

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/2199
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 20 DP 235980, 19 Sydney Road MANLY NSW 2095
Proposed Development:	Demolition works and construction of shop top housing
Zoning:	Manly LEP2013 - Land zoned E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Hampic Management Pty Ltd Cinemeccanica Australia Pty Ltd
Applicant:	MHN Design Union Pty Ltd

Application Lodged:	11/01/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	18/01/2023 to 01/02/2023
Advertised:	Not Advertised
Submissions Received:	6
Clause 4.6 Variation:	4.3 Height of buildings: up to 22.5%
Recommendation:	Approval

Estimated Cost of Works:	\$ 4,653,709.00
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EXECUTIVE SUMMARY

This development application seeks consent for demolition works and construction of a four (4) storey shop top housing development at 19 Sydney Road, Manly.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as the building is subject to *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65), and due to the proposal breaching the maximum building height development standard of 12 metres by more than 10% (a 14.7 metres building height is proposed or 18.58% variation with minor areas of lift overrun up to 22.5%). The proposal is similar in height to the existing building to be demolished and therefore will not significantly change the visual bulk. A large lift overrun/plant structure which is visually dominant from Central Avenue will not be replaced with the

proposal.

During the notification period, six (6) objections were received in response to the proposal. Concerns raised in the objections predominantly relate to bulk and scale, construction impacts and the plant room. A detailed assessment has been conducted and the matters raised in the submissions have been addressed in detail. The issues identified within the submissions were not found to warrant the refusal of the subject application.

The height variation has been supported by a written Clause 4.6 variation request. It argues that, despite the breach of the MLEP 2013's maximum building height, the proposed development is otherwise consistent with the established scale and character of development within the immediate vicinity.

Council's Design and Sustainability Advisory Panel (DSAP) reviewed and supported the proposal, subject to minor recommendations. In response to the issues raised by DSAP and Council, the Applicant elected to amend the proposal. It is considered that the development as amended adequately resolves the issues identified.

A detailed assessment has been undertaken within this report regarding the amenity impacts on the immediately adjoining buildings to the north, south, east and west and the assessment finds the reasonable retention of amenity for these properties. The applicant has provided sufficient information from a qualified geotechnical engineer to address geotechnical risk for the excavation and general works during construction.

This report concludes with a recommendation that the NBLPP grant **approval** to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for demolition works and construction of a four (4) storey **shop top housing** development and basement level.

Specifically, the proposal consists of:

- Demolition of the existing shop top housing building and associated structures.
- The construction of a four storey shop top housing development containing:
 - 10 x one-bedroom apartments
 - 1 x two-bedroom apartments
 - 2 x ground floor commercial premises
- Single-level basement containing:
 - Commercial premise
 - Bicycle parking
 - Commercial waste and plant room
- Site link between Sydney Road and Market Place.
- Ground floor awnings to the Market Lane and Sydney Road frontages.
- Associated landscaping.

AMENDED PLANS

Following a preliminary assessment of the application, Council wrote to the applicant on 27 April 2023 outlining concerns that would not allow for Council to support the application. The issues raised included:

- Building Height non-compliance
- Outstanding internal referral (Building compliance, waste)
- Design and Sustainability Advisory Panel comments

Further heritage concerns were also raised with the applicant on 14 June 2023.

The applicant lodged amended plans and additional information to address concerns on 9 September 2023. The amended plans incorporated the following changes:

- The relocation and redesign of the residential waste holding room,
- The redesign of the basement residential waste room,
- The introduction of fixed and obscure glazing to bathrooms, and
- A reduction in the height of the roof parapets to RL 16.65m AHD.

Council's Heritage Advisor (while satisfied with the demolition of the building) raised further concern with the reduction of the roof parapets. Further amended plans reinstating the height of the parapets to originally proposed were submitted on 12 December 2023.

Re-notification of the proposed development was not required, in accordance with the Northern Beaches Council Community Participation Plan (CPP).

The site is currently zoned E1 Local Centre zone, formally B2 Local Centre Zone. At time of lodgement the application the site was B2 Local Centre Zone and is referenced as such within the report.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
Manly Local Environmental Plan 2013 - 5.21 Flood planning

Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils
 Manly Local Environmental Plan 2013 - 6.2 Earthworks
 Manly Local Environmental Plan 2013 - 6.4 Stormwater management
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Local Environmental Plan 2013 - 6.12 Essential services
 Manly Local Environmental Plan 2013 - 6.13 Design excellence
 Manly Local Environmental Plan 2013 - 6.16 Gross floor area in Zone B2
 Manly Development Control Plan - 4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)
 Manly Development Control Plan - 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

SITE DESCRIPTION

Property Description:	Lot 20 DP 235980 , 19 Sydney Road MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Sydney Road.</p> <p>The site is regular in shape with a frontage of 12m along Sydney Road and a frontage of 12m to Market Place. The site has a surveyed area of 379.28m².</p> <p>The site is located within the E1 Local Centre zone under the MLEP 2013. The site is currently occupied by a three-storey commercial building.</p> <p>The site is relatively level and contains no landscaping.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by various business premises.</p>

Map:



SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- **DA 5217/1992** - Development application for unilluminated flush wall sign. Approved 14 July 1992.
- **DA 296/1995** - Development application for strata subdivision. Approved 20 March 1997.
- **DA 602/1999** - Development application for office fit-out within existing building. Approved 30 November 1999.
- **DA 220/2002** - Development application for new building fire upgrade. Approved 25 July 2002.
- **DA 279/2011** - Development application for alterations and additions, shop fitout, flood lighting and signage. Approved 29 November 2011.
- **DA 39/2014** - Development application for alterations and additions, change of use to a cafe, fitout, signage. Approved 23 April 2014.
- **DA2023/1293** - Use of premises as an educational establishment. Approved 8 January 2024

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to heritage, waste and built form non-compliance.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. /</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact</p>

Section 4.15 Matters for Consideration	Comments
	The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 18/01/2023 to 01/02/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 6 submission/s from:

Name:	Address:
Mrs Mona Monique Kalt	5 Couatts Crescent COLLAROY NSW 2097
Baka Ahmet Bakamovic	10 / 21 Sydney Road MANLY NSW 2095
Mrs Samantha Barbara Stow	505 / 9 - 15 Central Avenue MANLY NSW 2095
Mr Ray Caryl Stone	704 / 9 - 15 Central Avenue MANLY NSW 2095
Mr Peter Stephen Trainer	76 Lady Penrhyn Drive BEACON HILL NSW 2100
Ms Zina Dybac	509 / 9 - 15 Central Avenue MANLY NSW 2095

The following issues were raised in the submissions:

- **Bulk and scale**
- **Location of plant and machinery**
- **Construction impacts**
- **No Parking**
- **BCA non-compliance**

The above issues are addressed as follows:

- **Bulk and scale**

The submissions raised concerns that proposed development is a overdevelopment of the site noting the bulk and scale to be unreasonable.

Comment:

The application proposes a maximum height of 14.7 metres, representing of a 22.5% departure from the 12 metres maximum building control. The proposed building mass is similar in height to the existing building to be demolished and the existing lift overrun/plant room which has a current height over 15 metres is not being replaced. The non-compliant portion of the development does not result in any unreasonable impacts upon the amenity of adjoining properties and the height of the development as a whole is compatible with surrounding built form. The non-compliant height the proposal is supported in this instance. The matter of non-compliance with the Height of Buildings Development Standard is addressed in detail elsewhere in this report (refer to Clause 4.6 Exceptions to Development Standards under the MLEP 2013 section of this report).

The bulk and scale of the development is satisfactory given the constraints of the site, the level of impact on adjoining properties and size and scale of neighbouring properties. The proposed built form non-compliance and resultant bulk and scale are appropriate in this residential context and satisfy the requirements and objectives of the MLEP and MDCP 2013. All relevant provisions of MLEP and MDCP 2013 have been assessed in this report, with the bulk and scale of the proposed building deemed satisfactory.

- **Location of plant and machinery**

The submissions raised concerns about the location of plant and machinery.

Comment:

A condition has been imposed as part of the recommendation ensuring not plant or associated structures are to be allowed on the roof if the application is to be approved.

- **Construction impacts**

Concern was raised in regard to the extent of the proposed basement and the potential impacts from excavation and general works.

Comment:

Significant development of any site will undoubtedly cause disruption to adjoining properties. In order to reduce the potential disruption, standard conditions have been included as part of the recommendation to ensure compliance with the relevant Australia standards and to allow for respite for neighbouring properties by imposing set operation/construction hours. In relation to excavation specifically this matters have been considered against Clause 6.2 (Earthworks) and 6.4 (Development on sloping land) of the MLEP 2013. In summary, the proposal is consistent

with the relevant underlying objectives of each of these clauses, subject to recommended conditions. Further, the recommendations proposed under the Geotechnical report (prepared by Crozier Geotechnical Consultants dated October 2022) are imposed as part of this report/recommendation. Notwithstanding this, dilapidation reports pre and post construction have been conditioned as part of this recommendation for Nos. 17 and 21 Sydney Road.

- **No Parking**

The submissions raised concerns that no parking is provided for both the commercial and residential aspects of the development.

Comment:

The subject site is isolated from any street access. Given its location within the Manly Town Centre with ample access to public transport, and noting the site is isolated, the lack of parking is deemed to be satisfactory. This position is supported by Council's Traffic Engineer, as detailed in the section of this report relating to internal referral comments.

- **BCA non-compliance**

The submissions raised concerns that the proposed development is non-compliant with the Building Code of Australia (BCA).

Comment:

The proposed development application was referred to the internal building surveyor at Council. The Council officer noted that any non-compliance can be determined at Construction Certificate stage if the application is to be approved.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>Supported, no conditions</p> <p>General</p> <p>The site is zoned B2 Local Centre under the provisions of Manly Local Environmental Plan 2013 and the proposed development (shop top housing) is permissible with consent.</p> <p>The application proposes the demolition of the existing site structures, with the retention and expansion of the existing basement, and erection of a four (4) storey shop top housing development consisting of:</p> <ul style="list-style-type: none"> • Basement storage, services / utility space, and commercial floor space associated with above commercial unit • Two (2) ground floor commercial units • Ten (10) x one (1) bedroom residential units and one (1) x two (2) bedroom residential unit above commercial space.

Internal Referral Body	Comments
	<p>The commercial units are located on the ground floor, with the northern unit accessed from Sydney Road, and the southern unit accessed from Market Place. The northern unit includes an internal staircase to access additional commercial space in the basement. At ground level, through site access is provided on the western side of the site, where access to residential units via lift and stairs is provided.</p> <p>Strategic context, urban context: surrounding area character The proposal is located in the Manly town centre and enjoys excellent and convenient access to public transport, the beach and community and retail services. Given the desirability and advantages of the location, it is the Panel's view that it is acceptable for the internal amenity of the units to be lower than would normally be expected by SEPP65 and the ADG on the basis that residents will make a conscious decision to 'trade-off' the lack of car parking and internal amenity of the bedrooms for the advantages of the location.</p> <p>Scale, built form and articulation The Panel supports the re-instatement and re-interpretation of the exist parapet and introduction of the 'cut-outs' in the façade.</p> <p>Access, vehicular movement and car parking The Panel supports the provision of zero parking given the location and accessibility.</p> <p>Landscape Full advantage should be made of all upper terraces and roof spaces to maximise planting through either intensive (usable) open space (either common or private) or extensive (non-trafficable) green roofs. Extensive green roofs can be effectively combined with PV Solar electric arrays and in fact increase efficiency. Cyathea australis are not coastal tolerant and are increasing stressed in Sydney as summer temperatures get hotter. Replace with more suitable species e.g. Howea forsteriana</p> <p><i>Recommendations</i></p> <ol style="list-style-type: none"> 1. Provide planting to all potential large roof areas planting through either intensive (usable) open space (either common or private) or extensive (non-trafficable) green roofs 2. Replace Cyathea australis with more suitable species e.g. Howea forsteriana <p>Planner Comment: The proposed landscape incorporates planting to the lightwell to the residential levels (1,2 and 3) to offset the visual impact of the development. Council's Landscape Officer has reviewed the proposal and supports the proposal, subject to conditions.</p> <p>Amenity</p>

Internal Referral Body	Comments
	<p>The Panel noted that acoustic privacy for the rooms facing into the lightwells on the north and to a lesser extent the south are a matter for concern.</p> <p><i>Recommendations</i></p> <p>3. Engage an acoustic consultant to find suitable treatments to the light wells to ensure acoustic privacy</p> <p>Planner comment: The glass roof proposed between the windows and lightwell will offset any unreasonable acoustic impact from the ground floor site link.</p> <p>Façade treatment/Aesthetics</p> <p>The panel commends the design of the façade and appearance of the building in terms of articulation, composition, material selection and detailing. It is the Panel's view that the building will be an attractive and complementary addition to the streetscapes of both the Corso and Market Place.</p> <p>Sustainability</p> <p><i>Recommendations</i></p> <p>4. Replace the gas use with heat pump hot water and induction cooktops</p> <p>5. Increase the amount of PV on the roof</p> <p>6. Give consideration to re-use of demolition material from the site.</p> <p>Planner Comment: The BASIX Certificate and conditions dictating colours and materials have been incorporated into the recommendations to ensure sustainability and a suitable colour scheme and finish for the development.</p> <p>PANEL CONCLUSION:</p> <p>The Panel supports the proposal in its current form but notes that further consideration needs to be given to the acoustic privacy of the rooms opening to the small light wells.</p> <p>The Panel refer the applicant to the Apartment Design Guide for aspects related to amenity and internal planning of apartments.</p> <p>PLANNER CONCLUSION: The development has been satisfactorily amended and refined to address the issues raised by DSAP and as such the proposal is supported.</p>
Building Assessment - Fire and Disability upgrades	<p>Supported, with conditions</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p>

Internal Referral Body	Comments
	<p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
<p>Environmental Health (Acid Sulfate)</p>	<p>Supported, no conditions</p> <p>General Comments</p> <p>The Crozier Geotechnical Consultants states</p> <p>The soils underlying the site are not considered to be ASS and lowering of the water table is not envisaged therefore an ASS Management Plan will not be required.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
<p>Environmental Health (Contaminated Lands)</p>	<p>Supported, no conditions</p> <p>General Comments</p> <p>the potential for contamination is considered to be extremely unlikely. The site is not identified as a contaminated site on the NSW EPA's list of notified sites, nor is it in the vicinity of any listed sites.</p> <p>The application is supported by a Stage 1 Preliminary Site Investigation by Edwards Blasche Group Pty Ltd, which confirms that historical uses have not impacted the site and that a Stage 2 Detailed Investigation is not required.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
<p>Environmental Health (Industrial)</p>	<p>Supported, with conditions</p> <p>General Comments</p> <p>Environmental Health has reviewed this application and will recommend conditions to protect the amenity of neighbors</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>

Internal Referral Body	Comments
Landscape Officer	<p>Supported, with conditions</p> <p>The proposal is supported with regard to landscape issues.</p> <p>Council's Landscape Referral section have assessed the application against State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, Apartment Design Guide, Manly Local Environment Plan under Land Zoned B2 Local Centre, and against the landscape controls of Manly DCP.</p> <p>The landscape proposal is generally supported and all on slab landscaping shall meet Council's minimum soil depth requirements.</p>
NECC (Development Engineering)	<p>Supported, with conditions</p> <p>The proposal is for demolition works and the construction of commercial and residential premises. The submitted stormwater plan with the proposal to discharge to Council's system in Market Place is satisfactory. No objections to approval subject to conditions as recommended.</p>
NECC (Flooding)	<p>Supported, with conditions</p> <p>The development proposes to demolish the existing structure with retention of the existing basement and construct a 4 storey shop top housing development.</p> <p>The site is affected by the Low and Medium flood risk precinct. Subject to conditions the development is complying to Section 5.4.3 of the Manly DCP.</p>
NECC (Water Management)	<p>Supported, with conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy) and; • Relevant LEP and DCP clauses; <p>The site drains to nearby Manly Beach. Wherever possible, the proposal should seek to minimise the impacts of urban stormwater on the receiving waters of manly beach. This can be achieved by following the principles of Water Sensitive Urban Design (WSUD). Geotechnical investigation found groundwater below the proposed level of excavation. However, groundwater monitoring was advised out of recognition that groundwater levels can fluctuate. Groundwater monitoring should be undertaken to determine potential seasonal groundwater variation and assess the need for a basement tanking. If dewatering is required, the applicant must contact catchment@northernbeaches.nsw.gov.au for advice on Council's groundwater dewatering permit prior to excavating. Approvals must be obtained from WaterNSW to undertake construction if large quantities of groundwater are to be removed.</p>

Internal Referral Body	Comments
	<p>Appropriate sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p> <p>On assessment the proposal is considered acceptable.</p>
<p>Strategic and Place Planning (Heritage Officer)</p>	<p>HERITAGE COMMENTS</p>
	<p>Discussion of reason for referral</p>
	<p><i>Supported, with conditions</i></p> <p>The proposal has been referred to heritage as the subject property sits within the C2 - Manly Town Centre Conservation Area and is within the vicinity of a number of heritage items:</p> <p>Item I106 - Group of commercial buildings - All numbers, The Corso, Manly</p> <p>Item I108 - Group of commercial buildings - 41–45 The Corso, Manly</p> <p>Item I234 - Group of 5 commercial buildings - 39–47 Sydney Road, Manly</p> <p>Item I233 - Commercial and residential building - 12 Sydney Road, Manly</p>
	<p>Details of heritage items affected</p>
	<p>C2 - Manly Town Centre Conservation Area <u>Statement of significance</u> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today.</p> <p>Item I106 - Group of commercial buildings <u>Statement of significance</u> The streetscape and its special qualities are of major significance to the state. The Corso has important historical links to the development of tourism and recreation which is still present and likely to continue. It's role as the pedestrian link between harbour and ocean, city and sea - for the tourist, is fundamental to Manly's status as a resort.</p> <p><u>Physical description</u> The Corso acts as a low scale horizontal corridor which steps down from the harbour to the ocean. The atmosphere of The Corso is of a 19th century place. Its special qualities include the contrasts of horizontal (low scale architecture) and vertical (planting) dimensions, and urban and natural elements.</p>

Internal Referral Body	Comments	
	<p>Item I108 - Group of commercial buildings</p> <p><u>Statement of significance</u></p> <p>The group is of major significance for its contribution to the streetscape of The Corso and as extant 19th century commercial architecture.</p> <p><u>Physical description</u></p> <p>Group of (originally) five two storey brick buildings with painted stone face and mixture of slate, iron and tiled roofs. The buildings were originally constructed as a symmetrical group: the two end buildings bearing paired gabled ends over first floor with mock Tudor design in timber and render on the western end and intaglio design on the eastern. The buildings either side of the centre had triangular pediments above first floor windows and the central building has a segmental pediment of the same width containing two semi-circular windows with multi-paned glazing. The central building also has heavily ornamented pilasters at first floor level. Two (of a possible four) tall stone (?) chimneys survive. Two halves of the eastern end buildings have been demolished and the space infilled. Ground floor shopfronts are modern. (originally 41 The Corso entry SoS)</p>	
	<p>Other relevant heritage listings</p>	
	SEPP (Biodiversity and Conservation) 2021	No
	Australian Heritage Register	No
	NSW State Heritage Register	No
	National Trust of Aust (NSW) Register	No
	RAIA Register of 20th Century Buildings of Significance	No
	Other	No
	<p>Consideration of Application</p>	
	<p>The proposal seeks consent for the demolition of the existing structures and the construction of a three storey shop top housing development. The existing building on the subject site is not a listed heritage item but it is considered to be a contributory building, which is a three-storey inter-war shop building with contemporary shopfronts at the ground floor level and offices to the first and second floor.</p>	
	<p>The existing building is not a heritage item, however it is a contributory building, located within the Town Centre Conservation Area, therefore the proposed demolition is not supported. During the pre-lodgement meeting, Heritage advised to retain the front facade unless structural issues dictate that the façade on Sydney</p>	

Internal Referral Body	Comments
	<p>Road is to be demolished, then a reconstruction may be acceptable. However, the submitted documents do not include any statements for structural issues that support the demolition. The HIS submitted with the application concludes that "<i>The demolition of the building and construction of a sympathetically designed modern infill will not detract from the significance of the HCA. The proposed new building is contemporary in character but demonstrates respect for the key forms, architectural proportions, and materials of contributory buildings in the HCA.</i>" This approach could had been acceptable only if the proposal was for an infill building located in the HCA. However, the existing building is considered to be a contributory building; and contributory buildings are to be retained and conserved; alterations and additions to contributory buildings are to be designed to conserve the original form, scale, fenestration and fabric where visible from the public domain. All original elements and details of contributory or neutral buildings should be retained, especially on front façades. Loss of any building that contributes to the significance and character of a heritage conservation area would reduce the integrity and heritage values of the heritage conservation area, therefore, Council will not approve the demolition of the front facade unless it would not be technically feasible to retain it.</p> <p>The proposed rear facade is considered acceptable, however, the retention or reconstruction-if the demolition is justified, of the front facade is required from a heritage perspective and the setback of Level 3 from the front boundary is required to be minimum 3m.</p> <p>Revised comments - 19 October 2023</p> <p>Amended documents, submitted on 15 September 2023, includes a structural report by Northwood Consulting Engineers to justify the proposed demolition of the existing contributory building, which is considered to address earlier concerns. Therefore, the proposal can be assessed as an infill building. The proposed massing of the building and the use of a parapeted roofline - as seen from the street level and the materiality of the façades is considered to respond to the existing context, but the proposed Sydney Road facade could be improved with the reinterpreted corbelling details, which is considered to be an expression of the existing horizontal elements as part of the historical development of the existing building. The amended architectural drawings include a reduction to the height of the parapet walls, which have been reduced to be lower than the permissible height limit. Heritage recommends to not lower the parapet wall below the 12m height plane as this will allow the interpretation of the existing parapet wall treatment and help to reduce the visibility of the third level, otherwise the setback to the third level will have to be increased. The Market Place facade would also interpret the existing openings on the ground floor by replacing the proposed large opening with smaller openings, interpreting the existing ratio of solid to void.</p>

Internal Referral Body	Comments
	<p>Revised comments - 14 December 2023</p> <p>Amended drawings with Revision C, dated 12 December 2023 resolved some issues that heritage had with the proposal. The new design should also be sympathetic to the predominant form of the site and the streetscape, by responding parapet lines. Heritage recommended to reinterpret the corbelling detail between the proposed Level 1 and 2, referencing the form of the original building and the horizontal form of the neighbouring buildings along the southern side of Sydney Road. The front setback of the upper level must be provided (from the outer face of the balcony parapet wall to the outer face of the unit wall) and this dimension needs to be minimum 2.6m to ensure the visibility of Level 3 from the public domain is minimised.</p> <p>Given the compromised structural integrity of the existing building and the sympathetic nature of the proposed infill building, the impact of the proposal upon the significance of the heritage items in the vicinity and the significance of the HCA is considered manageable.</p> <p>Therefore, no objections are raised on Heritage grounds subject to three conditions.</p> <p><u>Consider against the provisions of CL5.10 of MLEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>
Traffic Engineer	<p><i>Supported, with conditions</i></p> <p>Proposal description: Demolition works and construction of shop-top housing</p> <p>The traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> • Plans (Master Set) – Revision A, designed by WMHNDUNION Architect, Project No. 21-048, dated December 2022, • Statement of Environmental Effects prepared by Boston Blyth Fleming Pty Ltd, dated December 2022, • Traffic Impact Assessment (TIS) report, Reference 22.461r01v02, prepared by Traffix dated December 2022,

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • Operational Waste Management Plan report prepared by Elephants Foot Consulting Pty Ltd dated 22/11/2022, and • Pre-Lodgement Advice (PLM2021/0164) dated 22 July 2021. <p><u>Parking Requirements and Design</u></p> <ul style="list-style-type: none"> • The parking requirements for the development comprising 11 residential units (made up of 10 x one-bedroom apartments; and 1 x two-bedroom apartments) and 365.8m² commercial premises are 7 resident spaces, 3 visitor spaces, 10 commercial users = 20 spaces. In response, the proposal does not contain any car spaces. This discourages private car use and encourages active and public transport. • It is noted that the site is located within the Manly Local Centre and has excellent access to public transport. Bus stops and the ferry wharf are located within close walking distance. The provision of off-street parking servicing this site is impractical as its street frontage is predominantly pedestrianised areas. For the commercial premises, the majority of customers will be passing trade, many undertaking combined-purpose trips to Manly and in general, the absence of parking will encourage customers and staff of the proposed commercial sites to visit by means other than private motor vehicles. • Given the above and considering the PLM referral comment, an exception to the parking requirements of the DCP is appropriate and it will be acceptable that no parking for the residences and commercial floor space be provided. • The use of a Green Travel Plan will be of use in reducing private motor vehicle trips and its use is supported. • As outlined in the PLM Referral comments, on and off-street parking in the vicinity of the site is subject to permit parking, pay parking and time-restricted parking restrictions. To ensure that private car ownership by residents is minimised and to encourage travel by active travel or public transport, a condition will be imposed preventing residents of the development from obtaining resident parking permits. This will be conditioned. • Any businesses and/or tenants of the subject site are also not eligible for business parking permits. This condition is to be provided on the property Title. • Bicycle parking stands are required at a minimum rate of one (1) stand for every three car parking spaces, with a minimum provision of one (1) stand for each premise,

Internal Referral Body	Comments
	<p>i.e., one (1) bicycle stand for the proposed development. Bicycle parking for four (4) spaces in the form of racks has been shown on the plan in the basement level, there are also 11 basement storage areas that could be utilised for any additional bikes. This provision exceeds the requirements of the DCP, and therefore satisfying Council's DCP requirements and catering for alternate travel mode options. It is also noted that Council has provided a large number of publicly accessible bicycle parking spaces within close proximity to this development.</p> <ul style="list-style-type: none"> • Loading bays must be provided in sufficient numbers to meet anticipated demand. This demand is related to the total amount of floor space, the intensity of use and the nature of the activity. As noted in the Operational Waste Management Plan report, the proposal is not expected to require deliveries in large quantities, rendering a loading bay unnecessary. • As reported in the Traffic report, Sydney Road will be used for vehicular access between 5:00am and 8:00am each day. Waste collection for both retail and residential uses will occur between these times up to twice per week. Any occasional servicing such as deliveries and removalists will be undertaken from Loading Zones on Central Avenue directly opposite the site as would be occurring for the existing development. As such, the development is expected to have minimal additional impacts on surrounding loading zones. • It is also reported in the Operational Waste Management Plan report that: <ul style="list-style-type: none"> ◦ On the nominated waste collection day, Council's waste collection vehicle will pull-up on Market Place. Collection staff will service the bins via a wheel-in/wheel-out strategy. ◦ Once bins are serviced, allocated staff will transport the bins back to the Residential Waste Room to resume their operational use. Once the bins are serviced, the collection vehicle will continue onto Market PI in a forward direction. ◦ On the day of bulky waste collection, Council collection vehicle will pull up at Market PI. The building caretaker transports bulky waste items to the collection area for the contractors to load items onto the vehicle. ◦ Staff will be responsible for waste management back of the house during daily operations. On completion of each trading day or as required, nominated staff or contracted cleaners will transport all general waste, recyclables and food

Internal Referral Body	Comments
	<p>waste to the retail/commercial waste room and place them into the appropriate collection bins.</p> <p><u>Pedestrian through Site Link</u></p> <ul style="list-style-type: none"> The pedestrian through site link is supported <p><u>Traffic Impact</u></p> <ul style="list-style-type: none"> The proposal will generate minimal vehicular traffic during the peak periods; therefore, it will not have any unacceptable implications in terms of road network capacity performance. <p><u>Conclusion</u></p> <p>Subject to conditions, the application can be supported on traffic grounds.</p>
Waste Officer	<p><i>Supported, with conditions</i></p> <p>Waste Management Assessment - amended plans (submitted 15/9/2023) Supported, Subject to conditions.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><i>Supported, with conditions</i></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs),

Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
- (iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

As previously outlined the proposed development is for the erection of a four storey shop top 'housing' development plus basement car parking for the provisions of 11 (10 x one bedroom and 1 x 2 bedroom) self-contained dwellings and 2 commercial premises.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires:

(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

DESIGN REVIEW PANEL

Northern Beaches Council has an appointed Design and Sustainability Advisory Panel (DSAP).

The application was referred to DSAP on 2 February 2023. The Panel at its meeting concluded that the proposed development is generally supportable. Minor changes to the proposal were recommended ensure acoustic privacy was maximised for the proposed apartments. Full comments from DSAP are provided earlier in this report.

DESIGN QUALITY PRINCIPLES

Principle 1: Context and Neighbourhood Character

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

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

Comment:

The subject site is located within an established town centre in Manly. Development located within the town centre is predominantly characterised by a mix of commercial and shop top housing developments varying between 3 to 5 storeys in height.

The proposed building, a four storey shop top housing building, appropriately responds to, and fits comfortably within, this context. The design of the building will enhance the qualities of the area and is reflective of a modern shop top housing development which is a high quality design.

The development satisfies this Principle.

Principle 2: Built Form and Scale

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

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

Comment:

The proposed building achieves a scale, bulk and height that is appropriate to the existing and desired future character of the street and surrounding buildings. The development provides a built form and scale that is reflective of its important location within the Corso and is contextually appropriate when viewed in the context of other recently constructed developments within the town centre.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

The design of the building affords future residents a high level of amenity. The resultant density is therefore appropriate to the site and its context given its location to existing infrastructure, services, public transport, location within the Manly town Centre and ease of access to community facilities and the surrounding environment.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The design of the building allows for adequate natural cross ventilation and sunlight for the amenity and liveability of future residents and provides passive thermal design for ventilation, heating and cooling which will reduce the reliance on technology and operation costs.

The application is supported by a Waste Management Plan which includes suitable details for the disposal and recycling of demolition and excavation materials should the application be approved.

In addition, a BASIX certificate has been submitted with the application. The certificate confirms that the development is capable of achieving the water and energy targets and has obtained a pass for thermal comfort.

Principle 5: Landscape

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

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

Comment:

There is no minimum landscaped open space provision required for such development within this zone. This is due to the dense urban environment and envisaged character of development in the town centre.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Comment:

The design of the building provides sufficient amenity for future residents and residents in neighbouring properties. A sufficient level of sunlight, natural ventilation, views, privacy and private open space is afforded to future dwelling occupants and maintained for occupants of surrounding residential properties. Further, as detailed below, the development satisfies the Apartment Design Guidelines that relate to internal and external amenity.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment:

All apartments provide balconies and windows which provides passive surveillance to both Sydney Road and Market Lane.

The development satisfies this Principle.

Principle 8: Housing Diversity and Social Interaction

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

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

Comment:

The provision of a mix of one and two bedroom apartments in this location is considered reasonable due to the site's close proximity to public transport, commercial facilities and opportunities within the Manly Town Centre.

Principle 9: Aesthetics

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

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

Comment:

The building provides a modern and contemporary form with a well-considered use of physical and material articulation and modulation to provide a front facade that will contribute to the Manly Townscape.

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP 65.

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	Consistent The proposal is orientated, sited and setback appropriately in accordance with the controls and site constraints.
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Consistent
Public Domain Interface	Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced?	Consistent The development provides an appropriate transition between the public and private domain without compromising safety and security. The development provides further and enhanced street level activation through the introduction of activation on both street frontages thereby enhancing the amenity of the public domain.
Communal and Public Open Space	Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts	Consistent

	<p>of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)</p>																
<p>Deep Soil Zones</p>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="443 510 1066 1104"> <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>7%</td> </tr> <tr> <td>650m² – 1,500m²</td> <td>3m</td> <td></td> </tr> <tr> <td>Greater than 1,500m²</td> <td>6m</td> <td></td> </tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td> <td>6m</td> <td></td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m		Greater than 1,500m ²	6m		Greater than 1,500m ² with significant existing tree cover	6m		<p>Inconsistent The proposed development does not provide any deep soil zones. However, no deep soil zones currently exist on the subject site, or on surrounding sites, so the proposal does not worsen the existing scenario.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)															
Less than 650m ²	-	7%															
650m ² – 1,500m ²	3m																
Greater than 1,500m ²	6m																
Greater than 1,500m ² with significant existing tree cover	6m																
<p>Visual Privacy</p>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="443 1288 1066 1646"> <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 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Inconsistent With attached dwellings in the B2 Local Centre zoned land to both sides of the subject site, the 6m minimum side setback prescribed by this objective would essentially sterilise the site. Objective 3F-1 aims to ensure that adequate separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. The proposed development will extend the nill setback, consistent with neighbouring development along Sydney Road, to ensure that reasonable levels of privacy are achieved between properties.</p>			
Building height	Habitable rooms and balconies	Non-habitable rooms															
Up to 12m (4 storeys)	6m	3m															
Up to 25m (5-8 storeys)	9m	4.5m															
Over 25m (9+ storeys)	12m	6m															

Pedestrian Access and entries	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	Consistent Retail premises from both Sydney Road and Market Lane frontage provide pedestrian access to the site.
Vehicle Access	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	N/A No vehicular access is proposed in this application.
Bicycle and Car Parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> • On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or • On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use 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> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	N/A No vehicular access is proposed in this application.
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> • Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. 	Consistent

	<ul style="list-style-type: none"> A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter. 	Consistent												
Natural Ventilation	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> 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. 	Consistent												
	<ul style="list-style-type: none"> Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. 	Consistent												
Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="443 1173 1066 1765"> <thead> <tr> <th colspan="2">Minimum ceiling height</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use</td> </tr> </tbody> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<p>Inconsistent</p> <p>The proposed ground floor and first floor have a ceiling height of 3.2m (ground level) and 2.7m (first floor).</p> <p>The minor non-compliance to both controls noting that each apartment has access to one of the to frontages (Sydney Road and Market Lane). Both the residential and retail areas will have an abundance of natural light, with a high internal amenity for occupants and visitors alike.</p>
Minimum ceiling height														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													
Apartment Size and Layout	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="443 1912 1066 2119"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> </tbody> </table>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	<p>Consistent</p> <p>1 bedroom minimum - 50sqm 2 bedroom minimum - 90sqm</p>				
Apartment type	Minimum internal area													
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ²													

<table border="1"> <tr> <td data-bbox="443 255 700 315">3 bedroom</td> <td data-bbox="700 255 1066 315">90m²</td> </tr> </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>	3 bedroom	90m ²															
3 bedroom	90m ²																
<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>		<p>Consistent All habitable rooms have suitably sized windows.</p>															
<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p>		<p>Consistent Habitable room depths are of appropriate size.</p>															
<p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>		<p>Consistent Open plan depths do not exceed 8m from a window.</p>															
<p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).</p>		<p>Consistent Bedroom sizes meet minimum requirements.</p>															
<p>Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.</p>		<p>Consistent</p>															
<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 		<p>Consistent</p>															
<p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>		<p>Consistent</p>															
<p>Private Open Space and Balconies</p> <p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="443 1771 1066 2074"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m		<p>Consistent One bedroom apartments - 2m depth, minimum 11sqm Two bedroom apartment - 3.9m depth, 46sqm</p>
Dwelling Type	Minimum Area	Minimum Depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															

	The minimum balcony depth to be counted as contributing to the balcony area is 1m									
	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.	N/A								
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Consistent								
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A								
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	Consistent								
	<table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m²</td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m²</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m²</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>		Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²
Dwelling Type	Storage size volume									
Studio apartments	4m ²									
1 bedroom apartments	6m ²									
2 bedroom apartments	8m ²									
3+ bedroom apartments	10m ²									
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Consistent								
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Consistent								
Configuration										
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	Consistent The development will provide 10 x 1 bedroom apartments, 1 x 2 bedroom apartments, which will contribute to catering for the market demand within the Manly Town Centre and surrounds.								
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	N/A								
Facades	Ensure that building facades provide visual interest along the street and neighbouring	Consistent The use of a a mix of								

	buildings while respecting the character of the local area.	contemporary materials and finishes and effective building articulation will ensure appropriate visual interest is provided along Market Lane and Sydney Road whilst respecting the heritage character of the local area.																														
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	Consistent The proposed design is consistent with other recent development within along Sydney Road and the general townscape. The roof elements will not be visually dominant in terms of bulk and scale.																														
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Consistent Suitable planting is proposed across the development																														
Planting on Structures	When planting on structures the following are recommended as minimum standards for a range of plant sizes: <table border="1" data-bbox="427 1205 1082 2107"> <thead> <tr> <th>Plant type</th> <th>Definition</th> <th>Soil Volume</th> <th>Soil Depth</th> <th>Soil Area</th> </tr> </thead> <tbody> <tr> <td>Large Trees</td> <td>12-18m high, up to 16m crown spread at maturity</td> <td>150m³</td> <td>1,200mm</td> <td>10m x 10m or equivalent</td> </tr> <tr> <td>Medium Trees</td> <td>8-12m high, up to 8m crown spread at maturity</td> <td>35m³</td> <td>1,000mm</td> <td>6m x 6m or equivalent</td> </tr> <tr> <td>Small trees</td> <td>6-8m high, up to 4m crown spread at maturity</td> <td>9m³</td> <td>800mm</td> <td>3.5m x 3.5m or equivalent</td> </tr> <tr> <td>Shrubs</td> <td></td> <td></td> <td>500-600mm</td> <td></td> </tr> <tr> <td>Ground Cover</td> <td></td> <td></td> <td>300-450mm</td> <td></td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Consistent The landscape plan submitted responds appropriately to the site conditions and context. It is considered that further amendments to the landscape plan incorporating public
Plant type	Definition	Soil Volume	Soil Depth	Soil Area																												
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	Turf			200mm	
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features				Consistent: At least 20% of the apartments contained within the development are capable of providing adaptable living arrangements.
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.				Consistent: The proposed shop top housing development integrates a new contemporary building style while being sympathetic to the heritage significant of the site.
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.				Consistent The development is accessible through public transport and is appropriately designed to respond to the public domain.
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.				Consistent The proposed awnings to Market Lane and Sydney Road complement the building design and townscape.
Performance					
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?				Consistent The proposal was accompanied by a BASIX Certificate and BASIX stamped plans to ensure energy efficiency.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?				Consistent Council's Development Engineer has reviewed the design and recommended appropriate conditions to ensure the suitable management of water within the locality.
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?				Consistent Council's Waste Management Officer has reviewed the drawings and

		is satisfied that the proposal is designed to allow for suitable waste management, subject to conditions.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Consistent The proposal incorporates suitable materials to ensure the longevity and sustainability of the building. The proposal also incorporates suitable access pathways to allow for building maintenance

STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

Clause 30 of SEPP 65 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,
- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Note. The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.

Comment:

The application is not recommended for refusal for the reasons of carparking (a), internal area (b) or the ceiling heights (c).

(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

(3) To remove doubt:

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and

(b) the design criteria specified in subclause (1) are standards to which clause 79C (2) of the Act applies.

Note. The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.

Comment:

Adequate regard has been given to the matters raised under subclause (2) and the application is recommended for approval subject to recommended conditions.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1357649M dated 6 December 2022).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	35	35

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	12m	13.8m (Roof level 4) 14.7m (Skylight) 14.23m (Top of the lift overrun)	15% 22.5% 18.58%	No
Floor Space Ratio	FSR: 3:1 (1111.8sqm)	FSR: 2.8:1 (1020.7sqm)	-	Yes
Gross Floor Area in Zone B2	Min. 25% GFA as Commercial (278sqm)	36% (364.5sqm)	-	Yes
	Max. 1,000sqm per premises	<1000sqm	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes

Clause	Compliance with Requirements
6.4 Stormwater management	Yes
6.9 Foreshore scenic protection area	Yes
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.16 Gross floor area in Zone B2	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	12m
Proposed:	13.8m (Roof level 4) 14.7m (Skylight) 14.23m (Top of the lift overrun)
Percentage variation to requirement:	15% - 22.5%

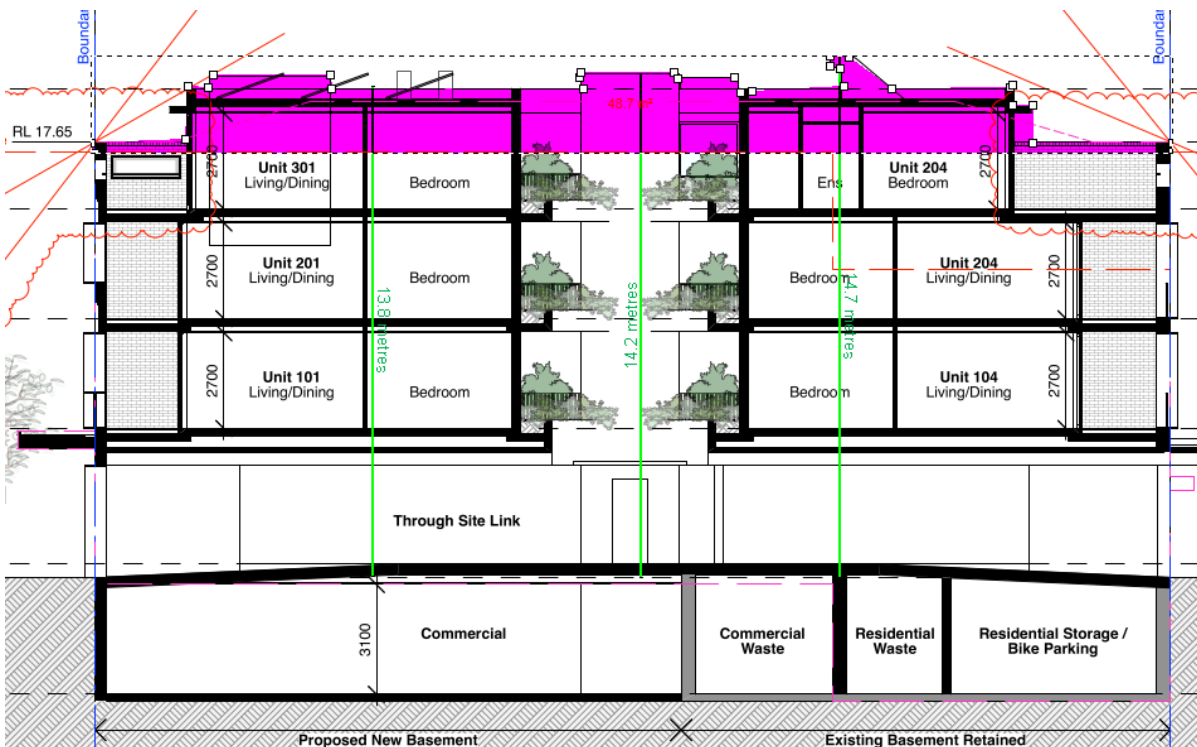


Figure 1 - Building Height

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

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

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

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

(a) the consent authority is satisfied that:

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

Clause 4.6 (4)(a)(i) (Justification) Assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

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

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a).

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

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]*. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

"Sufficient environmental planning grounds

Ground 1 - Existing excavation

The extent of the proposed height breach is compounded by existing excavation associated with a basement at the southern half of the site. As demonstrated in Figure 2, the extent of non-compliance

with the height plane is considerably reduced when measured to finished floor levels and existing ground levels around the perimeter of the building. Consistent with the findings of Commissioner O'Neill in Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582, the prior excavation within the building footprint that distorts the height of buildings development standard plane can be properly described as an environmental planning ground within the meaning of clause 4.6(3)(b) of the LEP.

Ground 2 - Contextually responsive building design

Despite non-compliance with the building height development standard, the proposed development is consistent and compatible with the height of the existing building at the site, other development within the visual catchment of the site and other development subject to the same height provisions.

Although the site is not subject to a number of storeys control, it can be assumed that a four storey development is anticipated within the 12m portion of the site. This assumption is confirmed by nearby and adjoining development that are subject to the same height limits including:

- The 4 storey development approved at 36-46 Sydney Road (12m height limit),*
- The 4 storey development at 27 Sydney Road (12m height limit),*
- The 4 storey development at 63-67 The Corso (12m height limit),*
- The 4 storey development at 69-71 The Corso (12m height limit),*
- The 6 storey development at 36 Sydney Road (12m height limit),*
- The four storey street façade at 28-29 South Steyne (12m height limit),*
- The four storey street façade at 30-32 South Steyne (12m height limit),*
- The four storey street façade at 33 South Steyne (12m height limit),*
- The three-five storey building at 43-45 South Steyne (10m-12m height limit),*
- The three-five storey building at 46-47 South Steyne (10m-12m height limit),*

The proposed development is limited to 4 storeys, consistent with the perceived height and scale of nearby and surrounding development.

The proposed development also maintains consistency with the dominant height of the existing development, with a parapet at RL17.75m AHD retained in the proposed development. Furthermore, it is noted that the overall maximum RL of development is ultimately reduced as a result of the proposal, by virtue of the removal of the lift overrun (RL20.56m AHD).

Allowing for a height breach that is consistent with the existing height of development at the site and nearby development is considered to ensure the orderly and economic development of the site, consistent with Objective 1.3(c) of the EP&A Act.

Ground 3 - Compliance with the FSR

Strict compliance with the height control would unreasonably constrain the development potential of the site in light of the 3:1 maximum FSR prescribed. Even with basement commercial floor space proposed, the proposal has a FSR of 2.8:1, or 89.8m² shy of the maximum permitted on the site. The removal of the upper floor would further reduce the FSR by 201.8m² to 2.2:1, being 291.6m² less than the maximum FSR prescribed.

Allowing for the height breach in consideration of the application of other standards and controls is considered to ensure the orderly and economic development of the site, consistent with Objective 1.3(c) of the EP&A Act.

Ground 4 - Improved Amenity

The maximum height proposed occurs when measured to the top of the skylight over Unit 204. Unit 204 is a south facing unit, that if not for the skylight, would not receive direct solar access to the living room in midwinter.

The support of the breach associated with the skylight promotes good amenity of the built environment the health and safety of occupants of the development, consistent with the Objects (g) and (h) of the EP&A Act.

Ground 5 - Public Benefit

The proposed development comprises a pedestrian through-site link, that will significantly improve pedestrian connectivity throughout the town centre. The voluntary inclusion of the site link, which is highly endorsed/supported by Council, reduces the area of floor space at the ground level of the subject site, which has a premium rental return noting the site's location within the town centre.

The provision of additional floor space partially above the height plane is considered to be justified in consideration of the public benefit associated with the incorporation of the through site link at the ground floor.

Overall, there are sufficient environmental planning grounds to justify contravening the development standard."

Council's Assessment of the Clause 4.6 Request

The applicant has satisfactorily demonstrated that the works are consistent with the objects of the EP&A Act, specifically the following objects of the EP&A Act:

- The development promotes the orderly and economic use and development of the land, in so far as the proposed replacement of ageing elements and access of a ageing building is an orderly response to the development of the site;
- The development promotes good design and amenity of the built environment, noting that the lift overrun will not contribute to any unreasonable impact on amenity considerations (i.e solar access, privacy and view loss) to neighbouring properties.
- The development promotes the proper construction and maintenance of buildings, in so far as the proposed non-compliance wholly relates to necessary maintenance of the ageing development.
- The proposed alterations allow for re-development of the shop top housing development without unreasonable impact upon the heritage significance or amenity of adjoining development.

The existing building encroaches above the 12m height control. The incorporation of a new level further encroaches on this height control. It is accepted that, whilst the proposal seeks to further exceed the height plane, the resulting development will maintain an appropriate visual relationship with the surrounding built environment. In this instance, there is a public benefit in permitting a degree of flexibility to the standard. The proposal works will regenerate an ageing building, whilst maintaining the heritage significance of the building.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act. Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the B2 Local Centre zone. An assessment against these objectives is provided below.

Objectives of Development Standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the MLEP 2013 are addressed as follows:

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

Comment:

The proposed development is located within a local centre where buildings are of varying heights and roof forms. Development located within the town centre is predominantly characterised by a mix commercial and shop top housing developments varying between 3-5 storeys in height.

The building height, while non-compliant, is generally consistent with the height of the existing building. It is noted that the existing building represents the centre of Sydney Road and it is a noted building of heritage significance. The additional bulk from the lift overrun and skylight will not be largely visible from either Sydney Road or Market Lane given it is centralised on the site.

The proposed development includes a roof form consistent with and complementary to surrounding existing and approved roof forms. The proposed fourth floor is generally not visible from the street level, so does not unreasonably impact upon the streetscape.

b) to control the bulk and scale of buildings,

Comment:

The overall building bulk and scale has been effectively controlled by way of effective building setbacks, building separation, building articulation and manipulation of building elements and through the use of appropriate materials and finishes. The proposed building height will not result in unreasonable building bulk or scale and does not result in any unreasonable physical or visual impacts on surrounding lands. The proposal is also compliant with the floor space ratio control.

c) to minimise disruption to the following:

(i) views to nearby residential development from public spaces (including the harbour and foreshores),

(ii) views from nearby residential development to public spaces (including the harbour and foreshores),

(iii) views between public spaces (including the harbour and foreshores),

Comment:

The proposed development is designed and sited so as not to cause unreasonable view loss to or from public or private spaces.

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

Comment:

The proposed development is considered to be designed and sited in a manner that adequately mitigates solar access impacts to adjacent properties. The proposed design complies with the relevant controls for sunlight under the MDCP 2013.

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

Comment:

Not applicable. The subject site is zoned B2 Local Centre.

Zone Objectives

The underlying objectives of the B2 Local Centre zone are addressed as follows:

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

Comment:

The proposed development retains the use of the site as shop top housing, so includes retail premises at ground level. This supports the needs of the people who live in, work in, and visit the local area.

- *To encourage employment opportunities in accessible locations.*

Comment:

As above, the proposed development retains retail premises at ground level, which will provide employment opportunities. The subject site is accessible in that it is located within short walking distance of regular bus, ferry services and courtesy bus services.

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

Comment:

The subject site is conveniently located within short walking distance of bus and ferry services, as well as walking and cycling paths.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure amenity for the people who live in the local centre in relation to noise, odour, delivery of materials and use of machinery.*

Comment:

Not applicable. The subject site does not adjoin any other zones.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the B2 Local Centre zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment:

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

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

Comment:

The subject site is partially classified as flood prone land (medium risk). The proposed development has been reviewed by Council's Stormwater and Floodplain Engineering team, who are supportive of the proposal, subject to recommended conditions of consent. As such, the consent authority can be satisfied that the proposed development is acceptable in relation to the matters above at (a) through (e).

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

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

Comment:

The subject site is partially classified as flood prone land (medium risk). The proposed development has been reviewed by Council's Stormwater and Floodplain Engineering team, who are supportive of the proposal, subject to recommended conditions of consent. As such, it is considered that the proposed development is acceptable in relation to the matters above at (a) through (d).

6.1 Acid sulfate soils

Clause 6.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 4, as indicated on Council's Acid Sulfate Soils Planning Map.

Works at depths beyond 2.0m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 2.0 metre below the natural ground surface within a Class 4 acid sulfate soil area are required to be assessed to determine if any impact will occur.

The development proposes to excavate the site to approximately 3.7m below the natural ground level. As such, a Preliminary Acid Sulfate Soil Assessment has been undertaken by Crozier Geotechnical Consultants dated October 2022. In the assessment, Crozier found that The excavation will not result in the lowering of the groundwater table, as such, an Acid Sulphate Soils Management Plan will not be required for the site.

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of MLEP 2013, MDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

6.4 Stormwater management

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil

characteristics affecting on-site infiltration of water, and

Comment: The development will provide a suitable amount of permeable surfaces given the zoning of the land and the proposed use. In this regard, Council is satisfied that the design will maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water.

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

Comment: On-site stormwater retention has been incorporated into the development.

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

Comment: The proposal has been assessed by Council's Development Engineers who have raised no objections to approval, subject to conditions. In this regard, Council is satisfied that the development will minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

6.9 Foreshore scenic protection area

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

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

Comment:

The proposed development is unlikely to have any significant impact upon the harbour or coastal foreshore. The development will not be readily visible from the coastline. The development meets the criteria above listed from (a) to (d).

6.12 Essential services

Under this clause, 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.*

Comment:

The subject site is supplied with the above essential services, except for vehicular access, as the site abuts pedestrianised land at its two frontages (Sydney Road and Market Place). The proposed development retains and relies upon these existing services.

6.13 Design excellence

Under this clause, development consent must not be granted to development unless the consent authority considers that the development exhibits design excellence.

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

Comment:

As discussed in detail throughout this report the proposed development generally considers and achieves the matters listed above at (a) through (k).

6.16 Gross floor area in Zone B2

The proposed development complies with the numeric requirements under this clause.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 370.5sqm	Requirement	Proposed	% Variation*	Complies
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	Minimum height: 3.5m Maximum height: 4.5m	3.6m	-	Yes
Schedule 3 Parking and Access	7 resident spaces, 3 visitor spaces, 10 commercial users = 20 spaces.	0	100%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	Yes	Yes
4.2.2 Height of Buildings (Consideration of exceptions to Building Height in LEP Business Zones B1 and B2)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	Yes	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.2.5.3 Security Shutters	Yes	Yes
4.2.5.4 Car Parking and Access	Yes	Yes
4.2.5.6 Late Night Venues	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.1.1 General Character	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

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

There are no underlying objectives of this control under which to consider the merits of this variation. This control instead relies on the objectives for the Height of Buildings at clause 4.3 in the Manly LEP 2013. The proposal has been assessed against these objectives under clause 4.6, above in this report. In summary, the proposed height of the development is acceptable.

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

The proposed development would require 20 parking spaces based on the density of the the proposed development (10 x one-bedroom apartments; and 1 x two-bedroom apartments and 365.8m² commercial premises). Given the site is not accessible from any public road, no on site parking has been proposed. As discussed in the ADG section of this report and Council's Traffic officer, the proposed arrangement is deemed to be satisfactory given that the site is located within the Manly Town Centre and as such well serviced by public transport (Buses and Ferries).

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$46,537 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,653,709.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the

conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

PLANNING CONCLUSION

This proposal, for demolition works and construction of a four (4) storey shop top housing development at 19 Sydney Road, Manly has been referred to the NBLPP due to proposed development being subject to SEPP 65.

The concerns raised in the objections have been addressed and resolved by the amended plans and special conditions to mitigate impacts upon heritage and bulk and scale.

The critical assessment issues are building height and heritage. The variation to the planning controls in relation to the building height non-compliance is supported.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for **approval**.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2022/2199 for Demolition works and construction of shop top housing on land at Lot 20 DP 235980, 19 Sydney Road, MANLY, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA1002	A	Site Plan	MHNDUNION	2 December 2022
DA2006	A	Demolition Plans	MHNDUNION	2 December 2022
DA3001	C	Basement Plan	MHNDUNION	12 December 2023
DA3002	C	Ground Floor Plan	MHNDUNION	12 December 2023
DA3003	C	Level 1 Plan	MHNDUNION	12 December 2023
DA3004	C	Level 2 Plan	MHNDUNION	12 December 2023
DA3005	C	Level 3 Plan	MHNDUNION	12 December 2023
DA3006	A	Roof Plan	MHNDUNION	2 December 2022
DA4001	C	Section AA + BB	MHNDUNION	12 December 2023
DA4002	C	Elevations North + East	MHNDUNION	12 December 2023
DA4003	C	Elevations South+ West	MHNDUNION	2 December 2022
DA5001	C	Arcade Link - Detail	MHNDUNION	2 December 2022

DA6001	A	External Finishes	MHNDUNION	2 December 2022
DA7005	A	Pre + Post Adaption Plans	MHNDUNION	2 December 2022
Plan of subdivision/ Sheet 1 of 6	-	Location Plan	Copland C. Lethbridge	23 August 2022
Plan of subdivision/ Sheet 2 of 6	-	Basement	Copland C. Lethbridge	23 August 2022
Plan of subdivision/ Sheet 3 of 6	-	Ground Floor	Copland C. Lethbridge	23 August 2022
Plan of subdivision/ Sheet 4 of 6	-	Level 1	Copland C. Lethbridge	23 August 2022
Plan of subdivision/ Sheet 5 of 6	-	Level 2	Copland C. Lethbridge	23 August 2022
Plan of subdivision/ Sheet 6 of 6	-	Level 3	Copland C. Lethbridge	23 August 2022
LPDA - 138/1	B	Landscape Plan/L1	Conzept	1 December 2022
LPDA - 138/2	B	Details	Conzept	1 December 2022
LPDA - 138/2	B	Specifications	Conzept	1 December 2022

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Access Design Assessment Report	2	Design Confidence	6 December 2022
Adaptable Housing Assessment Report	2	Design Confidence	6 December 2022
Flood Risk Management Plan	A	SGC	10 November 2022

Geotechnical investigation and preliminary acid sulfate soils assessment	0	Crozier Geotechnical Consultants	October 2022
Traffic impact assessment (TIA)	V02	TRAFFIX	12 December 2022
BCA Design Assessment Report	2	Design Confidence	6 February 2023
Operational Waste Management Plan	B	Elephants Foot Consulting	22 November 2022

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	N/A

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of **shop top housing**, in accordance with the Dictionary of the Manly Local Environmental Plan 2013, as follows:

shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

5. Future Development Applications for Commercial Lot 1 and 2

Food or beauty premise fit out of commercial units 1 and 2 requires development applications. The fit-out of any commercial tenancies that intend to provide food for sale or beauty premise that conducts skin penetration shall require a separate development application to be lodged.

Reason: To ensure that food and beauty premises have appropriate and hygienic fit-outs and hours of operation are established to maintain amenity of the surrounding area.

6. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$46,537.09 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$4,653,709.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

8. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or

demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

9. Construction, Excavation and Associated Works Bond (Drainage works)

The applicant is to lodge a bond of \$2 000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

10. On Slab Landscape Works

Details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections.

The following soil depths are required to support landscaping as proposed: 600mm.

Design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and ensure waterproofing and drainage is installed.

11. Flooding

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level of 5.73m AHD shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Flood Planning Level 5.73m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 5.73m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 5.73m AHD unless adequately protected from floodwaters in accordance with industry standards.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

12. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

13. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

14. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by a TfNSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site

- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

15. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

16. Building Code of Australia Upgrade requirements and Fire Safety Upgrade

The Building Code of Australia works and fire upgrading measures to upgrade the building as detailed and recommended in the Building Code of Australia Audit Report prepared by Design Confidence (Sydney) P/L, dated 6/2/2023, Report Ref No. P221_387-02(BCA) JR, are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

17. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

18. **Sub-Soil Seepage**

The Applicant is to submit plans demonstrating that all sub-soil seepage drainage is discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line being existing pit in Market Place and is to be carried out in accordance with relevant Australian Standards. (Note: At the time of determination the following (but not limited to) Standards applied:

- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 Plumbing and drainage - Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 / Amdt 1 - 2006 Plumbing and drainage - Stormwater drainage.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure appropriate drainage and Stormwater management on site to protect amenity of residents.

19. **Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the connection to the existing Council pit in Market Place which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

20. **Corbeling detail**

The new design shall respond to the predominant form of the site and the streetscape, by responding the parapet lines. Between the proposed Level 1 and 2, a corbeling detail is to be inserted, referencing the form of the original building and the horizontal form of the adjacent buildings.

Details demonstrating compliance are to be submitted to the Council Heritage Advisor prior to the issue of a Construction Certificate.

Reason: To respond the predominant built form in the HCA.

21. **Front setback to Level 3**

The front setback of the upper level must be provided on the plans from the outer face of the balcony parapet wall to the outer face of the unit wall and this dimension needs to be minimum 2.6m to ensure the visibility of Level 3 from the public domain is minimised.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a

Construction Certificate.

Reason: To minimise the visibility of Level 3 from the public domain.

22. Noise - Design of Mechanical Plant and Equipment

Prior to the issuing of any Construction Certificate, the design and location of mechanical plant and the specifications of all noise generating equipment including the sound power contribution is to be provided to the Principal Certifying Authority. An acoustic assessment from a suitably qualified professional such as an acoustic engineer is to be undertaken to determine acoustic treatments to control noise emissions from all mechanical plant noise. Any recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate. Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To protect surrounding residence and occupants from any noise generated by the operation of the development.

23. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

24. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

25. Waste and Recycling Requirements

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

26. Work Zones and Permits

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

27. Demolition Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Demolition

Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

28. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties: Nos 15 and 21-25 Sydney Road, Manly

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

29. **Photographic Archival Recording**

A full photographic archival recording of the site is to be made of the fibro cottage (including interiors and exteriors). This record is to be prepared generally in accordance with the guidelines issued by NSW Heritage and must be submitted to Council's Heritage Officer for approval, prior to the issue of a Construction Certificate.

The photographic record should be made using digital technology and should include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs which fully document the site (including items of moveable heritage), cross referenced in accordance with recognised archival recording practice to catalogue sheets.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To provide an archival photographic record of the historic cottage, prior to the commencement of any works.

DURING BUILDING WORK

30. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

31. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

32. Implementation of Demolition Traffic Management Plan

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

33. During the course of demolition and building works

All construction vehicles associated with the development must obtain a permit from Council on a daily basis, for access into pedestrian only areas. E.g. The Corso and Sydney Road Plaza.

Reason: To manage and minimise disruption to the area.

34. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

35. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

36. Demolition Works - Asbestos

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

37. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

38. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 68 are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifier and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

39. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated [INSERT].

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

40. Waste/Recycling Requirements (Materials)

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

41. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

42. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawing LPDA 23-138/1 by Conzept Landscape Architects dated 01/12/22).

Prior to the issue of an Occupation Certificate, details from a landscape architect, landscape designer or qualified horticulturalist shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

43. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

44. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

45. Geotechnical Certification Prior to Occupation Certificate

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

46. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard.

47. Certification of groundwater monitoring

Groundwater monitoring investigation and report are required to confirm if dewatering for construction is required.

Report to includes if WaterNSW for construction dewatering approvals are required.

Reports and findings must be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the environment and receiving waters.

48. Environmental Reports Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifier and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Access Design Assessment Report	2	Design Confidence	6 December 2022
Adaptable Housing Assessment Report	2	Design Confidence	6 December 2022
Flood Risk Management Plan	A	SGC	10 November 2022
Geotechnical investigation and preliminary acid sulfate soils assessment	0	Crozier Geotechnical Consultants	October 2022
Traffic impact assessment (TIA)	V02	TRAFFIX	12 Decmeber 2022
BCA Design Assessment Report	2	Design Confidence	6 February 2023

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure compliance with standards.

49. **Mechanical Ventilation certification**

Prior to the issuing of an Occupation Certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

50. **Garbage and Recycling Facilities**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

51. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

52. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

53. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

54. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Principal Certifier, a

Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

55. **Landscape Maintenance**

A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

Reason: To maintain local environmental amenity.

56. **Transfer of bins between the basement bin room and the street level bin holding bay.**

Bins are to be available for collection from the street level bin holding bay between 5.00am to 6.00pm on the scheduled day/s of collection.

Bins are to be transferred from the basement bin room to the street level holding bay no earlier than 4.00pm on the day prior to the scheduled day of collection.

Bins are to be transferred from the street level holding bay to the basement bin room as soon as possible after collection but no later than the evening of the day of collection.

Reason: To ensure bins are available for collection staff at the appropriate time. To ensure bins do not remain in the street level holding bay for an excessive period of time.

57. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

58. **Proposed Outdoor Dining Condition**

No plant, air-conditioning units or associated machinery on the roof is approved in this consent.

Reason: To ensure that outdoor dining is assessed and approved under the appropriate regulatory framework and legislation.

59. **Commercial Waste Collection Procedure**

Commercial waste and recycling bins are not to be placed at the kerbside on Sydney Road awaiting collection.

Waste collection arrangements must include a procedure whereby the collection contractor enters the property to retrieve the bins from the dedicated bin storage area and then returns the bins to the dedicated bin storage area immediately after emptying.

Reason: To maintain public amenity in Sydney Road.

60. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly

managed.

61. Businesses Parking Permits

Any businesses and/or tenants of the subject site are not eligible for business parking permits. This condition is to be provided on the property Title.

Reason: to ensure businesses premises/tenants are aware that they are not entitled to permits irrespective of the location of the development within a permit parking area.

62. Resident Parking Permits

Any residents and/or tenants of the subject site are not eligible for resident parking permits even if they reside in a Permit Parking Scheme area. This condition is to be provided on the property Title.

Reason: to encourage sustainable transport alternatives and ensure that residents/tenants are aware that they are not entitled to a permit

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



The application is determined on //, under the delegated authority of:

Claire Ryan, Acting Development Assessment Manager

Peter Robinson, Executive Manager Development Assessment