
Sent: 26/06/2019 4:44:51 PM
Subject: RE: DA2019/0645 - 26 Whistler Street MANLY NSW 2095
Attachments: Report -SoEE.pdf;

Hi Annabelle,
Please find attached the SoEE. I hope the abbreviated description didn't confuse things..
Regards

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



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From: Annabelle Lindsay <Annabelle.Lindsay@northernbeaches.nsw.gov.au>
Sent: Wednesday, 26 June 2019 3:45 PM
To: Greg Boston <greg@bbfplanners.com.au>
Cc: DA Admin Mailbox - Northern Beaches <DA.Admin@northernbeaches.nsw.gov.au>
Subject: RE: DA2019/0645 - 26 Whistler Street MANLY NSW 2095

Hi Greg,

Thanks for that. Can you please send it to DA.Admin@northernbeaches.nsw.gov.au as I won't be in for the rest of the week.

Kind Regards,

Annabelle Lindsay

Specialist Administration Officer
Business Systems & Administration
t 02 9942 2695

annabelle.lindsay@northernbeaches.nsw.gov.au
northernbeaches.nsw.gov.au



northern
beaches
council

From: Greg Boston <greg@bbfplanners.com.au>
Sent: Wednesday, 26 June 2019 1:31 PM
To: Annabelle Lindsay <Annabelle.Lindsay@northernbeaches.nsw.gov.au>
Subject: Re: DA2019/0645 - 26 Whistler Street MANLY NSW 2095

Hi Annabelle,
Apologies, no problem at all.
I will get it to you latter this afternoon.

Regards

Greg Boston
B Urb & Reg Plan (UNE) MPIA CPP
Director
Boston Blyth Fleming Pty Limited
Town Planners
0438486720

On 26 Jun 2019, at 12:26 pm, Annabelle Lindsay <Annabelle.Lindsay@northernbeaches.nsw.gov.au> wrote:

Dear Greg,

The Statement of Environmental Effects for DA2019/0645 was not on the USB provided at the time of lodgement, are you able to email me a copy please?

Kind Regards,

Annabelle Lindsay

Specialist Administration Officer

Business Systems & Administration

t 02 9942 2695

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<image001.png>

Northern Beaches Council

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**STATEMENT OF
ENVIRONMENTAL EFFECTS**

Proposed Residential Flat Building

**26 Whistler Street
MANLY**



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Statement of Environmental Effects

Proposed Residential Flat Building

26 Whistler Street, Manly

Prepared under instructions from:

DAP Woodland Pty Limited

By

Greg Boston

B Urb & Reg Plan (UNE) MPIA

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June 2019

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1.0 INTRODUCTION

This document has been prepared as a component of a development application proposing the demolition of existing residential flat building and the construction of an 8 storey residential flat building containing 41 apartments and both ground and basement level parking for 57 vehicles on the subject site. The application also proposes the implementation of an enhanced landscape regime, the strata subdivision of the completed development and the widening of the existing publicly accessible through site link.

This statement will demonstrate that the long-established residential flat building use on the site is an existing non-conforming use benefiting from existing use rights pursuant to Section 4.56 of the Environmental Planning and Assessment Act, 1979 (the Act).

The project architect has responded to the client brief to design a contextually responsive building of exceptional quality which takes advantage of the sites superior locational attributes whilst providing high levels of amenity for future occupants. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of the site including the height, proximity and orientation of adjoining residential and commercial development and the State heritage listing of the adjoining electrical substation No. 15009.

Particular attention has been given to ensuring that the development not only responds to its immediate built form context, and the form of development anticipated within the Manly Town Centre precinct, but importantly to ensure that appropriate residential amenity is maintained to the immediately adjoining residential apartments. Consideration has also been given to an enhancement of the public domain interface with the site and the provision of public benefit through the widening of the existing through site link including the provision of weather protection in the form of a glazed awning.

This submission will demonstrate that such outcomes have been achieved whilst providing for a highly articulated, modulated and visually stimulating building form which will provide diversity in housing choice within a precinct ideally suited to increased residential densities. Further, the final design has been developed in consultation with Heritage 21 to ensure the development appropriately responded to the adjacent heritage item through the adoption of complimentary street parapet heights and compatible face brickwork at this level.

Consideration has also been given to the minutes arising from formal pre-DA discussions with Council noting that the final detailing represents a highly considered response to the issues raised including the widening of the existing publicly accessible through site link to 3 metres, the maintenance of appropriate solar access to the southern adjoining property and the deletion of the previously proposed roof top communal open space. In this regard, we confirm that pre-DA consultation has also occurred with the Body Corporate of the shop top housing development to the south of the site, No. 48 – 52 Sydney Road, with the final design prepared in consultation with solar access experts Walsh² Analysis to ensure the maintenance of compliant levels of solar access to the apartments within this adjoining development. In the preparation of this document, consideration has been given to the following statutory planning documents:

- The Environmental Planning and Assessment Act, 1979 as amended;
- Manly Local Environmental Plan 2013;
- Manly Development Control Plan 2013;
- State Environmental Planning Policy No. 55 – Contaminated Lands;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy (Infrastructure) 2007;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; and
- The Apartment Design Guide.

This statement has been prepared having regard to the following accompanying documentation:

- Architectural plans prepared by Wolski Coppin Architecture
- Site survey prepared by Bee & Lethbridge
- SEPP 65 Architectural Design Statement prepared by David Wolski
- Landscape plan prepared by Paul Scrivener
- Statement of Heritage Impact prepared by Heritage 21
- Draft Strata Plan prepared by Copland Lethbridge
- Electromagnetic Field Report prepared by EMR

- Noise Impact Assessment prepared by Acoustic Logic
- Solar Access Analysis prepared by Walsh² Analysis
- Statement of Compliance Access for people with a Disability prepared by Accessible Building Solutions
- Geotechnical Assessment prepared by JK Geotechnics
- Conceptual Acid Sulfate Soil Management Plan prepared by JK Environmental
- Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees
- Assessment of Traffic and Parking Implications prepared by Transport and Traffic Planning Associates
- Construction Management Plan prepared by SBMG Planning
- Flood and Stormwater Report prepared by Wood & Grieve Engineers
- Site Waste Minimisation and Management Report prepared by Senica Consultancy Group
- Indicative BCA Compliance Report prepared by Building Innovations Australia
- Perspective images and electronic model

The development benefits from existing use rights and responds appropriately to the intent of the development standards contained within Manly Local Environmental Plan 2013 as they reasonably relate to development on this particular site and the built form guidelines contained within Manly Development Control Plan 2013 as they relate to development within the Manly Town Centre. The proposal satisfies the design quality principles contained within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the guidelines and associated objectives contained within the Apartment Design Guide (ADG).

The proposal succeeds when assessed against the relevant matters for consideration in relation to development benefiting from existing use rights as adopted by the Land and Environment Court in the matters of *Fodor Investments v Hornsby Shire Council* (2005) 141 LGERA 14 and *Stromness Pty Limited v Woollahra Municipal Council* [2006] NSWLEC 587. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

2.0 SITE DESCRIPTION, LOCATION AND CONTEXT

The subject property is legally described as Strata Plan 15752, No. 26 - 32 Whistler Street, Manly. The allotment has primary frontage and address of 36.585 metres to Whistler Street, irregular frontage to Short Plaza of the same overall width, variable depth of between 30.33 and 21.855 metres and an area of 998 square metres. The irregular Short Plaza frontage is a result of the dedication of land to Council pursuant to the terms of Building Approval 256/79 for the construction of a residential flat building on the subject site. The building approval also required the creation of a 2 metre wide right of way (ROW) in favour of the public down the southern side of the property. This ROW is shown on the survey extract at Figure 1 below.

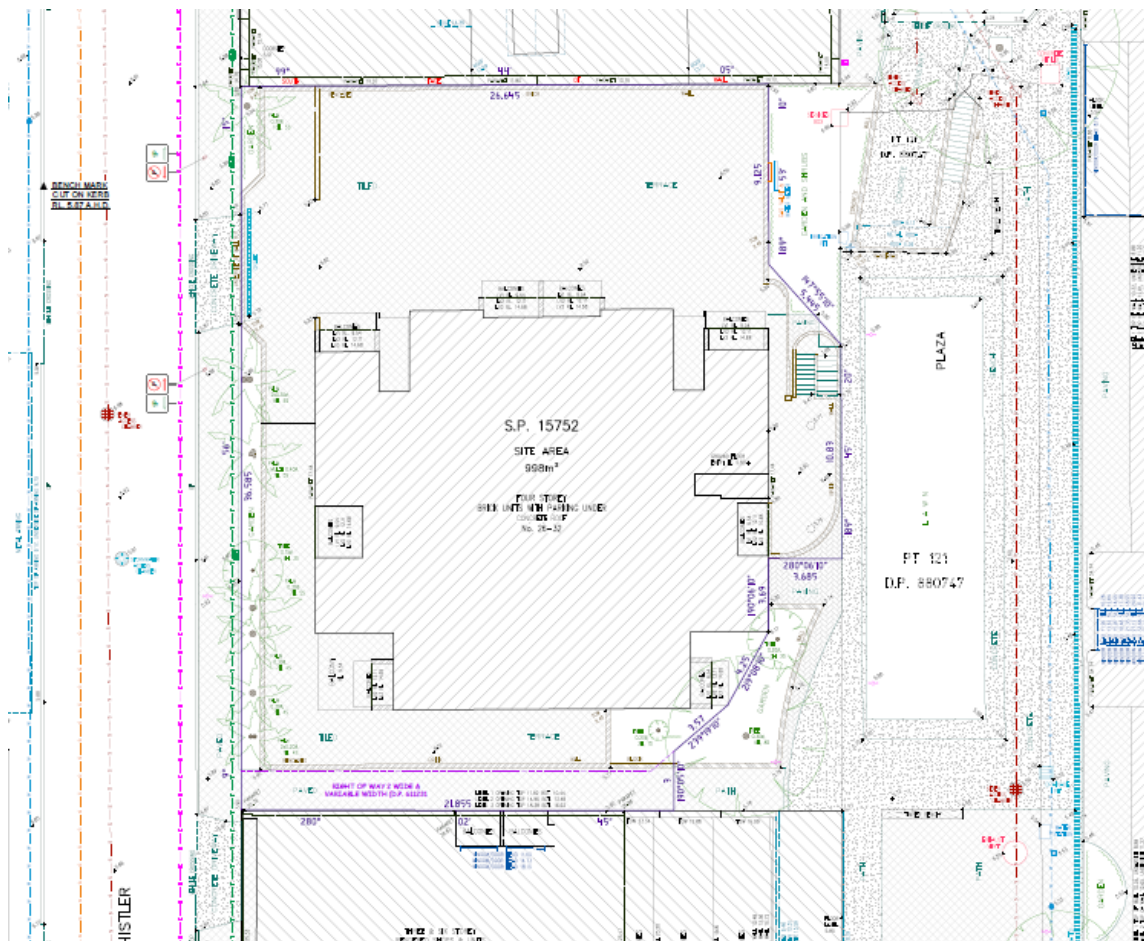


Figure 1 – Survey extract showing subject site, previous land dedication along Short Plaza and existing public ROW along southern boundary of the property

The subject site is occupied by a Strata subdivided 4 storey brick residential flat building containing 24 apartments with ground level under-croft parking for 24 vehicles accessed from Whistler Street. A copy of the existing strata plan confirming the same is at Figure 2 over page. We note that there is no off-street visitor parking.

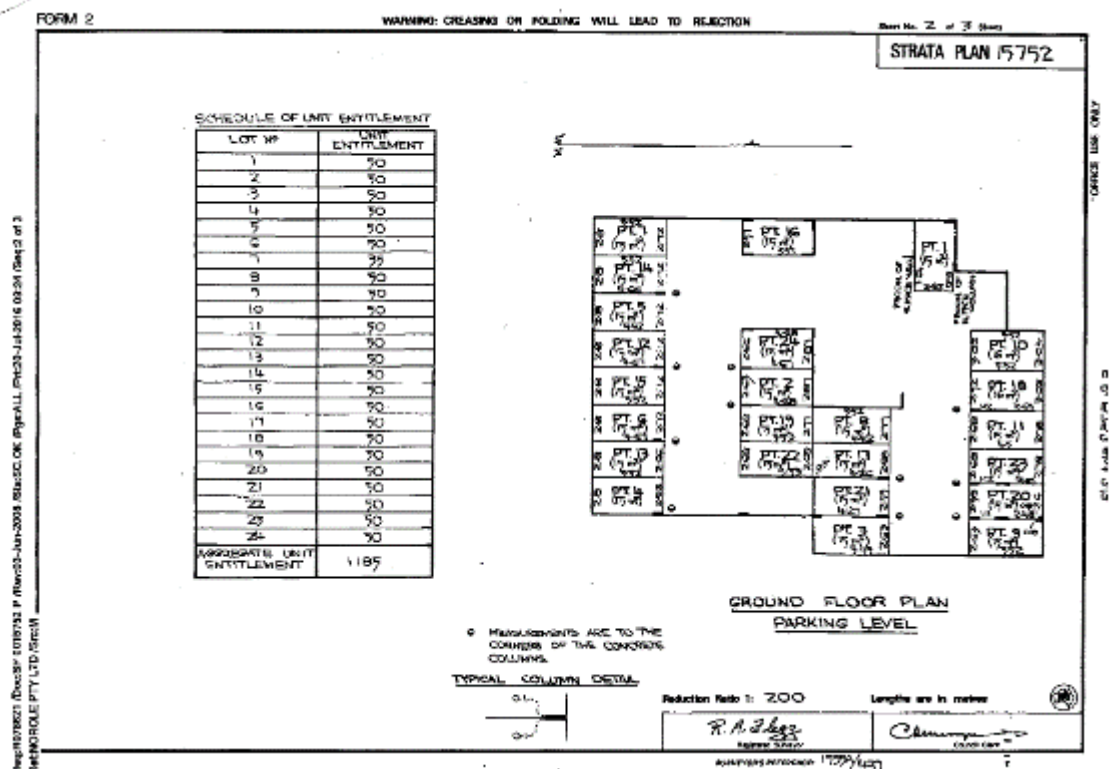
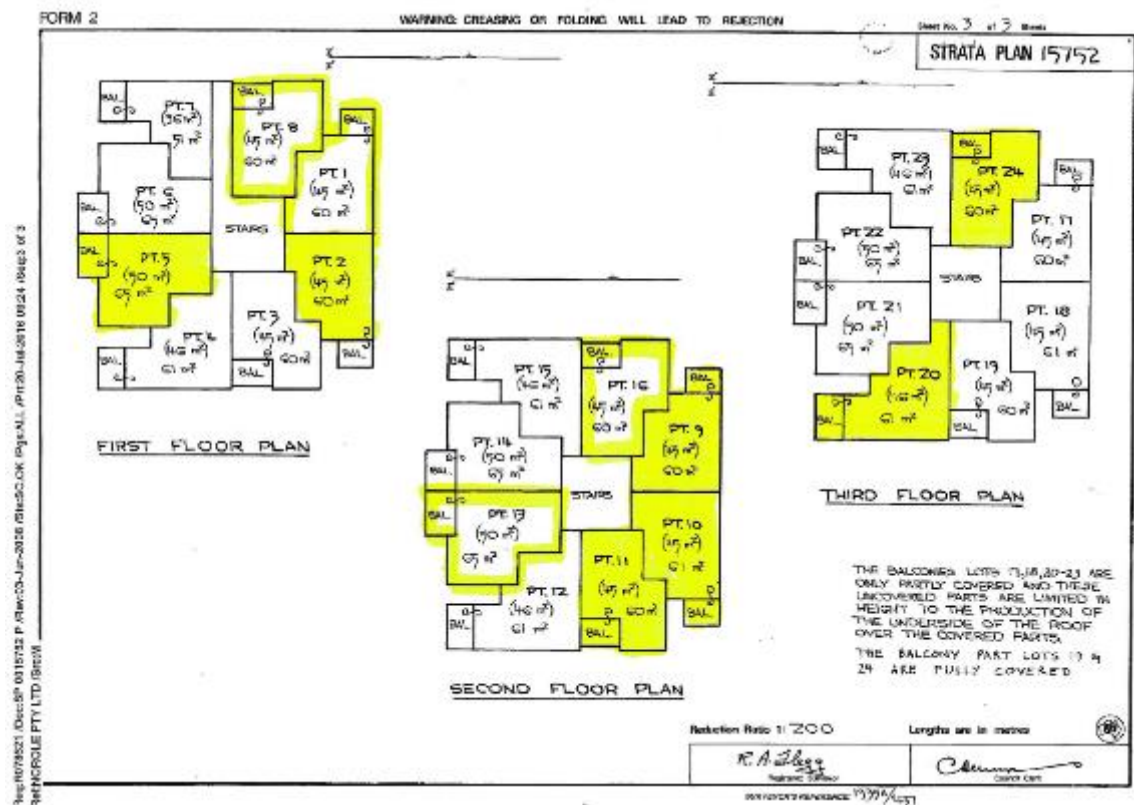


Figure 2 - Strata Plan 15752, No. 26 - 32 Whistler Street, Manly

A number of ornamental and indigenous trees are scattered around the site boundaries as detailed in the accompanying arborist report prepared by Naturally Trees. An aerial location/ context photograph is at Figure 3 below with site photographs at Figures 4, 5, 6 and 7.



Source: SIX Maps

Figure 3 – Aerial location/ context photograph



Source: SIX Maps

Figure 4 – Aerial photograph of subject site



Figure 5 - Subject property as viewed from Whistler Street



Figure 6 - Subject property as viewed from Short Plaza



Figure 7 – Entrance to public ROW from Whistler Street

The area is characterised by a diverse mix of multi storey mixed use buildings and smaller scale commercial buildings of various ages and architectural styles indicative of changing development pressures on the area and the evolution of built character. This section of Whistler Street is a narrow one-way street with traffic circulating north down Whistler Street.

Development on the western side of Whistler Street, opposite the subject site, comprises a 1 and 2 storey residential building with garage accommodation at No. 21 Whistler Street, a 3 storey mixed use building with garage accommodation accessed from Whistler Street, residential apartments above and retail/ business uses fronting Belgrave Street known as No. 33 Belgrave Street and a 4 storey mixed use building at No. 19 Whistler Street. These buildings are depicted in Figure 8 and 9 below and over page.



Figure 8 – Development located on the western side of Whistler Street opposite subject site



Figure 9 – Development located on the western side of Whistler Street looking north from subject site.

The property to the south, No. 48 – 52 Sydney Road is occupied by a 6 storey mixed use building containing ground floor retail/ business uses facing Short Street Plaza, residential apartments above and basement parking accessed via a driveway from Short Street. This property was converted from a motel to a residential flat building with ground floor retail by way Development Consent 5527/92 and Building Approval 380/92 granted by the Land and Environment Court on 17th March 1993. This adjoining building and its relationship to the subject site is depicted in Figure 10 over page.

A 2 and 3 storey heritage listed electrical substation building is located to the north of the subject site as depicted in Figure 11 over page. The Statement of Significance for this item, as detailed within the accompanying Statement of Heritage Impact prepared by Heritage 21, describes the building as follows:

The Manly Zone Substation is a well detailed electricity substation building still in service for its original purpose. It is an excellent and externally intact representative example of the Interwar Art Deco style and is the last remaining known asset constructed by the Manly Electric Supply Company. It was subsequently acquired and extended by the Municipal Council of Manly. It is representative of the transition period from private to public electricity in the early 20th century in Sydney's Northern Beaches area.



Figure 10 – View looking past subject site towards No. 48 Sydney Road to the south



Figure 11 – View looking south past adjoining heritage listed electrical substation building towards subject site

Short Street Plaza is located to the east of the site. This plaza contains a raised grass platform adjacent to the site with the ROW located along the southern boundary of the subject site providing public access between the plaza and Whistler Street. This plaza is depicted in Figure 12 below.



Figure 12 – View looking north down Short Street Plaza towards subject site distant left

The property to the east is occupied by the Manly National Building being a multi storey mixed use building containing public parking, retail/ business uses and residential apartments. This building dominates the Manly skyline and is depicted in Figures 13 and 14 over page.



Figure 13 – View looking south down Short Street towards Short Street plaza with the Manly National Building to the left



Figure 14 – View looking east from Whistler Street across the podium of subject site towards the Manly National Building

Development consent DA230/2015 has been recently granted for the construction of a 5 storey shop top housing development at No. 21 Belgrave Street, at the southern end of the street block, with such building currently under construction. A development application DA2018/1669 is currently being considered by Council for the construction of a 5 storey shop top housing development at No. 21 Whistler Street directly opposite the subject site.

The site is located within the Manly CBD and within immediate proximity of a range of public transport options. These characteristics make the site ideally suited to increased residential densities.

3.0 PROPOSED DEVELOPMENT

This document has been prepared as a component of a development application that proposes the demolition of an existing residential flat building and the construction of an 8 storey residential flat building containing 41 apartments and both ground and basement level parking for 57 vehicles on the subject site. The application also proposes the implementation of an enhanced site landscape regime, the strata subdivision of the completed development and the widening of the existing publicly accessible through site link.

Architectural detailing

The proposed residential flat development is depicted on the following plans prepared by Wolski Coppin Architecture:

DA00	COVER / LOCATION PLAN
DA01	BASEMENT
DA02	GROUND
DA03	LEVEL 1
DA04	LEVEL 2
DA05	LEVEL 3
DA06	LEVEL 4
DA07	LEVEL 5
DA08	LEVEL 6
DA09	LEVEL 7
DA10	ROOF
DA11	WEST ELEVATION
DA12	EAST ELEVATION
DA13	SOUTH ELEVATION
DA14	NORTH ELEVATION
DA15	LONG SECTION
DA16	SECTION WITH SUBSTATION

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

Basement Level

This level of the development is accessed via a driveway from the ground floor parking level above and contains 33 car spaces including 1 accessible parking space, 33 residential storage cages, 8 bicycle racks and a WC. Lift and stair access are provided to the levels above.

Ground Floor Level

This floor plate contains the residential foyer accessed from the Whistler Street frontage with lift access provided to the residential levels above and basement carpark below. A driveway from Whistler Street provides vehicular access to 24 car spaces including 3 accessible spaces. This floor also contains 8 storage cages, 16 bicycle racks, a plant room, bulky waste storage area and a waste storage and collection area accessed from the Whistler Street frontage. Air conditioner condenser units are also located around the perimeter of this floor plate.

Apartments 101 and 102 have home offices accessed directly from the Whistler Street frontage with internal stair access to the upper level of the apartments above. The existing driveway crossing is removed and made good. The existing 2 metre wide public ROW along the southern boundary of the site is widened to 3 metres and provided a 1.548 metre wide glass awning over for weather protection. This ROW is nominated on the draft plan of strata subdivision prepared by Copland Lethbridge.

Level 1

This floor plate contains 2 x 1 bedroom and 6 x 2 bedroom apartments accessed via a north-south running open breezeway. Each apartment has access from the living rooms to appropriately sized balconies with lift and stair access provided to the levels above and below.

Level 2

This floor plate contains 1 x 1 bedroom and 7 x 2 bedroom apartments accessed via a north-south running open breezeway. Each apartment has access from the living rooms to appropriately sized balconies. The apartments at the southern end of the building have been designed to step away from the north facing balconies in the adjoining mixed-use building at No. 48 – 52 Sydney Road to maintain appropriate visual separation with integrated privacy screens maintaining appropriate visual privacy between properties. This spatial arrangement is reproduced on all floor levels.

Levels 3 and 4

These floor plates contain 5 x 2 bedroom and 1 x 3 bedroom apartments accessed via a north-south running open breezeway. All apartments have access from the living rooms to appropriately sized balconies.

Level 5

This floor plate contains 2 x 2 bedroom and 3 x 3 bedroom apartments accessed via a north-south running open breezeway. All apartments have access from the living rooms to appropriately sized balconies.

Level 6

This floor plate contains 4 x 3 bedroom apartments accessed via a north-south running open breezeway. All apartments have access from the living rooms to appropriately sized balconies.

Level 7

This floor plate contains 1 x 2 bedroom and 3 x 3 bedroom apartments accessed via a north-south running open breezeway. All apartments have access from the living rooms to appropriately sized balconies.

The application is accompanied by a schedule of materials and finishes (Plan C04.0(A) and C04.3(A) which collectively depict the architectural facade design and treatments incorporated to ensure an appropriate building presentation in the round

Landscape detailing

The application requires the removal of 12 low category trees as detailed within the accompanying Arboricultural Impact Assessment prepare by Naturally Trees. This report confirms that the development will not impact any trees located outside the property boundaries including those located within the Short Street Plaza.

The application is accompanied by a landscape plan prepared by Paul Scrivener which nominates ground level ground level plantings within Short Street Plaza on the area of the subject site previously dedicated to Council. These landscape works will significantly enhance the public domain and will soften and screen the eastern edge of the development as viewed from the plaza. The application also proposes podium level plantings along the alignment of the south ROW to enhance the amenity of this publicly accessible through site link.

Stormwater disposal

Stormwater plans have been prepared by Wood & Grieve Engineers detail the proposed absorption stormwater system which is to be located below the basement level of the development.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Environmental Planning and Assessment Act 1979 - Existing Use Rights and Relevant Matters for Consideration

The subject property is zoned B2 Local Centre pursuant to Manly Local Environmental Plan 2013 (MLEP 2013). Residential flat buildings are prohibited in the zone.

Residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The application proposes the construction of a residential flat building which is prohibited.

To that extent, it is necessary to establish that the property benefits from existing use rights in accordance with section 4.65 of the Environmental Planning and Assessment Act 1979, as amended. Pursuant to the Act an "existing use" means:

- (a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*
- (b) *the use of a building, work or land:*
 - (i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

Clause 4.66 of the Act deals with the continuance of and limitations on existing use and indicates that:

- (1) *Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- (2) *Nothing in subsection (1) authorises:*

- (a) *any alteration or extension to or rebuilding of a building or work, or*
 - (b) *any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
 - (c) *without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
 - (d) *the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17(1)(b), or*
 - (e) *the continuance of the use therein mentioned where that use is abandoned.*
- (3) *Without limiting the generality of subsection (2)(e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*

Clause 41(1) of the Environmental Planning and Assessment Regulation 2000 (the Regs) states that:

- (1) *An existing use may, subject to this Division:*
- (a) *be enlarged, expanded or intensified, or*
 - (b) *be altered or extended, or*
 - (c) *be rebuilt, or*
 - (d) *be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act,*

In this regard, we have undertaken a review of available Council records and can confirm the following:

- On 18th May 1979 Building Application BA256/79 was submitted to Manly Municipal Council proposing “3 storey unit building over ground floor parking floor”. A copy of the building application form and receipt is at ANNEXURE 1.

- On 25th July 1980 Manly Municipal Council issued Compliance Certificate No. 41/80 pertaining to Building Application 256/79. This Certificate of Compliance issued pursuant to section 317A of the Local Government Act describes the building as “A three storey brick residential flat building with parking underneath”. This Certificate is at ANNEXURE 1 with an extract below:

CERTIFICATE OF COMPLIANCE

PURSUANT TO SECTION 317A

LOCAL GOVERNMENT ACT

The Council of the Municipality of Manly hereby certifies that in the opinion of the Council the building hereunder described in all respects complies with the Local Government Act, 1919, the Ordinances made thereunder, and the plan and specifications relating to such building approved by the Council, or if there has been any contravention of the Act or Ordinances or any departure from the approved plan and specifications, that such contravention or departure is not such as need be rectified.

PARTICULARS OF BUILDING

Description A three storey brick residential flat building with parking underneath.

Known as Nos. 26-32 Whistler Street, Manly.

- Based on the above Certificate of Compliance we are satisfied that the existing residential flat building was lawfully approved and constructed as at 25th July 1980.
- We confirm that the building was also strata subdivided with land dedication and the creation of the southern ROW also occurring pursuant to the terms of the above consent as detailed in the Town Planning Department memo of 6th May 1980 a copy of which is at ANNEXURE 1.
- On 26th April 2007, Manly Council granted development consent 86/07 for “Alterations & additions to residential Flat building in respect of balustrades, stairs And planter boxes”. The front cover of this consent is at ANNEXURE 1 and available on Council DA tracker. This application was assessed and determined pursuant to the provisions of Manly Local Environmental Plan 1988 whereby residential flat buildings were permissible in the Zone No. 3 Business Zone.

- On 5th April 2013 Manly Local Environmental Plan 2013 (MLEP 2013) commenced. MLEP zoned the site B2 Local Centre with residential flat building prohibited in such zone. The existing residential flat building benefited from existing use rights from this date.
- We have found no evidence to suggest that the existing residential flat building has not been continually occupied since the granting of the Certificate of Compliance on 25th July 1980 and certainly not since the commencement of MLEP 2013.

Under such circumstances, we have formed the considered opinion that the existing residential flat building is an existing use, as defined, benefiting from existing use rights pursuant to section 4.65 of the Act. We have also formed the considered opinion that such existing use rights have not been abandoned with the proposed development providing for the rebuilding/ enlargement/ intensification of the existing residential flat building use.

With regards to the relevant matters for consideration in the assessment of the application, Clause 4.67 of the Act provides, through the applicable Regulations, for the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use. It also states that an environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.

In this regard, any provision of an environmental planning instrument, including an LEP or DCP must not derogate from the Regulations and to that extent no numerical controls strictly apply to the assessment of the proposed development. Notwithstanding it is accepted that as identified in *Fodor Investments v Hornsby Shire Council* (Proceedings 10882 of 2004) that the Section 4.15(1) (formerly s79C) matters for consideration pursuant to the Act are still relevant so far as they do not serve to derogate from the Regulation.

The Land and Environment Court of NSW has adopted planning principles relating to the assessment of applications where existing use rights have been established. These assessment criteria are detailed in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71 (*Fodor*) and further defined in *Stromness Pty Ltd v Woollahra Municipal Council* [2006] NSWLEC 587.

An assessment of the application against the planning principles is undertaken below:

1. *How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?*

- *While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment.*

Response: The MLEP 2013 height and floor space development standard applicable to surrounding sites is depicted in Figures 15 and 16 below and over page.

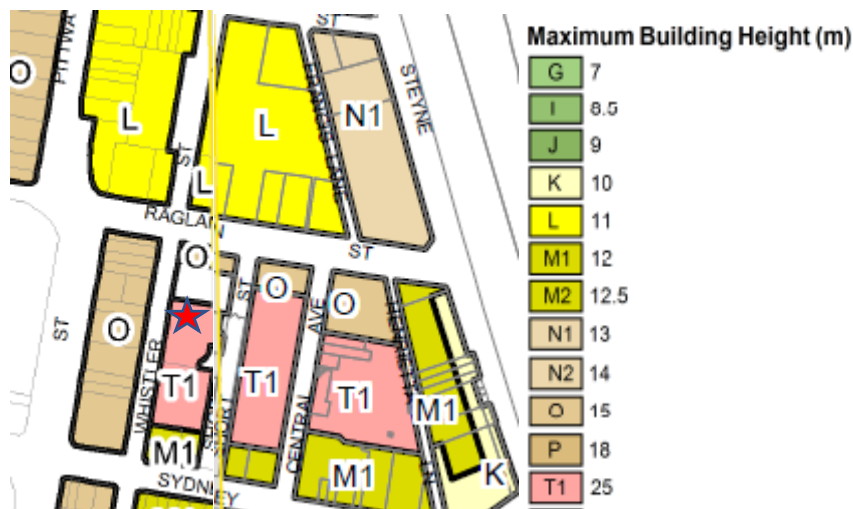


Figure 15 – Composite extract MLEP 2013 height of buildings map

This map confirms that the height anticipated for development on surrounding properties ranges between 15 and 25 metres with no height standard identified on the land to the north occupied by the State heritage listed electrical substation building.

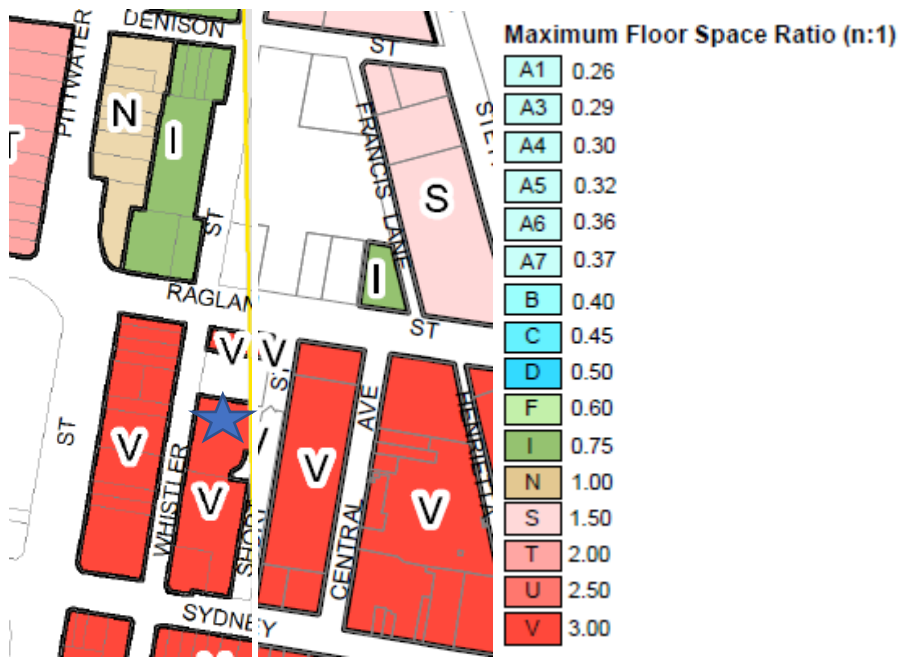


Figure 16 – Composite extract MLEP 2013 FSR map

This map confirms that the FSR anticipated for development on surrounding properties is 3:1 with no FSR standard identified on the land to the north occupied by the State heritage listed electrical substation building.

In relation to required front and side boundary setbacks clause 4.2.3 of Manly Development Control Plan 2013 (MDCP) states that all buildings within the business centres must be constructed to the public road and side boundaries of the allotment except where:

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

In this regard, we have formed the considered opinion that the height, form, massing and setbacks of the propose development are complimentary and compatible with those applicable to what is permissible on surrounding sites. In forming such opinion, we note:

- The proposed residential flat building has a maximum roof height of RL 30.900m AHD representing a maximum building height of 24.9 metres above ground level (existing). Such height is compliant with the 25 metre maximum height of buildings standard applicable to permissible forms of development on surrounding sites and those anticipated on the subject site.
- The proposed residential flat building has a gross floor area of 3,938 square metre representing an FSR of 3.96:1. Whilst exceeding the 3:1 FSR applicable to permissible forms of development on adjoining sites, the resultant building height, setbacks and general form of the development are entirely consistent with those anticipated for permissible forms of development on surrounding sites located within the 25 metre height subzone.
- The front and side boundary setbacks proposed are consistent with those prescribed for development within the Manly commercial precinct although the building has been pulled away from the southern boundary to accommodate a widening of the existing publicly accessible ROW between Short Street Plaza and Whistler Street. Similarly, the development has been stepped away from the northern State heritage listed electrical substation building to maintain an appropriate spatial relationship.
- The contextually appropriate nature of the proposed building heights and setbacks lead to a conclusion that the resultant floor space is acceptable particularly in circumstances where no numerical provisions apply to a development benefiting from existing use rights.
- Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development by virtue of its height and setbacks offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the sites visual catchment including the Manly National Building to the east.

2. What is the relevance of the building in which the existing use takes place?

- Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.*

Response: The existing residential flat building is to be demolished.

3. What are the impacts on adjoining land?

- The impact on adjoining land should be assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.*

Response: Potential impacts are summarised as follows:

Overshadowing

As previously indicated, particular attention has been given to the shadowing impacts on the mixed-use development to the south of the site No. 48 – 52 Sydney Road. In this regard, the final design has been prepared in consultation with solar access experts Walsh² Analysis to ensure the maintenance of compliant levels of solar access to the apartments within this adjoining development. Such analysis resulted in a refinement in the design and detailing and setbacks of the south eastern corner of the building to maintain at least 2 hours of solar access to the required quantum of east facing apartment on the adjoining site.

Such analysis is detailed in the accompanying Solar Access Analysis, dated 12th June 2019, prepared by Walsh² Analysis. This report contains the following conclusions:

OVERSHADOWING IMPACT ON NEIGHBOURING RFBS

6.2.1 We have carried out a solar access analysis on the neighbouring property of 48 Sydney Road Manly for both the existing and the proposed states.

6.2.2 The projected overshadowing impact of the approved concept envelope is quite small. The impact of the proposed DA is the loss of the two hours complying solar access for only 4 units. This equates to a loss of only 4.1% across the whole development which is compliant with Objective 3B-2 of the ADG.

In our considered opinion, the degree of overshadowing impact should be considered foreseeable and reasonable.

Visual privacy

The apartments at the southern end of the building have been designed to step away from the north facing balconies in the adjoining mixed-use building at No. 48 – 52 Sydney Road to maintain appropriate visual separation with integrated privacy screens maintaining appropriate visual privacy between properties. This spatial arrangement is reproduced on all floor levels it being noted that these balconies are extremely vulnerable to privacy impacts given they are located on a nil side boundary setback to the common boundary with the subject site.

The spatial separation afforded to residential development to the east and west of the site is also such that appropriate visual privacy will be maintained in accordance with the objectives of the building separation provisions of the ADG.

View loss

Having inspected the site and its immediate surrounds we have formed the considered opinion that the proposed development will not give rise to any unacceptable view impacts from surrounding properties. The application is accompanied by view loss diagrams VL01(A) prepared by the project Architect which drops the proposed building into the existing Manly townscape as viewed from the lower level balcony of No. 7 Tower Street, Manly.

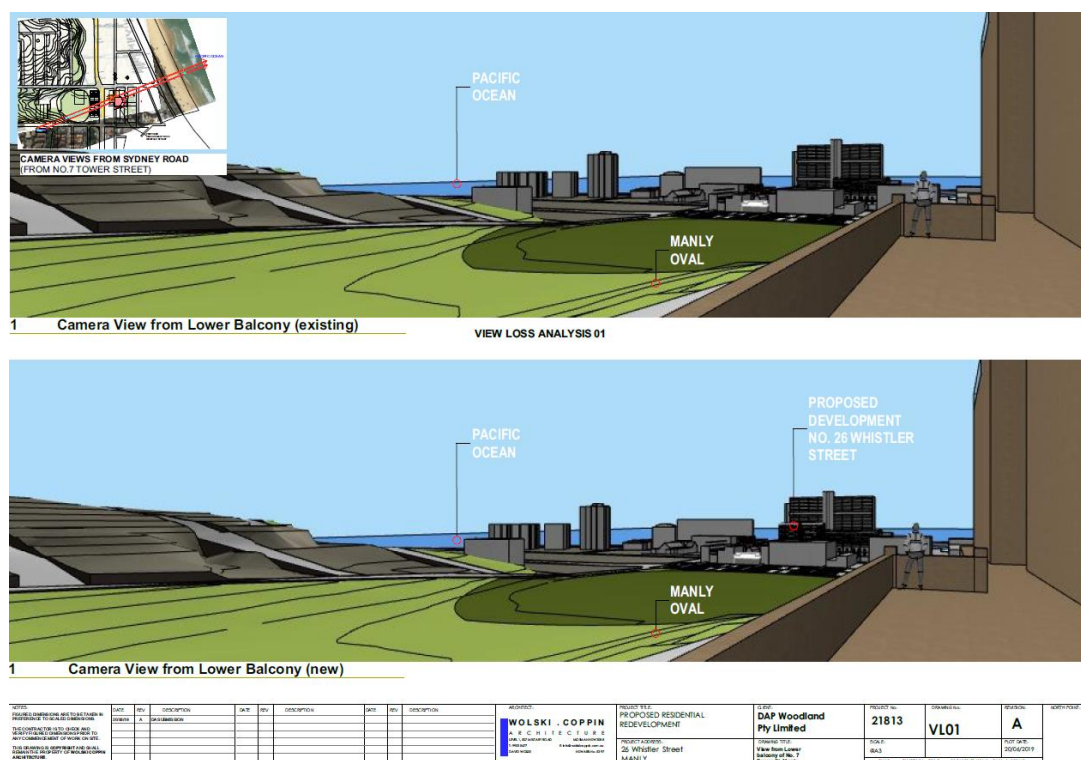


Figure 17 – View loss analysis

This property is located at a midpoint up the western escarpment with the images clearly demonstrating that building will sit well below established building heights in the townscape and will not give rise to any particular view impact given the visual shielding afforded by the Manly National Building to the east of the site. A view sharing outcome is maintained.

Visual impacts

The documentation prepared in support of this application demonstrates that the height, form, massing and setbacks of the proposal will not give rise to any unacceptable or jarring visual impacts having regard to the height, form, massing and setbacks established by surrounding development and development generally with the sites visual catchment. This is demonstrated in Figure 18 below.



Figure 18 – Perspective image showing the proposed building within its established built form context

Heritage conservation impacts

A 2 and 3 storey heritage listed electrical substation building is located to the north of the subject site as depicted in Figure 11. The accompanying Statement of Heritage Impact prepared by Heritage 21 contains the following conclusion as it relates to potential impacts associated with the proposed development:

7.2 General Conclusion

The proposed design, siting and form of the development would minimise the visual impact of the proposed on the adjacent heritage item. Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and would have minimal impact on the heritage significance of the subject site and the heritage items in the vicinity, notably the adjacent substation.

4. What is the internal amenity?

- *Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights have lower amenity than development generally.*

Response: The development affords good levels of internal amenity to all apartments in accordance with the provisions of SEPP 65 and the ADG and as detailed within the accompanying SEPP Architect Design Verification Statement and ADG Compliance table at ANNEXURES 2 and 3 of this report. The accompanying Solar Access Analysis prepared by Walsh² Analysis confirms that 78% of apartments will receive at least 2 hours of solar access to living and private open space areas with 98% of all apartments naturally cross ventilated as detailed on plan CV01(A) and the general compliance Schedule prepared by the project Architect.

Given the above circumstances, we have formed the considered opinion that the proposed development succeeds when assessed against the relevant matters for consideration in relation to development benefiting from existing use rights as adopted by the Land and Environment Court in the matters of Fodor Investments v Hornsby Shire Council (2005) 141 LGERA 14 and Stromness Pty Limited v Woollahra Municipal Council [2006] NSWLEC 587. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

4.2 Manly Local Environmental Plan 2013

4.2.1 Zone and Objectives

The subject property is zoned B2 Local Centre pursuant to Manly Local Environmental Plan 2013 (“MLEP 2013”) with residential flat buildings prohibited in the zone.

This statement will demonstrate that the long-established residential flat building use on the site is an existing non-conforming use benefiting from existing use rights pursuant to Section 4.56 of the Environmental Planning and Assessment Act, 1979 (the Act).

Accordingly, the developments consistency with the zone objectives is not a relevant matter for consideration in relation to this particular application with there being no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

4.2.2 Height of Buildings and Floor Space Ratio

The height and FSR standards applicable to permissible forms of development on the subject and surrounding sites have previously been identified. As previously indicated, Clause 4.67 of the Act makes it clear that any provision of an environmental planning instrument, including an LEP or DCP, must not derogate from the Regulations and to that extent no numerical controls strictly apply to the assessment of the proposed development.

The contextually appropriate nature of the proposed building heights and setbacks lead to a conclusion that the resultant floor space is acceptable particularly in circumstances where no numerical provisions apply to a development benefiting from existing use rights.

In this regard, and as outlined in Section 4.1 of this report, we have formed the considered opinion that the proposed development succeeds when assessed against the relevant matters for consideration in relation to development benefiting from existing use rights as adopted by the Land and Environment Court in the matters of Fodor Investments v Hornsby Shire Council (2005) 141 LGERA 14 and Stromness Pty Limited v Woollahra Municipal Council [2006] NSWLEC 587. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

4.2.3 Heritage Conservation

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

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

The stated objectives of this clause are as follows:

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

The accompanying Statement of Heritage Impact (SHI) prepared by Heritage 21 confirms that the site is not heritage listed or located within a conservation area however does immediately adjoin a 2 and 3 storey heritage listed electrical substation building to the north of the subject site. The accompanying Statement of Heritage Impact contains the following summary having regard to an assessment against the applicable statutory considerations:

The proposed demolition of the existing apartment building would not, in Heritage 21's opinion, generate a negative heritage impact upon the adjacent heritage item and the setting but would present the opportunity to improve upon the existing. To ensure that the proposed demolition would not result in the damage of any significant heritage fabric, Heritage 21 would recommend the writing of a Temporary Protection Plan for the adjacent heritage item (as discussed below in Section 7.3).

The proposed design, form and scale of the new residential apartment building would improve views to and from the site and amendments have been made to the proposed design to ensure that the proposed building would not visually dominate the setting. The potential impact of the proposed building on the adjacent heritage item has been minimised through the introduction of a setback, the use of contradistinctive materials and finishes, and the separation of the bulk. The proposed form of the building would, in Heritage 21's opinion, minimise the impact of the scale of the building through the stepping effect and the articulation of the façade. The proposed construction of a contemporary interpretation of the adjacent heritage item would not only allow for the reactivation of the site to Whistler Street but would also minimise the visual impact of the proposed development upon the existing heritage item.

Further, the SHI contains the following conclusion:

7.2 General Conclusion

The proposed design, siting and form of the development would minimise the visual impact of the proposed on the adjacent heritage item. Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and would have minimal impact on the heritage significance of the subject site and the heritage items in the vicinity, notably the adjacent substation.

4.2.4 Acid Sulphate Soils

Pursuant to clause 6.1 MLEP 2013 the site is mapped as Class 4 on the Acid Sulfate Soils (ASS) map and accordingly a preliminary assessment report must be provided given that excavation in excess of 2 metres in depth is proposed.

In this regard, the application is accompanied by a Conceptual Acid Sulfate Soil Management Plan, dated 4th June 2019, prepared by JK Environmental which identifies the site as located in an area classed as having "low risk" of encountering ASS. The report does however contain a Conceptual Acid Sulfate Soil Management Plan should ASS be encountered during excavation. These provisions are satisfied.

4.2.5 Earthworks

In response to the clause 6.2 considerations, the application is accompanied by a Geotechnical Assessment Report prepared by JK Geotechnics which details the acceptability of the earthworks proposed subject to compliance with a number of recommendations including the preparation of dilapidation surveys on adjoining properties.

4.2.6 Foreshore Scenic Protection Area

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

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

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

- Due to the location of the site and juxtaposition of adjoining development the proposed development will not be readily discernible when viewed from Manly Beach, Manly Cove, Sydney Harbour and its immediate environs.
- Clearly the height, scale and architectural presentation of the development are contextually appropriate having regard to the built form characteristics established by adjoining development.
- Having regards to the Land and Environment Court of NSW planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed building offensive, jarring or unsympathetic to its context or surrounds.

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

4.2.7 Active Street Frontages

Pursuant to clause 6.11 the objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre.

Whilst this standard does not apply to a residential flat building benefiting from existing use rights, the development does appropriately address the Whistler Street frontage and enhance the movement and amenity of pedestrian through the widening and general enhancement of the existing publicly accessible ROW linking Short Street Plaza and Whistler Street through the provision of a glass awing for weather protection. The amenity of the Short Street Plaza is also enhanced through the introduction of public domain landscaping adjacent to the eastern boundary of the subject site.

The objective of the standard is achieved.

4.2.8 Essential Services

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

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

We confirm that the above essential services are able to be accommodated/ provided.

Stormwater plans have been prepared by Wood & Grieve Engineers detail the proposed absorption stormwater system which is to be located below the basement level of the development. A new electrical substation has been designed into the Whistler Street façade to ensure the appropriate supply of electricity.

4.2.9 Design Excellence

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

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

Comment: The accompanying shadow diagrams confirm that the form, bulk, massing and modulation of the development will not give rise to any unacceptable overshadowing impact on any public open spaces.

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

Comment: This report clearly demonstrates that the height, bulk, scale and form of development proposed is contextually appropriate and will contribute positively to the streetscape and the built form quality of development generally within the site's visual catchment. In this regard, the streetscape and quality of the public realm will be significantly enhanced as a consequence of the development proposed.

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

Comment: The development appropriately defines the Whistler Street edge, the Short Street Plaza boundary interface and enhances public access through the widening and general enhancement of the existing publicly accessible ROW linking Short Street Plaza and Whistler Street through the provision of a glass awing for weather protection.

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

Comment: The proposal will enhance the movement and amenity of pedestrian through the widening and general enhancement of the existing publicly accessible ROW linking Short Street Plaza and Whistler Street through the provision of a glass awing for weather protection.

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

Comment: The development incorporates residential uses orientated to Whistler Street, the Short Street Plaza and the through site publicly accessible ROW with the adjacent living areas and associated balconies providing excellent levels of casual surveillance to the street and surrounding public domain.

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

Comment: The documentation prepared in support of this application demonstrates that the height, form, massing and setbacks of the proposal will not give rise to any unacceptable or jarring visual impacts having regard to the height, form, massing and setbacks established by surrounding development and development generally with the sites visual catchment.

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

Comment: The application requires the removal of 12 low category trees as detailed within the accompanying Arboricultural Impact Assessment prepare by Naturally Trees. This report confirms that the development will not impact any trees located outside the property boundaries including those located within the Short Street Plaza.

The application is accompanied by a landscape plan prepared by Paul Scrivener which nominates ground level ground level plantings within Short Street Plaza on the area of the subject site previously dedicated to Council. These landscape works will significantly enhance the public domain and will soften and screen the eastern edge of the development as viewed from the plaza. The application also proposes podium level plantings along the alignment of the south ROW to enhance the amenity of this publicly accessible through site link.

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

Comment: Having inspected the site and its immediate surrounds we have formed the considered opinion that the proposed development will not give rise to any unacceptable view impacts from surrounding properties. The application is accompanied by view loss diagrams VL01(A) prepared by the project Architect which drops the proposed building into the existing Manly townscape as viewed from the lower level balcony of No. 7 Tower Street, Manly (refer to Figure 17).

This property is located at a midpoint up the western escarpment with the images clearly demonstrating that building will sit well below established building heights in the townscape and will not give rise to any particular view impact given the visual shielding afforded by the Manly National Building to the east of the site. A view sharing outcome is maintained.

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

Comment: As previously indicated the development has been highly articulated in both the horizontal and vertical planes with the building providing an appropriate transitional form to surrounding development. The use of compatible small scaled design elements and appropriate use of colours and materials integrate in the existing streetscape and is consistent with recent development in the locality.

The application is accompanied by a schedule of materials and finishes (Plan C04.0(A) and C04.3(A) which collectively depict the architectural facade design and treatments incorporated to ensure an appropriate building presentation in the round

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

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

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

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

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

4.2.10 Gross Floor Area in Zone B2

Pursuant to clause 6.16 development consent must not be granted to the erection of a building on land in Zone B2 Local Centre unless the consent authority is satisfied that at least 25% of the gross floor area of the building will be used as commercial premises.

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

This standard does not apply to the proposed residential flat building which benefits from existing use rights.

4.3 Manly Development Control Plan 2013

4.3.1 General Principles of Development

4.3.1.1 Townscape (Local and Neighbourhood Centres)

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

- The development has been designed through detailed site context analysis to provide through a contextually responsive building form maintaining appropriate amenity to adjoining properties and a high level of amenity to future occupants.
- The design has taken into consideration nearby heritage items, notably Whistler Street Substation.
- The development has regard to the scale, proportion and line of visible facades with the highly articulated building form utilising a range of materials and colours to soften the built form.
- The floor levels proposed are consistent with those established by adjoining properties providing an appropriate built form relationship.
- The materials, textures and colours proposed will ensure a contextually appropriate presentation having regard to the sites immediate built form context and no significant impact on nearby heritage items.
- The scale and footprint of the development are entirely consistent with that established by adjoining development and development generally within the B2 Local Centre zone.
- The development will not give rise to any unacceptable shadowing impact on any adjacent open space areas and will not give rise to any adverse wind effects.
- The ground floor level of the premises is at footpath level.

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

4.3.1.2 Landscaping

In accordance with the provisions of clause 3.3 of Manly DCP the application is accompanied by a landscape plan prepared by Wallman Partners Pty Limited. The landscape plan incorporates appropriate landscape plantings given the zoning of the land and constrained nature of the subject site with such plantings appropriately softening the edges of the development and enhancing the landscape quality of the site generally.

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

These matters have been dealt with in section 4.1 of this report. In this regard, we have formed the considered opinion that the proposed development succeeds when assessed against the relevant matters for consideration in relation to development benefiting from existing use rights as adopted by the Land and Environment Court in the matters of Fodor Investments v Hornsby Shire Council (2005) 141 LGERA 14 and Stromness Pty Limited v Woollahra Municipal Council [2006] NSWLEC 587.

4.3.1.4 Sustainability

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

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

4.3.1.5 Accessibility

Having regard to those provisions of the application is accompanied by a Statement of Compliance - Access for people with a Disability, dated 11th June 2019, prepared by Accessible Building Solutions. This report identifies that 4 of the 41 apartments (10%) are accessible with the report containing the following Statement of Compliance:

Statement of Compliance

On the basis of the above assessment, I am satisfied that the proposal can achieve compliance with the access provisions of the BCA, SEPP 65 and the essential requirements of AS4299 – Adaptable Housing.

4.3.1.6 Stormwater Management

Stormwater plans have been prepared by Wood & Grieve Engineers detail the proposed absorption stormwater system which is to be located below the basement level of the development.

4.3.1.7 Waste Management

The application is accompanied by a Site Waste Minimisation and Management Report prepared by Senica Consulting Group. In this regard, a waste storage room has been provided adjacent to the Whistler Street frontage to enable collection by Council waste contractors. A bulk waste storage area is also provided at ground floor level in strict accordance with the current DCP provisions.

4.3.1.8 Mechanical Plant Equipment

In accordance with these provisions all mechanical plant will be located either within the ground floor car parking area or within the screened roof top plant enclosure. All mechanical plant will comply with the applicable environmental noise legislation as detailed with the accompanying Noise Impact Assessment prepared by Acoustic Logic with no objection raised to such requirement forming an appropriate condition of development consent.

4.3.2 Development in Business Centres

4.3.2.1 Setback Controls

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

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

The stated objectives of this control are as follows;

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

We confirm that the side and rear boundary setbacks have been designed through detailed site and contextual analysis and having regard to the spatial separation provisions of the Residential Flat Design Code (“RFDC”).

These issues are discussed in detail later in this report and as contained within the accompanying SEPP 65/ ADG design statement. The setbacks proposed do not adversely impact on the reasonable development potential of any adjoining property. It is important to note that all apartments and associated private open space areas have been orientated to the front and rear of the site to prevent direct overlooking opportunities between adjoining development.

The building is appropriately articulated and modulated with the architectural detailing and finishes proposed contributing to a visually stimulating, unique yet compatible urban design outcome. The development has been constructed to the street alignment to maintain the rhythm of development in the streetscape.

The front and side boundary setbacks proposed are consistent with those prescribed for development within the Manly commercial precinct although the building has been pulled away from the southern boundary to accommodate a widening of the existing publicly accessible ROW between Short Street Plaza and Whistler Street. Similarly, the development has been stepped away from the northern State heritage listed electrical substation building to maintain an appropriate spatial relationship.

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

4.3.2.2 Car Parking, Vehicular Access and Loading Controls

The design, layout and quantum of parking proposed has been assessed in the accompanying Assessment of Traffic and parking Implications prepared by Transport and Traffic Planning Associates. The report contains the following conclusion:

Assessment of the proposed residential apartment development at Manly has concluded that:

- *there will not be any adverse traffic / safety implications*
- *the proposed parking provision will be adequate and there is no requirement for visitor parking spaces as outlined in Section 5*
- *the proposed vehicle access, internal circulation and servicing arrangements will be suitable and appropriate.*

As previously indicated, the subject site is occupied by a Strata subdivided 4 storey brick residential flat building containing 24 apartments with ground level under-croft parking for 24 vehicles accessed from Whistler Street. A copy of the existing strata plan confirming the same is at Figure 2. We note that there is no off-street visitor parking.

The proposal seeks to allocate all off-street parking to the residential apartments thus maintaining the long-established circumstance on the subject site to which existing use rights apply. The absence of off-street visitor parking is considered acceptable given the following circumstances:

- The development benefits from existing use rights and accordingly no numerical provisions contained within the LEP or DCP apply;
- All available off-street parking associated with the existing development on the site is allocated to the residential apartments. There is no on-site visitor parking with the proposal seeking to maintain such circumstance; and
- The site is located within short walking distance of Council owned public car parking stations, time limited kerb side parking and both bus and ferry public transport services.

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

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

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

SEPP 65 applies to new residential flat buildings, the substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

Clause 3 of SEPP 65 defines a residential flat building as follows:

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

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

The proposed development involves the construction of a new residential flat building which will be 8 storeys in height and contain 41 residential apartments. As per the definition of a ‘Residential Flat Building’ and the provisions of Clause 4 outlining the application of the Policy, the provisions of SEPP 65 are applicable to the proposed development.

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

Pursuant to clause 28(2)(c) of SEPP 65 in determining a development application for consent to carry out residential flat development the consent authority is required to take into consideration the Apartment Design Guide. In this regard an Apartment Design Guide compliance table is attached at ANNEXURE 3.

4.9 State Environmental Planning Policy (Infrastructure) 2007

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

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

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

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

In this regard, the application is accompanied by an Acoustic Report prepared by Acoustic Logic which concludes:

8 CONCLUSION

This report presents an acoustic assessment of noise impacts associated with the development to be located at 26 Whistler Street, Manly.

Provided that the recommendations presented in Section 5.4 are adopted, internal noise levels for residential apartments & retail spaces of the proposed development will meet the acoustic requirements of the following documents:

- Northern Beaches Council – Manly Development Control Plan 2013;
- Australian Standard AS 2107:2016 ‘Recommended design sound levels and reverberation times for building interiors’

External noise emissions criteria have been established in this report to satisfy the requirements from the following documents;

- Northern Beaches Council – Manly Development Control Plan 2013;
- NSW Department of Environment and Heritage, Environmental Protection Agency document – *Noise Policy for Industry (NPI) 2017*

4.10 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

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

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

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

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

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

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

The development benefits from existing use rights and responds appropriately to the intent of the development standards contained within Manly Local Environmental Plan 2013 as they reasonably relate to development on this particular site and the built form guidelines contained within Manly Development Control Plan 2013 as they relate to development within the Manly Town Centre. The proposal satisfies the design quality principles contained within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the guidelines and associated objectives contained within the Apartment Design Guide (ADG).

The proposal succeeds when assessed against the relevant matters for consideration in relation to development benefiting from existing use rights as adopted by the Land and Environment Court in the matters of Fodor Investments v Hornsby Shire Council (2005) 141 LGERA 14 and Stromness Pty Limited v Woollahra Municipal Council [2006] NSWLEC 587. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

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

Context and Setting

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

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

The relationship of the development with its context and setting has been addressed in detail under 'State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development' in this report. In summary, the proposed development is of a high architectural quality and will significantly improve the streetscape. The development provides an appropriate response to the form and character of the Manly Town Centre whilst ensuring that the development does not result in any significant impacts on the adjoining residential development in terms of loss of solar access, acoustic or visual privacy impacts. Further, this report demonstrates that the development will not give rise to any adverse impacts on the adjacent heritage items or their setting.

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

- ***relationship and compatibility of adjacent land uses?***
- ***sunlight access (overshadowing)?***

- ***visual and acoustic privacy?***
- ***views and vistas?***
- ***edge conditions such as boundary treatments and fencing?***

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

Access, transport and traffic

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

- ***travel demand?***
- ***dependency on motor vehicles?***
- ***traffic generation and the capacity of the local and arterial road network?***
- ***public transport availability and use (including freight rail where relevant)?***
- ***conflicts within and between transport modes?***
- ***traffic management schemes?***
- ***vehicular parking spaces?***

The building is conveniently located within the Manly Town Centre and within short walking distance of the Manly Wharf bus terminus and ferry services. The immediate proximity to public transport will assist in minimising traffic generation and dependency on motor vehicles.

The development provides appropriately for car parking as detailed within section 4.3.2.2 of this report.

Public domain

The development will contribute positively to the public domain. Consideration has been given to an enhancement of the public domain interface with the site and the provision of public benefit through the widening of the existing through site link including the provision of weather protection in the form of a glazed awning.

Utilities

We confirm that the above essential services are able to be accommodated/ provided.

Stormwater plans have been prepared by Wood & Grieve Engineers detail the proposed absorption stormwater system which is to be located below the basement level of the development. A new electrical substation has been designed into the Whistler Street façade to ensure the appropriate supply of electricity.

Flora and fauna

The site does not contain any significant flora or fauna. Required tree removal and proposed landscaping has been addressed in detail within the body of this report.

Waste

As detailed in this report, appropriate provision has been made for the waste storage and collection.

Hazards

The application is accompanied by a geotechnical, acid sulfate soil and flood risk analysis reports as previously detailed.

The application is also accompanied by an Electromagnetic Radiation (EMR) report prepared by EMR Surveys Pty Limited which assesses the potential EMR impacts associated with the development's immediate proximity to the adjacent State heritage listed electrical substation building. This report contains the following commentary:

Despite the proximity to the electricity sub-station there were no significant magnetic fields measured within the area of the proposed development. It was only possible to take measurements up to the height of the existing sub-station, level 1, whereas the proposed property will extend to 7 levels. Any fields, at distance, decrease with approximately the square of the distance. There is therefore no possibility the sub-station fields will have any effect at levels two to six.

At ground and level one, there were a few locations where the magnetic fields were in excess of 3 milligauss and those areas would be quite suitable for car-parking as planned.

The sub-station is an early design where there was sufficient space to keep the electric currents, and therefore the resultant fields, away from external walls. There are much higher fields on the roadway away from the sub-station.

Economic impact in the locality

The proposed development will generate temporary employment during construction. On-going employment will be provided through the employment of building and strata managers for the development.

Site design and internal design

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

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

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

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

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

The building is capable of complying with the provisions of the Building Code of Australia as detailed in the accompanying Indicative BCA Compliance Report prepared by Building Innovations Australia.

Construction

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

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

Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction. The application is also accompanied by a Construction Traffic Management Plan prepared by SBMG Planning detailing how traffic and pedestrian movements past and through the site will be managed during construction to ensure public safety at all times.

The suitability of the site for the development.

Does the proposal fit in the locality?

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

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

Are the site attributes conducive to development?

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

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

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

The public interest.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes contained within the adopted legislative framework.

The development is of a high quality architectural design that provides a positive contribution to the streetscape and is compatible with the form and character established by development within the centre. Consideration has also been given to an enhancement of the public domain interface with the site and the provision of public benefit through the widening of the existing through site link including the provision of weather protection in the form of a glazed awning. Such outcomes have been achieved without compromised the amenity of surrounding development or the heritage significance of the adjacent item.

For these reasons the development is considered to be in the public interest.

5.0 CONCLUSION

The development benefits from existing use rights and responds appropriately to the intent of the development standards contained within Manly Local Environmental Plan 2013 as they reasonably relate to development on this particular site and the built form guidelines contained within Manly Development Control Plan 2013 as they relate to development within the Manly Town Centre. The proposal satisfies the design quality principles contained within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the guidelines and associated objectives contained within the Apartment Design Guide (ADG).

The project architect has responded to the client brief to design a contextually responsive building of exceptional quality which takes advantage of the sites superior locational attributes whilst providing high levels of amenity for future occupants. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of the site including the height, proximity and orientation of adjoining residential and commercial development and the State heritage listing of the adjoining electrical substation No. 15009.

Particular attention has been given to ensuring that the development not only responds to its immediate built form context, and the form of development anticipated within the Manly Town Centre precinct, but importantly to ensure that appropriate residential amenity is maintained to the immediately adjoining residential apartments. Consideration has also been given to an enhancement of the public domain interface with the site and the provision of public benefit through the widening of the existing through site link including the provision of weather protection in the form of a glazed awning.

This submission demonstrates that such outcomes have been achieved whilst providing for a highly articulated, modulated and visually stimulating building form which will provide diversity in housing choice within a precinct ideally suited to increased residential densities. Further, the final design has been developed in consultation with Heritage 21 to ensure the development appropriately responded to the adjacent heritage item through the adoption of complimentary street parapet heights and compatible face brickwork at this level.

The proposal succeeds when assessed against the relevant matters for consideration in relation to development benefiting from existing use rights as adopted by the Land and Environment Court in the matters of *Fodor Investments v Hornsby Shire Council* (2005) 141 LGERA 14 and *Stromness Pty Limited v Woollahra Municipal Council* [2006] NSWLEC 587.

The proposal also succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Environmental Planning and Assessment Act, 1979 as amended. It is my opinion that the application should be granted development consent subject to appropriate conditions where necessary.

Boston Blyth Fleming Pty Limited

A handwritten signature in black ink, appearing to read 'Greg Boston', is positioned above the printed name.

Greg Boston

B Urb & Reg Plan (UNE) MPIA

Director

ANNEXURE 1

Existing Use Rights supporting documentation

MANLY MUNICIPAL COUNCIL
APPLICATION FOR APPROVAL TO BUILD

B/A No. 25 79
D/A No. 1

Owner STOCKDALE PASTORAL CO. P/L.
Address 40 YEO ST NEUTRAL BAY.
ALL QUERIES TO ARCHITECT
PLEASE Tel. No. 929 2533

Arch. ROBERT STAFFORD SHELDON P/L.
Address 56 ALFRED ST.,
MILBORO PAST Tel. No. 929 2533

LOCATION:
Street No. 26-32 Lot No. 1 Street WHISTLER ST. Assessment No. 9313
State if Boundaries are Pegged YES Is Sewer Available? YES Zoning DEV CONTROL BLOCK

PARTICULARS OF EXISTING BUILDING

- a) Use of Existing Building COMMERCIAL No. of Storeys 2 No. of Flats —
b) Approximate age of Building 50 years ?
c) Quote Certificate of Classification No. if previously issued by Council
d) Drainage of Roof Waters
e) Distance from Street Alignment to nearest part of the Building
f) Materials: Floors Walls Roof

HAS A DEVELOPMENT APPLICATION OR ANY PREVIOUS CORRESPONDENCE BEEN SUBMITTED TO COUNCIL? YES CONCURRENTLY

AUTHORITY. I SEE LETTER FROM OWNER. being the owner of premises known as SEE LETTER FROM OWNER. do hereby give my authority to — to make application for Development Consent and Building Approval as detailed hereon, DATE — SIGNATURE —

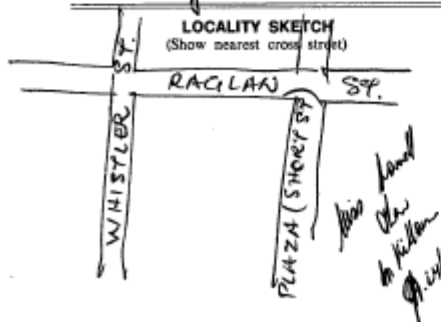
PARTICULARS OF PROPOSED BUILDING

- a) Classification of Building — Refer to Schedule attached for determination — multiple classifications may be necessary.
- | Class | No. | Description |
|-----------|----------|--|
| <u>II</u> | <u>—</u> | <u>3 storey unit building over ground floor parking floor.</u> |
- b) Drainage of Roof Waters to streets.
c) Distance from Street Alignment to nearest part of the Building 1010 / 3600
d) Materials: Floors CONCRETE Walls BRICK Roof CONCRETE

ESTIMATED COST (Contract or Tender Price) \$ 450,000 - 00.

I hereby make application to Council for permission to erect building as above, as per accompanying plans and specifications, and in accordance with the provisions of the Local Government Act, 1919, and Ordinances thereunder, and I undertake to build in conformity with such approval and Act and Ordinances.

DATE May 17 79 (SIGNATURE OF APPLICANT) R. Sheldon



OFFICE USE ONLY		
FEES	AMOUNT	PLANS ISSUED
Building	<u>\$433.50</u>	Plans and specification received/Posted by me on
Development	<u>separate</u>	(Date) <u>14-9-79.</u>
Sanitary and Builders' Garbage Service		(Signed) <u>R. Sheldon</u>
Footpath Crossing	<u>\$1000.00</u>	(Issued by) <u>—</u>
Stormwater Contribution		
Road & Footpath Openings		
Total	<u>\$2027.18 (incl. DA)</u>	
Date	<u>18.5.79</u>	<u>12.40015-7</u>
Cashier		

PJB/JR



No. 41/80
BUILDING APPLICATION 256/79

MUNICIPAL OFFICES,
MANLY, N.S.W. 2095

DATE: 25th July, 1980

CERTIFICATE OF COMPLIANCE

PURSUANT TO SECTION 317A
LOCAL GOVERNMENT ACT

The Council of the Municipality of Manly hereby certifies that in the opinion of the Council the building hereunder described in all respects complies with the Local Government Act, 1919, the Ordinances made thereunder, and the plan and specifications relating to such building approved by the Council, or if there has been any contravention of the Act or Ordinances or any departure from the approved plan and specifications, that such contravention or departure is not such as need be rectified.

PARTICULARS OF BUILDING

Description A three storey brick residential flat building with parking underneath.

Known as Nos. 26-32 Whistler Street, Manly.

Certificate of Title. Volume 5044 Folio 172, Volume 12383 Folio 169,

Volume 12566 Folio 162.

Erected on Lot No. Sec. Street Whistler Street.

Owner..... Stockdale Pastoral Co. Pty. Ltd.

Builder Phillips Construction Co. Pty. Limited.

Name and Address of Applicant for Certificate Phillips Construction Co. Pty. Limited.

148 Sailors Bay Road, Northbridge, 2063

Fee \$4.20 Receipt dated 27th June, 1980

C. R. MENZIES,
Town Clerk.

Issued by Resolution of Council the

Issued by Delegated Authority.....25th July, 1980

TOWN PLANNING DEPARTMENT
RJB:SLG
6th May, 1980.

MEMO TO - HEALTH & BUILDING SURVEYOR

Linen Plan - Dedication Road Widening and
Right-of-Way 26-32 Whistler Street, Manly

I have examined the linen plan prepared April 1980 and advise that to my knowledge it is in accordance with the terms and conditions of development consent as issued for the three storey residential flat building.

The actual alignment of the widening was described in red attached to the legal document signed by the owner of the land and this should be checked prior to signature. Further, the wording of the 2m right-of-way should also be checked with Warwick O'Rourke, Hall and Hall as the wording differs from the similar right-of-ways for the foreshore walkway to Smedley Point.

R.J. Burgess
R.J. BURGESS,
Town Planner.
Per: *[Signature]*

Note: Discussed with W'Okabe 6/5/80

88 B Instrument required

or

Form 21

Terms of R.O.W to be to Council's
satisfaction & to be signed by
owner & mortgagee & checked by
Hall & Hall before issue of ~~subdivision~~ subdivision
plan.

JMA. 6/5/80

Manly Council



Reference: 240407 DA86/07 BR:HS
Enquiries: Environmental Services

Council Offices
1 Belgrave Street
Manly NSW 2095

MTK Consulting
PO Box 703
DEE WHY NSW 2099

Correspondence to
General Manager
PO Box 82
Manly NSW 1665

DX 9205 Manly

Dear Sir/Madam

Telephone 02 9976 1500
Facsimile 02 9976 1400

**Notice of Determination under Section 81(1)(a) of the
Environmental Planning and Assessment Act, 1979
Development Application No. 86/07**

www.manly.nsw.gov.au
records@manly.nsw.gov.au

APN 43 962 868 065

Proposed Development: Alterations & additions to residential
Flat building in respect of balustrades, stairs
And planter boxes
Land to be developed: 26 Whistler Street Manly

Pursuant to the Building Code of Australia, the building is a Class building.

Council determined this application and has granted consent subject to the conditions described below:

DA1

This approval relates to drawings/plans Sheets 1 - 5 dated December 2006 and received by Council 20 March 2007

DA016

Pursuant to Section 97 of the Local Government Act, 1993, Council requires, prior to issue of the Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$5,000. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

Note: Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, at least 7 days prior to the commencement of any work on site.

Note: Where Council is not the principal certifying authority, refund of the trust fund deposit will also be dependant upon receipt of a final occupation certificate by the Principal Certifying Authority and infrastructure inspection by Council.

DA018

Details of the builder's name and licence number contracted to undertake the works shall be provided to Council/Accredited Certifier prior to issue of the Construction Certificate.

DA021

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

CLEANER HEALTHIER HAPPIER

Manly Council Supports Smoke Free Zones

www.smokefreecouncils.com.au

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ANNEXURE 2

Architect Design Verification Statement

WOLSKI ■ COPPIN
ARCHITECTURE

David P Wolski B Arch (Hons) MUDD (UNSW)
ARAJA NSW ARB No. 5297
Greg Coppin B Arch (Hons)

DESIGN VERIFICATION STATEMENT
RESIDENTIAL REDEVELOPMENT

Project Address:
26 Whistler Street
Manly NSW 2095

17TH June 2019

That I David Wolski, registered Architect No. 5297, Director of Wolski Coppin Architecture verify that I have directed the design of the above project and that the design principles set out in the Apartment Design Guide, State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development and the design principles as set out in Schedule 1 are achieved for the residential flat building at the above address.



David Wolski
Wolski Coppin Architecture

Suite 3, L1 507 Military Rd. Mosman NSW 2088 T: 9953 8477 W: wolskicoppin.com.au
Vesada Pty Limited as Trustee for the Wolski Coppin Unit Trust ABN 63 468 545 288
Trading as Wolski Coppin Architecture

WOLSKI • COPPIN
ARCHITECTURE

David P. Wolski B Arch (Hons) MUDD (UNSW)
ARAIA NSW ARB No. 5297
Greg Coppin B Arch (Hons)

Project No. 21813
26 Whistler St Manly

ARCHITECTURAL DESIGN STATEMENT**PRINCIPLES**

The proposed building forms have been dictated by:

- Siting the proposed building to reinforce the active street frontage of Whistler St and respond to the Heritage item to the North
- The location of the development within a mixed use zone and the narrow thoroughfare of Whistler St+ the tower building to the east.
- The position of North relative to the boundaries.
- Increased setbacks give deliberate consideration to the adjacent residential developments along the southern boundary.
- The siting of neighbouring dwellings, their open spaces + the existing through site link.
- The isolation of vehicular site access to Whistler St along with Short St being pedestrian only, to accommodate council parking requirements.
- The obvious positions for the vehicular and pedestrian entries to minimise traffic congestion
- The relatively flat character of the site.

CONTEXT

- The site falls within the Manly Town Centre, identified as a pedestrian friendly shopping area in Short St and street level activity in Whistler St
- The building has been positioned in context to likely high density future development for adjoining sites to the North and West.
- The building is designed around the premise of an existing use residential development with active street frontage to the Whistler St thoroughfare and residential at the upper levels.

SCALE

- The building consists of a podium to Whistler St that aligns with the northern Heritage items street wall along Whistler St to complement the existing street condition. The podium then steps up one level to compliment the scale of the building opposite and form a transition to the six storey building to the south.
- The proposed design aims to maintain definition of the Whistler St corridor and further enhance activation of the area.
- Due to the zero setback nature of the site, design elements are incorporated to reduce visual bulk with the upper levels being set back along Whistler St
- The building height forms a transition to the tower to the east

BUILT FORM

- Articulation of the facades and the breaks between the buildings give the scale a much more sympathetic character, adding to the desired finer grain aesthetics.

- 2 -
WOJSKI COPPIN
ARCHITECTURE

- The building defines the public domain with a zero setback active Whistler St frontage.
- The entry is expressed as a recess in the façade to break up its length and accentuate the entry position.
- Vehicular entry can only be provided off Whistler St
- The upper levels in the South East corner have been setback to provide solar access to the stepped balconies to the south.
- Additional width has been added to the existing public through link to give it more emphasis.

DENSITY

- The proposed density and FSR is appropriate to future development projections as outlined by the height controls for the area.
- This transition is expressed by increasing existing small scale developments into high density residential developments.
- The additional residents will provide employment opportunities at the adjacent retail areas and being located within an urban town centre, the proposed development will benefit from good access to services, transport and roads - and convenient access to the city.

RESOURCE, ENERGY & WATER EFFICIENCY

- The building unit layouts are driven by providing as many as possible with good access to sunlight facing North, West + East, and facades articulated to maximise solar access
- The breezeway element creates additional opportunities for cross ventilation
- Louvre screens are incorporated into the design to enable solar control during hotter months

LANDSCAPE

The landscape design principles increase neighbour and occupant amenity by:

- The increased opportunities for screen planting along the Southern boundary at level 1 acting as a buffer to adjoining neighbours for added privacy
- Existing Council dedicated land will be augmented with additional species to create a vegetated environment at street level.

AMENITY

- Most units are flat plate ensuring as many people, infirm or handicapped have access to as many unit types as possible.
- With one central lift core and open-ended corridors natural ventilation and light has been enhanced, creating improved amenity for the development.
- Due to the sites orientation and mixed use zoning of the area with allowance for zero setbacks, and the desire to create a responsive building envelope, many unit types per level and inter level are provided to allow for comfortable unit layout sizes and required solar penetration
- Natural ventilation is maximised
- Overlooking is controlled through recessed balconies, privacy screens and planting
- Storage is designed into both the units and the car park spaces.
- Indoor and outdoor spaces are connected and provide a variety of recreation and living opportunities.

- Lift and stairs and their access to each dwelling have been minimised to reduce waste and ensure building energy efficiencies.

SAFETY & SECURITY

- Access to the development is clear with a focal entry and a hierarchy of access points to other foyers.
- Access to private and public entries is clearly defined with vertical separation and creates a seamless transition to the public interface.
- Access to the residential entry is minimised through the use of secure, separate entries.
- All apartments have secure parking - 1 lift core enables direct access from private vehicles to all apartment entry lobbies through the use of a security access card.
- Fire escapes exit to the street frontage of the site, with minimal recesses to provide security for pedestrians.
- The existing through site link is widened providing better visual access and overlooking

SOCIAL DIMENSION

- Variety of lifestyles, affordability and access to social facilities are addressed by
 - Efficient design of car park and lift and stair access help to facilitate ease of manoeuvrability through the development.
 - Provision of useable indoor and outdoor private and communal open spaces provide for social interaction.
 - Proximity to a myriad of public open spaces, cafes, bars, restaurants etc.

AESTHETICS

- The colour of external cladding, rendered masonry, fenestration of windows and privacy screening have all been carefully considered to complement the existing character of the area and the existing heritage item, while also providing long lasting protection against the elements.
- Building elements are modulated and in plan expressed vertically to break the building into smaller elements that can be further separated by screening to reduce the apparent bulk and scale.
- Balconies have been integrated into the architectural form and detail of the proposed design, using operable louvre screens for sun, noise and privacy control. Downpipes and drainage are placed out of view, internal of the building facade.
- The architectural composition has a language that identifies dwelling location and the function of each part whilst locating masses and elements to reduce the apparent bulk and ensure a transition to neighbouring buildings. The street wall forms a unique focal element within the development. An awning along the through site link is provided to link the established streetscape pattern.
- Service rooms such as substations, pump rooms and garbage storage have been located out of view in the car parks.

ANNEXURE 3

Apartment Design Guide Compliance Table

WOLSKI . COPPIN

ARCHITECTURE

David P Wolski B Arch (Hons) MUDD (UNSW) ARAIA NSW ARB No. 5297

26 WHISTLER ST MANLY – RESIDENTIAL DEVELOPMENT (EXISTING USE RIGHTS)

DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
Part 4 – Siting the Development				
Site Analysis	Objective 3A-1 Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.		The site survey included with this submission, and the site analysis contained within the architectural plans addresses the potential opportunities and constraints of the site. The Statement of Environmental Effects (SoEE) also documents the site location and local context in relation to surrounding development.	YES
Orientation	Objective 3B-1 Building types and layouts respond to the streetscape and site while optimising solar access within the development.		The building layout has been designed to face <u>Whistler and Short Sts</u> and potential water views to the northeast. The site's eastern orientation <u>limits the</u> extent of building achieving a good northern aspect while responding consistently with the existing street scape. Careful façade modulation which includes having both the living rooms to the north west and easterly street façades enable solar access compliance to be achieved	YES
	Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid winter.		Modulation of the upper south <u>east levels</u> allows a shaft of sun to move over the site to the south. Shadow diagrams contained within the architectural plans demonstrate that there are no unreasonable shadow impacts on neighbouring properties.	YES
Public Domain Interface	Objective 3C-1 Transition between private and public domain is achieved without compromising safety and security.		Living areas and balconies have been orientated towards the public domain to facilitate a safe and secure transition between the private and public spaces. The glass awnings <u>allows</u> visibility from apartments above to the entry to the residential lobby and through site link contributing to	YES

WOLSKI . COPPIN

ARCHITECTURE

David P Wolski B Arch (Hons) MUDD (UNSW) ARAIA NSW ARB No. 5297

26 WHISTLER ST MANLY – RESIDENTIAL DEVELOPMENT (EXISTING USE RIGHTS)

DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
			passive surveillance.	
	Objective 3C-2 Amenity of the public domain is retained and enhanced.		A <u>new awning</u> is proposed with to accentuate the access points of the through site link and provide weather protection to passing pedestrians and patrons of the existing retail / commercial spaces in either street	YES
Communal and Public Open Space	Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.	1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3 of ADG).	The site within 200metres of Manly Beach ,150metres to Manly Oval, 200metres to Belgrave St Park ,90 metres to the Sydney Rd Plaza and <u>against the</u> Short St Plaza The area has manly <u>cafes</u> , bars and restaurants within easy walking distance of the site.	VARIATION +
		2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (<u>mid winter</u>).	The area has manly <u>cafes</u> , bars and restaurants within easy walking distance of the site many being in sun drenched plazas	VARIATION
	Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.		The landscape Architect's scheme provides a landscaped <u>environment commensurate</u> with the local urban environment	YES
	Objective 3D-3 Communal open space is designed to maximise safety.		The adjacent areas of communal open space are in public spaces generally in closed streets	YES
	Objective 3D-4 Public open space, where provided, is response to the existing pattern and uses of the neighbourhood.		A <u>new awning</u> is proposed with to accentuate the access points of the through site link and provide weather	N/A

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26 WHISTLER ST MANLY – RESIDENTIAL DEVELOPMENT (EXISTING USE RIGHTS)

DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE																							
			protection to passing pedestrians and patrons of the existing retail / commercial spaces in either street																								
Deep Soil Zones	Objective 3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.	Deep soil zones are to meet the following minimum requirements: <table><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 650m²</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m²– 1500m²</td><td>3m</td></tr><tr><td>Greater than 1500m²</td><td>6m</td></tr><tr><td>Greater than 1500m² with significant tree cover</td><td>6m</td></tr></tbody></table>	SITE AREA	MINIMUM DIMENSIONS	DEEP SOIL ZONE (% OF SITE AREA)	Less than 650m ²	-	7%	650m ² – 1500m ²	3m	Greater than 1500m ²	6m	Greater than 1500m ² with significant tree cover	6m	.	N/A											
SITE AREA	MINIMUM DIMENSIONS	DEEP SOIL ZONE (% OF SITE AREA)																									
Less than 650m ²	-	7%																									
650m ² – 1500m ²	3m																										
Greater than 1500m ²	6m																										
Greater than 1500m ² with significant tree cover	6m																										
Visual Privacy	Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.	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: <table><thead><tr><th>BUILDING HEIGHT</th><th>HABITABLE ROOMS AND BALCONIES</th><th>NON-HABITABLE ROOMS</th></tr></thead><tbody><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8</td><td>9m</td><td>4.5m</td></tr></tbody></table>	BUILDING HEIGHT	HABITABLE ROOMS AND BALCONIES	NON-HABITABLE ROOMS	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8	9m	4.5m	The separation distances from the south boundary is summarised as follows: <table><thead><tr><th rowspan="2">BUILDING HEIGHT</th><th colspan="2">HABITABLE ROOMS AND BALCONIES</th></tr><tr><th>South (Side)</th><th>North (Side)</th></tr></thead><tbody><tr><td>Ground</td><td>3m</td><td>Zero</td></tr><tr><td>1-4 Storeys</td><td>3-6m</td><td>3m</td></tr><tr><td></td><td></td><td></td></tr></tbody></table> The existing non-compliant side setback of the neighbouring	BUILDING HEIGHT	HABITABLE ROOMS AND BALCONIES		South (Side)	North (Side)	Ground	3m	Zero	1-4 Storeys	3-6m	3m				YES
BUILDING HEIGHT	HABITABLE ROOMS AND BALCONIES	NON-HABITABLE ROOMS																									
Up to 12m (4 storeys)	6m	3m																									
Up to 25m (5-8	9m	4.5m																									
BUILDING HEIGHT	HABITABLE ROOMS AND BALCONIES																										
	South (Side)	North (Side)																									
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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE						
		<table><tr><td>storeys)</td><td></td><td></td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	storeys)			Over 25m (9+ storeys)	12m	6m	<p>buildings create a challenge for building separation. <u>Generally</u> the building to the south has a blank wall.</p> <p>There are two balconies at levels 1-3</p> <p>All windows of the proposed development are 6m away from these <u>balconies</u>, otherwise windows face blank walls. Privacy screen have been incorporated at <u>windows</u> to mitigate the impact of the non-compliance of the neighbouring building. Substantial <u>planters</u> have also been incorporated in the Level 1 setback zone to address the adjacent building's setback non-compliance.</p>	
		storeys)								
Over 25m (9+ storeys)	12m	6m								
	Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air, and balance outlook and views from habitable rooms and private open space.		Privacy screens have been incorporated to the Whistler <u>St</u> , <u>Short st</u> and southern facades in order to maintain daylight and air to the rooms while ensuring privacy between neighbours.	YES						
Pedestrian Access and Entries	Objective 3G-1 Building entries and pedestrian access connects to and addresses the public domain.		The residential building entry and pedestrian access is provided from Whistler <u>St</u> . <u>The</u> residential entry is accentuated by alternative podium heights and materials.	YES						
	Objective 3G-2 Access, entries and pathways are accessible and easy to identify.		Building access areas, <u>entries</u> are clearly visible from the public domain. The ground floor has been designed to minimise level changes along pathways and entries and circulation are in accord with the Access Consultants requirements.	YES						
	Objective 3G-3 Large sites provide pedestrian links to access to streets and connection to destinations.		A <u>new awning</u> is proposed with to accentuate the access points of the widened through site link and provide	NA						

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
			weather protection to passing pedestrians and patrons of the existing retail / commercial spaces in either street	
Vehicle Access	Objective 3H-1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.		TTPA have prepared a traffic impact assessment which indicates how vehicle and pedestrian conflict is minimised. A single vehicle access point is proposed at this location to achieve safety and to minimise conflicts between vehicles entering the site and patrons / residents on the footpath.	YES
Bicycle and Car Parking	Objective 3J-1 Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan area; or On land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p>	Car parking has been provided as per the requirements of the ADG / Manly DCP .	YES
	Objective 3J-2 Parking and facilities are provided for other modes of transport.		Undercover bicycle parking has been provided on site.	YES

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
	Objective 3J-3 Car park design and access is safe and secure.		The carpark design is in accord with relevant standards. Access to storage for the adaptable apartments has been considered and provided in a level area away from the aisle of traffic / adjacent to a 'shared area'. On-grade parking is not included as part of the proposed <u>development</u> and above ground parking is faced by home offices along Whistler St or landscaping in Short street	YES
	Objective 3J-4 Visual and environmental impacts of underground car parking are minimised.			
	Objective 3J-5 Visual and environmental impacts of on-grade car parking are minimised.			
	Objective 3J-6 Visual and environmental impacts of above ground enclosed car parking are minimised.			
Part 4 – Designing the Building				
Solar and Daylight Access	Objective 4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.	1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum 2 hours direct sunlight between 9am and 3pm at mid- winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.	All open plan living / dining rooms of apartments receive a minimum of 2 hours solar access between 9am and 3pm on 21 June (at mid - winter). This equates to a total of 100% of apartments which achieves solar access compliance. Refer to Solar Access Report	YES
		3. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.	Most Apartments receive sunlight only four apartments do not.	YES
	Objective 4A-2 Daylight access is maximised where sunlight is limited.		The four dwellings that don't have <u>sun</u> , have the eastern and southern aspect to their living rooms	N/A
	Objective 4A-3 Design incorporates shading and glare control, <u>particular for</u> warmer months.		A BASIX Certificate included with this submission identifies that the proposed development achieves the required	YES

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
			thermal comfort levels for a development of this scale. Proposed materials and finishes which incorporate shading and glare control measures are included within the architectural documentation. These include external louvres and awnings, for example.	
Natural Ventilation	Objective 4B-1 All habitable rooms are naturally ventilated.		The site analysis contained within the architectural plans illustrates that prevailing winds originate from the north east. All habitable rooms have access to natural ventilation.	YES
	Objective 4B-2 The layout and design of single aspect apartments maximises natural ventilation.		All apartment is cross ventilated	YES
	Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	All apartment is cross ventilated	YES
		2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.		NA
Ceiling Heights	Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access.	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: These minimums do not preclude higher ceilings if desired.	Measured from finished floor level to finished ceiling level, the proposed floor to ceiling heights are summarised below: ▪ Ground 2.7 - 3,0m	

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE						
			<ul style="list-style-type: none">Typical residential levels: 2.4 - 2.7m							
	Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for <u>well proportioned</u> rooms.		All residential apartments have a minimum ceiling height of 2.7m in habitable rooms and apartment layouts have been designed to provide spacious, well-proportioned rooms.	YES						
	Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building.		Ground floor ceiling heights of min. 3.m allow for future flexibility of use of the Whistler St	YES						
Apartment Size and Layout	Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.	1. Apartments are required to have the following minimum internal areas:	Apartment areas are noted on the floor plans. All apartments comply with minimum area requirements	YES						
		<table><thead><tr><th>APARTMENT TYPES</th><th>MINIMUM INTERNAL AREA</th></tr></thead><tbody><tr><td>Studio</td><td>35m³</td></tr><tr><td>1 bedroom</td><td>50m³</td></tr><tr><td>2 <u>bedroom</u></td><td>70m³</td></tr><tr><td>3 <u>bedroom</u></td><td>90m³</td></tr></tbody></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>			APARTMENT TYPES	MINIMUM INTERNAL AREA	Studio	35m³	1 bedroom	50m³
APARTMENT TYPES	MINIMUM INTERNAL AREA									
Studio	35m³									
1 bedroom	50m³									
2 <u>bedroom</u>	70m³									
3 <u>bedroom</u>	90m³									

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
		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.	All habitable rooms have a window to an external wall with a total minimum glass area greater than 10% of the floor area of the room	YES
	Objective 4D-2 Environmental performance of the apartment is maximised.	1. Habitable room depths are limited to a maximum of 3 x the ceiling height.	Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 8.1m. The scheme proposes single aspect apartments that are 8.1m or less to the rear of the kitchen from the nearest external opening.	YES
		2.		
		3. In open plan layouts (where the living, dining and kitchen are combined), the maximum habitable room depth is 8m from a window.	All units comply with this design criterion.	YES
	Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs.	1. Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	All units comply with this design criterion.	YES
		2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All units comply with this design criterion.	YES
		3. Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments. 	All units comply with this design criterion.	YES
		4. The width of cross-over or cross-through apartments are at least 4m internally to avoid		NA

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE															
		deep narrow apartment layouts.																	
Private Open Space and Balconies	Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity.	1. All apartments are required to have primary balconies as follows:	All apartments comply with the <u>minimum numeric</u> requirements, with Level 1apartments exceeding the minimum.	YES															
		<table><tr><th>DWELLING TYPE</th><th>MINIMUM AREA</th><th>MINIMUM DEPTH</th></tr><tr><td>Studio</td><td>4m³</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m³</td><td>2m</td></tr><tr><td><u>2 bedroom</u></td><td>10m³</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m³</td><td>2.4m</td></tr></table>			DWELLING TYPE	MINIMUM AREA	MINIMUM DEPTH	Studio	4m ³	-	1 bedroom	8m ³	2m	<u>2 bedroom</u>	10m ³	2m	3+ bedroom	12m ³	2.4m
		DWELLING TYPE			MINIMUM AREA	MINIMUM DEPTH													
		Studio			4m ³	-													
		1 bedroom			8m ³	2m													
<u>2 bedroom</u>	10m ³	2m																	
3+ bedroom	12m ³	2.4m																	
The minimum balcony depth to be counted as contributing to the balcony area is 1m.																			
2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	No ground floor apartments are proposed.	YES																	
Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents.	Private open space is directly accessible from the living area of each dwelling.	YES																	
Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.	The balconies are integrated into the overall design development and form part of the detail of the building.	YES																	
Objective 4E-4 Private open space and balcony design maximises safety.	All balconies comprise balustrades of 1.0m in height to ensure safety is <u>maintained</u> and have sun-shading																		

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE										
			elements to protect from summer sun where required											
Common Circulation and Spaces	Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments.	1. The maximum number of apartments off a circulation core on a single level is 8. 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	The lobbies are naturally ventilated and lit <u>breezeways</u> . Proposed development complies with this design criterion.	YES										
	Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between residents.		The proposal incorporates a single foyer on the ground floor. This provides opportunities for residents to interact. This is a separate entry from the proposed retail spaces. Retail patrons and staff do not need to enter the residential foyer.	YES										
Storage	Objective 4G-1 Adequate, well designed storage is provided in each apartment.	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>DWELLING TYPE</th><th>STORAGE SIZE VOLUME</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td><u>2 bedroom</u></td><td>8m³</td></tr><tr><td>3+ bedroom</td><td>10m³</td></tr></table>	DWELLING TYPE	STORAGE SIZE VOLUME	Studio	4m ³	1 bedroom	6m ³	<u>2 bedroom</u>	8m ³	3+ bedroom	10m ³	The proposal provides for storage within the apartments and the basement levels. In most instances, the storage area exceeds the minimum design criteria. Storage is indicated with an 's' on the plans and is a flexible space that can be used as a study area or as a cupboard.	YES
DWELLING TYPE	STORAGE SIZE VOLUME													
Studio	4m ³													
1 bedroom	6m ³													
<u>2 bedroom</u>	8m ³													
3+ bedroom	10m ³													
	Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments.		Storage is primarily provided within each apartment. Additional storage for some units is provided within the basement.	YES										

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
Acoustic Privacy	Objective 4H-1 Noise transfer is minimised through the siting of buildings and building layout.		An Acoustic Impact Report included with the submitted documentation considers the acoustic amenity of the proposed development and impact on surrounding <u>development</u> . Acoustic impacts from traffic noise have been addressed through balcony design and the provision of window glazing treatments.	YES
	Objective 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments.			
Noise and Pollution	Objective 4J-1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.		The proposal will comply with all relevant Australian Standards relating noise transmission and the recommendations in the Acoustic Impact Report.	YES
	Objective 4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.			
Apartment Mix	Objective 4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future.		<p>The proposed development includes a range of apartment types and sizes to strengthen the diversity of residential accommodation in this local context. The development has also considered housing affordability given the site's location and <u>close proximity</u> to public transport. The built-up, urban locality is a less desirable address for typical family <u>households</u> and this has been considered in the types and sizes of apartments provided.</p> <p>The development proposes the following apartment mix:</p> <ul style="list-style-type: none"> ▪ <u>1 bedroom</u> x 0 – 0% ▪ <u>2 bedroom</u> x 8 – 100% ▪ <u>3 bedroom</u> x 0 – 0% <p>A total of 41 apartments are provided, of which 4 are</p>	YES
	Objective 4K-2 The apartment mix is distributed to suitable locations within the building.			

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
			nominated as adaptable	
Ground Floor Apartments	Objective 4L-1 Street frontage activity is maximised where ground floor apartments are located.		The ground floor comprises 2 potential home office suites. Residential apartments are not proposed on the ground levels. Therefore, this objective is not relevant to the proposed development.	N/A
	Objective 4L-2 Design of ground floor apartments delivers amenity and safety for residents.			
Facades	Objective 4M-1 Building facades provide visual interest along the street while respecting the character of the local area.		Proposed building façades are articulated and modulated through the use of balconies, varying windows, horizontal glass louvres, sliding screens, awnings and recessed elements. The building is within the visual curtilage of a Heritage item and the choice of materials and fenestration compliments the Item. Refer Heritage architects Report	YES
	Objective 4M-2 Building functions are expressed by the façade.			
Roof Design	Objective 4N-1 Roof treatments are integrated into the building design and positively respond to the street.		As demonstrated in the elevation drawings and photomontage a flat roof treatment is proposed, which assists in mitigating building bulk and overshadowing.	YES
	Objective 4N-2 Opportunities to use roof space for residential accommodation and open space are maximised.		Roof space is not accessible as Communal Open Space due to the numerous opportunities surrounding the site for active and <u>passive activities</u> .	N/A
	Objective 4N-3 Roof design incorporates sustainability features.		The proposal complies with requirements of BASIX and will include the required thermal insulation techniques.	YES

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			The roof <u>space over</u> the uppermost breezeway is sunken and used for plant that is partially hidden in the trough and behind screens	
Landscape Design	Objective 4O-1 Landscape design is viable and sustainable.		The Landscaping at Level 1 affords screening and visual delight to residents and neighbours	YES
	Objective 4O-2 Landscape design contributes to the streetscape and amenity.		The short St landscaped will soften the space and provide visual relief and enclosure to the precinct	
Planting on Structures	Objective 4P-1 Appropriate soil profiles are provided.			
	Objective 4P-2 Plant growth is optimised with appropriate selection and maintenance.			
	Objective 4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces.			
Universal Design	Objective 4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members.		Four apartments are <u>adaptable</u> . A Disability Access Report is included with the submitted documentation.	YES
	Objective 4Q-2 A variety of apartments with adaptable designs are provided.		The Disability Access Report demonstrates compliance.	YES
	Objective 4Q-3 Apartment layouts are flexible and accommodate a range of		All apartments are generously sized to maximise amenity	YES

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DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
	lifestyle needs.		and allow future flexibility for reconfiguration or adaptability.	
Adaptive Reuse	Objective 4R-1 New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.		The development does not propose new additions or adaptations to an existing building. Therefore, this objective is not relevant to the proposed development.	N/A
	Objective 4R-2 Adapted buildings provide residential amenity while not precluding future adaptive reuse.			
Mixed Use	Objective 4S-1 Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.		The site is considered suitable for the proposed <u>mixed use</u> development due to its prominent location on Whistler St and close proximity to public transport, ferries and regular bus routes. The proposed development aims to positively contribute to the public domain by providing an active retail tenancies on the ground level at the Whistler St <u>frontage</u> .	YES
	Objective 4S-2 Residential levels of the building are integrated within the development, and safety and amenity <u>is</u> maximised for residents.		Residential entry and circulation areas are clearly defined and directly accessible from Whistler St. Residential apartments have been integrated into the development.	YES
Awnings and Signage	Objective 4T-1 Awnings are well located and complement and integrate with the building design.		Steel and glass pedestrian weather canopy with lights are proposed along the site through link <u>and the</u> Whistler St. entry This is designed to address the amenity of the public domain and ensure pedestrian safety. Signage has been integrated into the building design and addresses the primary street frontage <u>of</u> Whistler St and through site link	YES
	Objective 4T-2 Signage responds to the context and desired streetscape character.			
Energy Efficiency	Objective 4U-1 Development incorporates passive environmental design.		The BASIX Certificate included with the submitted documentation identifies that the proposed development achieves the required levels of thermal comfort for a	YES

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26 WHISTLER ST MANLY –RESIDENTIAL DEVELOPMENT (EXISTING USE RIGHTS)

DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
			development of this scale. The site's orientation and location on Whistler St. incorporates aspects of passive environmental and energy efficient design.	
	Objective 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.		Refer to the included BASIX Certificate, which addresses the provision of heating and cooling infrastructure within the proposed development. Awnings and adjustable screens are also proposed as passive solar design solutions.	YES
	Objective 4U-3 Adequate natural ventilation minimises the need for mechanical ventilation.		A total of 100% of apartments achieve cross ventilation. All apartments have access to natural ventilation, given operable windows and doors are provided to external elevations.	YES
Water Management and Conservation	Objective 4V-1 Potable water use is minimised.		Potable water use will be minimised where possible. The included BASIX Certificate identifies that the proposed development achieves compliance with water efficiency requirements.	YES
	Objective 4V-2 Urban stormwater is treated on site before being discharged to receiving waters.		A Stormwater Management Plan included with the submitted documentation illustrates that an on-site detention tank will be provided and will discharge to Councils code	YES
	Objective 4V-3 Flood management systems are integrated into site design.			
Waste Management	Objective 4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.		A Site Waste Management Plan is included with the submitted documentation and outlines waste avoidance, minimisation and management strategies intended to be implemented as part of the <u>mixed use</u> development.	YES

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ARCHITECTURE

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26 WHISTLER ST MANLY – RESIDENTIAL DEVELOPMENT (EXISTING USE RIGHTS)

DESCRIPTION	OBJECTIVE	DESIGN CRITERIA	PROPOSED	COMPLIANCE
	Objective 4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling.		The included architectural plans illustrate that waste storage areas have been separated from retail/commercial storage areas on the ground floor, in locations that are convenient and easily accessible.	
Building Maintenance	Objective 4X-1 Building design detail provides protection from weathering.		The design incorporates recessed balconies, eave overhang, expressed window heads and skillion roofs. Features which direct water away from the building proper minimising the risk of weather damage over time.	YES
	Objective 4X-2 Systems and access enable ease of maintenance.		All plant equipment is accessible, being located in the basement levels. Meters are provided on each level, which are readily accessible.	YES
	Objective 4X-3 Material selection reduces ongoing maintenance costs.		Materials selected are robust and long lasting with a preference for an applied external finish and or cladding onto a masonry structure. Windows and screens are powder coated aluminium.	YES

