to variations to the building height and FSR controls strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the attainment of an appropriate contextual fit and general paucity of streetscape, heritage conservation and residential amenity impacts.

Accordingly, the proposal for alterations and additions to an existing mixed-use development at 22 Central Avenue, Manly, is acceptable from environmental, social, heritage, and planning perspectives and approval should therefore be granted by Council.

**Appendix 1 - Apartment Design Guide**

*\*Note - ADG review is based on relevant controls only.*

### Apartment Design Guide Compliance Table

	Objective	Design Criteria	Proposed	Comment
<b>Part 3 – Siting the Development</b>				
<b>3A - Site Analysis</b>	<b>Objective 3A-1</b> Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context		Complies	A detailed site analysis is provided within the architectural set.
<b>3B - Orientation</b>	<b>Objective 3B-1</b> Building types and layouts respond to the streetscape and site while optimising solar access within the development		Not applicable	N/A – no change to existing building orientation.
	<b>Objective 3B-2</b> Overshadowing of neighbouring properties is minimised during mid winter		Not applicable	N/A – no change to existing building orientation.
<b>3C - Public Domain Interface</b>	<b>Objective 3C-1</b> Transition between private and public domain is achieved without compromising safety and security		Complies	The existing building entrance is clearly visible from the public and private domain interface.
	<b>Objective 3C-2</b> Amenity of the public domain is retained and enhanced		Complies	The proposed alterations and additions will not impact the amenity of the public domain.
<b>3D - Communal and Public Open Space</b>	<b>Objective 3D-1</b> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	<ol style="list-style-type: none"> <li>1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)</li> <li>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</li> </ol>	Not applicable	N/A – no change to existing provisions.

		between 9 am and 3 pm on 21 June (mid winter)														
	<b>Objective 3D-2</b> Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting		Not applicable	N/A – no change to existing provisions.												
	<b>Objective 3D-3</b> Communal open space is designed to maximise safety		Not applicable	N/A – no change to existing provisions.												
	<b>Objective 3D-4</b> Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood		-	-												
<b>3E - Deep Soil Zones</b>	<b>Objective 3E-1</b> Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>less than 650m<sup>2</sup></td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m<sup>2</sup> - 1,500m<sup>2</sup></td> <td>3m</td> </tr> <tr> <td>greater than 1,500m<sup>2</sup></td> <td>6m</td> </tr> <tr> <td>greater than 1,500m<sup>2</sup> with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> - 1,500m <sup>2</sup>	3m	greater than 1,500m <sup>2</sup>	6m	greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	Not applicable	N/A – no change to existing provisions.
Site area	Minimum dimensions	Deep soil zone (% of site area)														
less than 650m <sup>2</sup>	-	7%														
650m <sup>2</sup> - 1,500m <sup>2</sup>	3m															
greater than 1,500m <sup>2</sup>	6m															
greater than 1,500m <sup>2</sup> with significant existing tree cover	6m															
<b>3F - Visual Privacy</b>	<b>Objective 3F-1</b> Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy	1. 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	The proposed three infill apartments comply with visual privacy.												

Mixed-Use Development

		Building height				
		Building height	Habitable rooms and balconies	Non-habitable rooms		
		up to 12m (4 storeys)	6m	3m		
		up to 25m (5-8 storeys)	9m	4.5m		
		over 25m (9+ storeys)	12m	6m		
	<b>Objective 3F-2</b> 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	The proposed development will achieve an appropriate level of privacy whilst also achieving compliant solar access and natural ventilation throughout the building.	
<b>3G - Pedestrian Access and Entries</b>	<b>Objective 3G-1</b> Building entries and pedestrian access connects to and addresses the public domain			Not applicable	N/A – no change to existing pedestrian access and entries.	
	<b>Objective 3G-2</b> Access, entries and pathways are accessible and easy to identify			Not applicable	N/A – no change to existing pedestrian access and entries.	
	<b>Objective 3G-3</b> Large sites provide pedestrian links for access to streets and connection to destinations			Not applicable	N/A – no change to existing pedestrian access and entries.	
<b>3H - Vehicle Access</b>	<b>Objective 3H-1</b> Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes			Not applicable	N/A – no change to existing vehicle access.	
<b>3J - Bicycle and Car Parking</b>	<b>Objective 3J-1</b> Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	1. For development in the following locations:		Merit assessment	The proposal does not include any additional carparking, therefore resulting in a 4 car	

Mixed-Use Development

	<ul style="list-style-type: none"> <li>• on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>• on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</li> </ul> <p>The car parking needs for a development must be provided off street</p>		shortfall. Refer to pre-lodgement discussion which noted support based on the strategic location of the site.
<b>Objective 3J-2</b> Parking and facilities are provided for other modes of transport		Complies	Bicycle parking and storage provided.
<b>Objective 3J-3</b> Car park design and access is safe and secure		Not applicable	N/A – no change to existing car park design and access.
<b>Objective 3J-4</b> Visual and environmental impacts of underground car parking are minimised		Not applicable	-
<b>Objective 3J-5</b> Visual and environmental impacts of on-grade car parking are minimised		Not applicable	-
<b>Objective 3J-6</b> Visual and environmental impacts of above ground enclosed car parking are minimised		Not applicable	-

<b>Part 4 – Designing the Building</b>				
<b>4A - Solar and Daylight Access</b>	<b>Objective 4A-1</b> To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	<ol style="list-style-type: none"> <li>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</li> <li>2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter</li> <li>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</li> </ol>	Complies	Based on the orientation of the site and the location of the balconies the apartments will receive compliant solar access.
	<b>Objective 4A-2</b> Daylight access is maximised where sunlight is limited		Complies	The proposed apartments meet sunlight access requirements.
	<b>Objective 4A-3</b> Design incorporates shading and glare control, particularly for warmer months		Complies	As required by BASIX.
<b>4B - Natural Ventilation</b>	<b>Objective 4B-1</b> All habitable rooms are naturally ventilated		Complies	All habitable rooms will be naturally ventilated.
	<b>Objective 4B-2</b> The layout and design of single aspect apartments maximises natural ventilation		Not applicable	The apartments have dual aspects.

	<p><b>Objective 4B-3</b> The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents</p>	<p>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</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>Complies</p>	<p>All proposed apartments will achieve adequate natural ventilation.</p>												
<p><b>4C - Ceiling Heights</b></p>	<p><b>Objective 4C-1</b> Ceiling height achieves sufficient natural ventilation and daylight access</p>	<p>1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="920 772 1366 1126"> <thead> <tr> <th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use</td> </tr> </tbody> </table> <p>These minimums do not preclude higher ceilings if desired.</p>	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 used areas	3.3m for ground and first floor to promote future flexibility of use	<p>Complies</p>	<p>The proposed apartments comply with minimum floor to ceiling requirements.</p>
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 used areas	3.3m for ground and first floor to promote future flexibility of use															
	<p><b>Objective 4C-2</b> Ceiling height increases the sense of space in apartments and provides for well proportioned rooms</p>		<p>Complies</p>	<p>Rooms within each unit are well proportioned and</p>												

				comply with minimum ceiling heights.										
	<b>Objective 4C-3</b> Ceiling heights contribute to the flexibility of building use over the life of the building		Noted	-										
<b>4D - Apartment Size and Layout</b>	<b>Objective 4D-1</b> The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	<p>1. Apartments are required to have the following minimum internal areas:</p> <table border="1"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m<sup>2</sup></td> </tr> <tr> <td>1 bedroom</td> <td>50m<sup>2</sup></td> </tr> <tr> <td>2 bedroom</td> <td>70m<sup>2</sup></td> </tr> <tr> <td>3 bedroom</td> <td>90m<sup>2</sup></td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each</p> <p>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</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	Complies	All apartments comply with the minimum internal area requirements.
	Apartment type	Minimum internal area												
	Studio	35m <sup>2</sup>												
1 bedroom	50m <sup>2</sup>													
2 bedroom	70m <sup>2</sup>													
3 bedroom	90m <sup>2</sup>													
<b>Objective 4D-2</b> Environmental performance of the apartment is maximised	1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Complies	Refer to architectural plans for detail.											

		2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Complies	Refer to architectural plans for detail.															
	<b>Objective 4D-3</b> Apartment layouts are designed to accommodate a variety of household activities and needs	<p>1. Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. . Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul> <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	Complies	Refer to architectural plans for detail.															
<b>4E - Private Open Space and Balconies</b>	<b>Objective 4E-1</b> Apartments provide appropriately sized private open space and balconies to enhance residential amenity	<p>1. All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="920 1062 1368 1289"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m<sup>2</sup></td> <td>2.4m</td> </tr> </tbody> </table>	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	Merit Assessment	The proposed units have been designed to be consistent with the existing building and apartments. The proposal allows for full sliders in the living room and a 4.52sqm balcony off the lower floor bedrooms. Noting the communal roof top area within the
Dwelling type	Minimum area	Minimum depth																	
Studio apartments	4m <sup>2</sup>	-																	
1 bedroom apartments	8m <sup>2</sup>	2m																	
2 bedroom apartments	10m <sup>2</sup>	2m																	
3+ bedroom apartments	12m <sup>2</sup>	2.4m																	

Mixed-Use Development

		<p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m</p>		<p>building and location to key public open spaces, a merit assessment can be granted in this instance.</p>
	<p><b>Objective 4E-2</b> Primary private open space and balconies are appropriately located to enhance liveability for residents</p>		Complies	<p>The proposal includes two forms of “balconies” to both frontages of the building.</p>
	<p><b>Objective 4E-3</b> Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</p>		Complies	<p>The proposed balconies retain and contribute to the design and form of the building.</p>
	<p><b>Objective 4E-4</b> Private open space and balcony design maximises safety</p>		Complies	<p>Design of balconies and private open space avoids opportunities for climbing and falls, subject to meeting relevant standards.</p>
<p><b>4F - Common Circulation Spaces</b></p>	<p><b>Objective 4F-1</b> Common circulation spaces achieve good amenity and properly service the number of apartments</p>	<p>1. The maximum number of apartments off a circulation core on a single level is eight</p> <p>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	Not applicable	<p>No change to existing provisions. Noting that the proposal is for alterations and additions no further changes can be made to increase common circulation.</p>

	<b>Objective 4F-2</b> Common circulation spaces promote safety and provide for social interaction between residents		Complies	-										
<b>4G - Storage</b>	<b>Objective 4G-1</b> Adequate, well designed storage is provided in each apartment	<p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>3</sup></td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m<sup>3</sup></td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m<sup>3</sup></td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m<sup>3</sup></td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage size volume	Studio apartments	4m <sup>3</sup>	1 bedroom apartments	6m <sup>3</sup>	2 bedroom apartments	8m <sup>3</sup>	3+ bedroom apartments	10m <sup>3</sup>	Complies	Adequate provision for storage in each apartment is provided.
	Dwelling type	Storage size volume												
Studio apartments	4m <sup>3</sup>													
1 bedroom apartments	6m <sup>3</sup>													
2 bedroom apartments	8m <sup>3</sup>													
3+ bedroom apartments	10m <sup>3</sup>													
	<b>Objective 4G-2</b> Additional storage is conveniently located, accessible and nominated for individual apartments		Complies	Refer to architectural plans for detail.										
<b>4H - Acoustic Privacy</b>	<b>Objective 4H-1</b> Noise transfer is minimised through the siting of buildings and building layout		Complies	Refer to architectural plans for detail.										
	<b>Objective 4H-2</b> Noise impacts are mitigated within apartments through layout and acoustic treatments		Complies	Refer to architectural plans for detail.										
<b>4J - Noise and Pollution</b>	<b>Objective 4J-1</b> In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings		Complies	The site is not in a noisy or hostile location, therefore no further consideration is required										
	<b>Objective 4J-2</b> Appropriate noise shielding or attenuation techniques for the building design, construction and		Complies	Refer to architectural plans for detail.										

	choice of materials are used to mitigate noise transmission			
<b>4K - Apartment Mix</b>	<b>Objective 4K-1</b> A range of apartment types and sizes is provided to cater for different household types now and into the future		Not applicable	The proposal is for the addition of three apartments within an existing mixed-use complex.
	<b>Objective 4K-2</b> The apartment mix is distributed to suitable locations within the building		Not applicable	The proposal is for the addition of three apartments within an existing mixed-use complex.
<b>4L - Ground Floor Apartments</b>	<b>Objective 4L-1</b> Street frontage activity is maximised where ground floor apartments are located		Not applicable	The proposal does not include ground floor apartments.
	<b>Objective 4L-2</b> Design of ground floor apartments delivers amenity and safety for residents		Not applicable	The proposal does not include ground floor apartments.
<b>4M - Facades</b>	<b>Objective 4M-1</b> Building facades provide visual interest along the street while respecting the character of the local area		Complies	The proposed façades maintain the intent of that existing including materials, setbacks and style.
	<b>Objective 4M-2</b> Building functions are expressed by the facade		Complies	The building functions are maintained as existing on the site with the proposed works.
<b>4N - Roof Design</b>	<b>Objective 4N-1</b> Roof treatments are integrated into the building design and positively respond to the street		Not applicable	No change to existing roof.
	<b>Objective 4N-2</b> Opportunities to use roof space for residential		Not applicable	No change to existing roof.

Mixed-Use Development

	accommodation and open space are maximised			
	<b>Objective 4N-3</b> Roof design incorporates sustainability features		Not applicable	No change to existing roof.
<b>4O - Landscape Design</b>	<b>Objective 4O-1</b> Landscape design is viable and sustainable		Not applicable	No change to existing landscaping on the site.
	<b>Objective 4O-2</b> Landscape design contributes to the streetscape and amenity		Not applicable	No change to existing landscaping on the site.
<b>4P - Planting on Structures</b>	<b>Objective 4P-1</b> Appropriate soil profiles are provided		Not applicable	No change to existing landscaping on the site.
	<b>Objective 4P-2</b> Plant growth is optimised with appropriate selection and maintenance		Not applicable	No change to existing landscaping on the site.
	<b>Objective 4P-3</b> Planting on structures contributes to the quality and amenity of communal and public open spaces		Not applicable	No change to existing landscaping on the site.
<b>4Q - Universal Design</b>	<b>Objective 4Q-1</b> Universal design features are included in apartment design to promote flexible housing for all community members		Complies	Refer to architectural plans for details.
	<b>Objective 4Q-2</b> A variety of apartments with adaptable designs are provided		Complies	Refer to architectural plans for details.
	<b>Objective 4Q-3</b> Apartment layouts are flexible and accommodate a range of lifestyle needs		Complies	Refer to architectural plans for details.
<b>4R - Adaptive Reuse</b>	<b>Objective 4R-1</b> New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place		Complies	The proposal infill existing void areas for use as residential apartments.

Mixed-Use Development

	<b>Objective 4R-2</b> Adapted buildings provide residential amenity while not precluding future adaptive reuse		Not applicable	-
<b>4S - Mixed Use</b>	<b>Objective 4S-1</b> Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement		Complies	The proposed apartments maintain the intent of that existing on-site.
	<b>Objective 4S-2</b> Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents		Complies	Refer to architectural plans for detail.
<b>4T - Awnings and Signage</b>	<b>Objective 4T-1</b> Awnings are well located and complement and integrate with the building design		Not applicable	Awnings are not proposed.
	<b>Objective 4T-2</b> Signage responds to the context and desired streetscape character		Not applicable	Signage not proposed.
<b>4U - Energy Efficiency</b>	<b>Objective 4U-1</b> Development incorporates passive environmental design		Complies	The design will incorporate passive environmental design features. Refer to architectural plans for detail.
	<b>Objective 4U-2</b> Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer		Complies	A BASIX report is submitted with this application.
	<b>Objective 4U-3</b> Adequate natural ventilation minimises the need for mechanical ventilation		Complies	All apartments can achieve adequate natural ventilation.
<b>4V - Water Management</b>	<b>Objective 4V-1</b> Potable water use is minimised		Complies	-

Mixed-Use Development

<b>and Conservation</b>	<b>Objective 4V-2</b> Urban stormwater is treated on site before being discharged to receiving waters		Not applicable	No change to existing stormwater on-site
	<b>Objective 4V-3</b> Flood management systems are integrated into site design		Not applicable	-
<b>4W - Waste Management</b>	<b>Objective 4W-1</b> Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents		Complies	Waste facilities as per existing facilities within the building.
	<b>Objective 4W-2</b> Domestic waste is minimised by providing safe and convenient source separation and recycling		Complies	Existing Waste facilities provide options for recycling.
<b>4X Building Maintenance</b>	<b>Objective 4X-1</b> Building design detail provides protection from weathering		Complies	Refer to architectural plans for detail.
	<b>Objective 4X-2</b> Systems and access enable ease of maintenance		Complies	Refer to architectural plans for detail.
	<b>Objective 4X-3</b> Material selection reduces ongoing maintenance costs		Complies	Refer to architectural plans for detail.

In considering the above, the proposed alterations and additions to an existing mixed-use development is acceptable as the apartments will demonstrate compliance with the relevant provisions of the Apartment Design Guide.

In considering the above, the proposal is acceptable in complying with the Apartment Design Guide.

