

COUNCIL ASSESSMENT REPORT

SYDNEY NORTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSNH-598 – DA 34/2025
PROPOSAL	Demolition and adaptive reuse of an existing 11-storey commercial building with ground floor retail, expanded podium and above ground residential apartments.
ADDRESS	Lot 1 DP 553895 8 West Street, North Sydney
APPLICANT	The Trustee for Maville West Investment Unit Trust
OWNER	The Trustee for Maville West Investment Unit Trust
DA LODGEMENT DATE	28 February 2025
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: Development has an estimated development cost of more than \$30 million.
CIV	\$48,915,113.00 (excluding GST)
CLAUSE 4.6 REQUESTS	North Sydney LEP 2013 Clause 4.3 Height of Buildings
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> • <i>State Environmental Planning Policy (Housing) 2021</i> <ul style="list-style-type: none"> - Chapter 4 Design of residential apartment development • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> <ul style="list-style-type: none"> - Chapter 2 Infrastructure

	<ul style="list-style-type: none"> • <i>North Sydney Local Environmental Plan 2013;</i> • <i>North Sydney Development Control Plan 2013.</i>
TOTAL & SUBMISSIONS ISSUES SUBMISSIONS	Seven (7) Submissions
DOCUMENTS SUBMITTED FOR CONSIDERATION	Access Report – ABE Consulting Acoustic Report - JHA Arborist Report – Arboreport Architectural Plans – Woods Bagot BCA Compliance Audit Report – MBC Group BCA Assessment Report – Steve Watson & Partners Waste Management Plan – Elephants Foot Economic Impact Analysis – Uplift Economics Statement of Environmental Effects – Beam Planning Traffic Impact Assessment – Stantec Survey Plans – CMS Surveyors Pty Ltd Structural Engineers Report – Matter Consulting Stormwater Management Plan – Matter Consulting Section J Report – Efficient Living Landscape Plans – Urbis Heritage Statement – Urbis Design Verification Statement – Woods Bagot Clause 4.6 Variation Request – Beam Planning
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Yes – Housing and Productivity Contribution Applies
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
AMENDED PLANS	6 June 2025
SCHEDULED MEETING DATE	16 July 2025
PLAN VERSION	29 January 2025 Rev A 03 June 2025 Rev B
PREPARED BY	Woods Bagot
DATE OF REPORT	23 June 2025

EXECUTIVE SUMMARY

The development application (DA 34/2025 – PAN-508768) seeks consent for substantial demolition and adaptive reuse of an existing 11 storey commercial office building into shop top housing with ground floor retail and expanded podium. The development will provide 909m² non-residential floor area and 49 apartments above comprising 36 x 2 bedroom apartments, 11 x 3 bedroom apartments and 2 x 4 bedroom apartments. The basement will be adapted from an existing commercial office car park to accommodate 45 residential car spaces, 68 bicycles, 4 motorbike parking spaces, storage and end of trip facilities.

The subject site is known as 8 West Street, North Sydney ('the site') is an irregular shaped lot with an area of 1,814m² with a road frontage to the east of 54.865m.

The site northern boundary adjoins 28 West Street (residential flat building and townhouses) and the southern boundary adjoins 273 Pacific Highway comprising of North Sydney Police Station. Further to the south is the Union Hotel located at 271 Pacific Highway and it is a Local Heritage Item (I0960). Located opposite the subject site is a 3 storey mixed use building (3-5 West Street) comprising commercial floor space and an internal recreational use (Gym). Two storey commercial buildings 11 West Street and 1 Ridge Street are also located opposite the subject site.

The site is located in the MU1 Mixed Use Zone pursuant to Clause 2.2 of the North Sydney *Local Environmental Plan 2012* ('LEP 2012'). The development is defined as shop top housing and is permissible with consent in the MU1 Mixed Use Zone and the proposal is considered to be consistent with the zone objectives proposing non-residential ground floor tenancies that encourages employment opportunity, activation of the streetscape and is inviting to pedestrians.

The principle planning controls relevant to the proposal include *State Environmental Planning Policy Housing 2021 – Chapter 4 of residential apartment development* ('SEPP Housing'), the North Sydney *Local Environmental Plan 2013* and the *North Sydney Development Control Plan 2013* ('DCP'). The proposal is largely consistent with various provisions and planning controls including:

- Compliance with design quality principles of Housing SEPP including compliances with Principle 1: Context and neighbourhood character, Principle 2: Built form and scale, Principle 3: Density, Principle 5: Landscape and Principle 9: Aesthetics because the development is considered a good design appropriate in its context, the streetscape, maintains the character of the building and has an improved provision of landscaping.
- Substantial compliance criteria of the ADG including compliant provision of communal open space of 28% (Part 3D), 95.9% of units have a minimum 2 hours solar and daylight access (Part 4A), 81.6% apartment are naturally cross ventilated (Part 4B), sufficient ceiling height are provided (Part 4C), the apartments are compliant in size and layout (Part 4D) balconies are compliant in size (Part 4E) and sufficient storage space is provided (Part 4G);
- The application is supported by a Cl. 4.6 for the variation of the development standard relating to height (Cl. 4.3). The existing building has a maximum building height of 41.86m (RL 133.145) which is a variation of 28.86m (222%). The maximum building height proposed is increased 43.45m (RL 134,740) which is a variation of 30.45m over the 13 metre height limit principally due to the demolition of existing roof plant and equipment for a penthouse roof addition. The written request justifies the contravention of the development standard as unreasonable to comply with the standard in the circumstances and environmental planning grounds justify the contravention.
- The retention of pebblecrete to the tower elevations and the variety of materials and

finishes to the podium are considered to be generally a high quality built form outcome generally satisfying the Objectives and Provisions in s2.4.5 'Building Design' of NSDCP 2013. The development demolishes the roof plant facilities and integrates within the building in accordance with Provision P7, s2.4.6 'Skyline' of NSDCP 2013. The development has a positive outcome proposing a nil front setback, active uses facing the street, glazed facades plus the podium provides visually interesting elements therefore the provisions in s2.4.10 'Streetscape' of NSDCP 2013 are generally satisfied.

- The proposal is considered to satisfy the various objects of the EP&A Act (orderly and economic development of land & promotion of good design and amenity of the built environment) and is in the public interest given it is largely compliant with various planning controls;
- The proposal satisfies the matters for consideration under Section 4.15(1) of the EP&A Act in relation to potential adverse impacts to surrounding area due to urban design and bulk and scale.

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). A referral to Ausgrid pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') was sent and no objections were raised. NSW Police and Sydney Water were also consulted with recommended conditions of consent being provided.

The application was placed on public exhibition from 21 October 2020 to 18 November 2020, with three (7) submissions being received. These submissions which raised issues relating to building height, streetscape, potential acoustic, privacy and traffic congestion have been deliberated. Despite the submissions, the development is supported providing a reasonable outcome to mitigate against privacy of residents in adjoining sites and the development will result in an appropriate use of parking within the basement including alternative transport and the on street loading has been conveyed as the most appropriate option for the site and adaptive reuse of the site.

The application is referred to the North Sydney Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Clause 2 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development with an estimated development cost of more than \$30 million.

The key issues and merit discussion are detailed in Part 5 of the assessment and are summarised below:

1. *Podium* – Council following a preliminary assessment and upon comments received by the Design Excellence Panel raised concerns with the Applicant concerning the podium excessive bulk and scale in context with the streetscape. The Applicant in response has made amendments reducing the height of the podium from RL 99,230 to RL 98,250. The revised podium is considered to have an improved outcome more compatible with the 2 storey character of the adjoining townhouses at 28 West Street.
2. *Visual and Acoustic Privacy* - The Applicant has duly considered measures to mitigate against loss of visual privacy and proposes screen planting along the boundaries of the Level 1 private open space and common open space, privacy screens are proposed to the northern façade on balconies for Levels 2-10 and screen planting is proposed along the northern and eastern boundaries for the penthouse balcony. A condition of consent is recommended to ensure appropriate screen planting for the northern border of the Level 1 common open space to improve mitigation against loss of visual and acoustic privacy of residents at 28 West Street.

3. *Housing Mix* - The housing mix is contrary to Provision P3, s2.2.3 of NSDCP 2013 providing a priority for larger households and apartment types and an insufficient provision of smaller 1 bedroom apartment or studio apartments. The Applicant has provided further justification for the housing mix stating the development still satisfies a demand for larger housing types and notes the specific nature of this adaptive reuse lends itself to a certain size, layout and design of apartments. Further, the development would not hinder the provision of smaller apartment delivery and the Applicant cites the potential delivery of smaller apartments within the Crows Nest Transport Orientated Development Precinct.
4. *Car Parking, Bicycle Parking & End of Trip Facilities* – Following a preliminary assessment Council's Traffic Engineer noted an exceedance in car parking contrary to NSDCP 2013 residential parking rates. The development also did not provide end of trip facilities or lockers. However, amended plans have been received reducing car parking although still exceeding car parking rates and the Applicant has increased the provision of bicycle parking and provided end of trip facilities as well as lockers as per NSDCP 2013 requirements.
5. *Loading Dock* – Council's Traffic Engineer has stipulated in the internal referral for on site loading with 1 space able to accommodate a Medium Rigid Vehicle. The Applicant's Traffic Engineer has considered options for accommodating an MRV however, significant issues have arisen requiring an adverse impact to the site frontage, likely loss of non-residential floor space at ground level and challenges in accommodating an MRV capable of exiting in a forward direction from the site and the likely impact to the footpath and cycleway.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, Local Environmental Plan and Development Control Plan the proposal can be supported. The development is an acceptable planning and design outcome for this site and will contribute positively to both the character of the street, the immediate locality and the residential amenity of the area.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA 34/2025 is recommended for approval subject to the conditions contained at **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The site comprises one (1) allotment that is legally described as Lot 1 of DP 553895 and is commonly known as No. 8 West Street, North Sydney.

The subject site located at 8 West Street comprises one irregular shaped lot. The land at 8 West Street has an area of 1,814m² with an eastern boundary to West Street of 54.865m and a western boundary to properties on Pacific Highway of approximately 57.010m.



Figure 1 – Aerial Photo of the subject site (outlined in red) and surrounds, Nearmap

The subject site is currently occupied by an 11 storey commercial building designed by McConnell, Smith and Johnson Architects and constructed in 1973. The building has ground floor retail and childcare uses and two basement levels. External areas surrounding the building are primarily dedicated to the existing childcare centre in the northern and western setbacks and within the front eastern setback are existing mechanical services, planter boxes and vehicular entry to the site.

1.2 The Locality

The site northern boundary adjoins 28 West Street (residential flat building and townhouses) and the southern boundary adjoins 273 Pacific Highway comprising of North Sydney Police Station. Further to the south is the Union Hotel located at 271 Pacific Highway and it is a Local Heritage Item (I0960). Other Heritage Items in the vicinity of the site are as follows:

- St Thomas Church, 34 McLaren Street, Local Item I0885.
- 2-14 Ridge Street, Local Items I0962 – I0969.

Located opposite the subject site is a 3 storey mixed use building (3-5 West Street) comprising commercial floor space and an internal recreational use (Gym). Two storey commercial buildings 11 West Street and 1 Ridge Street are also located opposite the subject site.



Figures 2 & 3 – Photos of the subject site from West Street, Source: North Sydney Council, 18 March 2025



Figures 4 & 5 – Photos of the subject site from St Thomas Anglican Church and Ridge Street, Source: North Sydney Council, 18 March 2025

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for substantial demolition and adaptive reuse of an existing 11-storey commercial office building with existing ground floor retail and childcare uses into residential apartments with ground floor retail and an expanded podium.

The key development data is provided in **Table 1**.

Table 1: Development Data

Control	Proposal
Site area	1,814m ²
GFA	6,446m ² Residential – 5537m ² Commercial GFA – 909m ²
FSR (retail/residential)	Retail FSR – 0.5:1 Residential FSR – 3.05:1
Clause 4.6 Requests	Yes - 4.3 Height of Building
No of apartments	2 bed apartments 36 3 bed units 11 4 bed units 2 Total 49
Max Height	13m height limit Existing maximum height of building is 41.86m (RL 133,145) Proposed maximum building height is 43.45m (RL 134,740)
Common open space	514m ² (28% of the site)
Car Parking spaces (Residential)	45 car spaces including 10 accessible spaces
Car Parking spaces (Non- Residential)	Nil
Setbacks	Podium Ground Floor – Nil Setbacks Level 1 Rear Western Boundary: 5.3m to 11.5m Side South Boundary: 1.6m to 9.1m Side North Boundary: 1.6m to 9.0m Tower (existing)

	<p>Levels 2-10 Rear Western Boundary: 3.31m to 13.73m Side South Boundary: 8.86m Side North Boundary: 8.57m</p> <p>Level 11 Rear Western Boundary: 3.31m to 13.73m Side South Boundary: 8.86m Side North Boundary: 8.56m.</p>
Solar Access	47 out of 49 apartments (95.9%)
Natural Cross Ventilation	40 out of 49 apartments (81.6%)



Figure 6 – Photomontage of 8 West Street, DA9001 Rev A (Woods Bagot)



Figure 7 – Photomontage of 8 West Street, DA9003 Rev A (Woods Bagot)

2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the applicant on 30 October 2024 where various issues were discussed. A summary of the key issues was conveyed to the Applicant at the pre lodgement meeting as outlined below:

- CI 4.6 Height of Buildings – concerns were raised with an additional height due to the penthouse addition and a comprehensive Clause 4.6 was requested demonstrating compliance with the development standard is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard.
- CI 4.4A Non Residential Floor Space Ratios – the site is subject to a minimum non-residential floor space ratio of 0.5:1 and a non-residential GFA compliance diagram is a requirement to demonstrate compliance.
- Building separation distances & visual privacy – the application must ensure sufficient privacy mitigation measures are incorporated for the Level 1 private open spaces. Specific consideration should be given to privacy measures for the north western and south western corners of the building.

- Common open space – concerns were raised with respect to the Level 1 common open space and proximity to Unit 05 and the potential amenity impact to occupants of this unit.
- Podium - the proposed podium is considered too bulky and dominant in context with the streetscape which is in part due to the excessive scale and a revised podium is required that is more recessed and sympathetic and simpler in form and appearance appropriate to the comparatively low density surrounding streetscape.
- Loading and Servicing Facilities - engagement with Council's Traffic & Transport Department is recommended to ensure the development appropriately provides for off-street loading and unloading facilities for all commercial premises as well as accommodation of 1 medium rigid vehicle. Section 10.4 'Loading and Servicing Facilities' of NSDCP 2013 needs careful consideration and deliberation to ensure the site has adequate off-street loading, delivery and servicing facilities.

The development application was lodged on **28 February 2025**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
28 February 2025	DA lodged
24 February 2025	<p>Request for Information from Council to applicant. The following additional information was requested.</p> <p>1. Details of existing building</p> <p>Details of the total existing non-residential floor area within the existing building, including floor space diagrams to confirm the total gross floor area currently within the building. The floor space diagrams should include categorization of existing floor space as either office, commercial, child-care or food & drink premises or other non-residential use.</p> <p>This information is required to ascertain the extent of any Local Infrastructure Contributions payable against the development.</p> <p>2. Economic Impact Analysis</p> <p>An economic impact analysis was requested to be prepared by a suitable qualified economist to outline the economic effects arising from the loss of the non-residential floor space in the locality. The economic report should have regard for the availability of similar grade office space in the LGA, impacts to employment generation and sustainability and the effect on local economic activity.</p> <p>The report should have regard for Council's Local Strategic Planning Statement as well as applicable development</p>

	standards. This information is requested to enable Council to address the likely impacts of the development on the LGA.
13 March 2025	DA referred to external agencies: Ausgrid NSW Police
21 March 2025	DA referred to external agencies: Transport for NSW Sydney Water Corporation
31 March 2025	Information requested by Council requiring existing gross floor area diagrams and an economic impact analysis was submitted.
4 April 2025	Site visit completed by Assessment Officer.
8 April 2025	Design Excellence Panel briefing held with applicant. The Panel had in-principle support to the proposal and provided recommendations to the Applicant which are summarised below: Podium Form and Expression – to achieve a more appropriate street presence, the Panel suggested a slight reduction in the overall height of the Podium frames. Building Separation – the Panel suggested alternative apartment layout or appropriate screen devices to address the cross viewing of the neighbouring property to the west. Ecological Sustainable Development Principles – sustainability recommendations such as ceiling fans, rainwater tank and full electrification of the development were recommended. Design Intent Solutions – details of each primary façade type in the form of 1:20 sections and elevations were required.
16 April 2025	Sydney North Planning Panel briefing completed. Issues discussed with the Applicant and Council during the briefing are as follows: <ul style="list-style-type: none"> • The proposal for adaptive reuse of the building creates site/design constraints including ADG setback compliances. • Council indicated design concerns particularly with the height of the podium. • Loading should be undertaken onsite. • Proposed housing mix doesn't comply with the DCP.
30 April 2025	Following an assessment of the development application Council issues a letter detailing issues and non-compliances requiring amended plans and additional information. Design Excellence Panel – a copy of the DEP discussion, comments and recommendation were issued to the Applicant. Podium Design & Awning – the proposed podium was considered too bulky and dominant and comments for a reduction in height as per the DEP comments were reiterated. Parking – the provision of bicycle parking for future retail tenancies, end of trip facilities and a car wash bay were required pursuant to DCP provisions.

	<p>Loading Dock – Council's Traffic Engineer and Waste Management Officer requires on-site loading to be provided.</p> <p>Housing Mix – there is a variation in housing mix with an insufficient provision of smaller studio or 1 bedroom apartments.</p> <p>BCA Upgrade Report – Council's Building Officer requested submission of a BCA Upgrade Report.</p> <p>Development Engineering – point of stormwater discharge is to be amended in response to recent civil works undertaken in West Street. Any deviation with the requirements of Australian Standard AS2890.1 should be stated and justified.</p>
6 June 2025	<p>Amended plans lodged as well as additional information dated 6 June 2025 was accepted by Council under CI 38(1) of the <i>Environmental Planning and Assessment Regulation 2021</i> ('2021 EP&A Regulation') on 20 June 2025.</p>

2.3 Site History

The site has been subject to an extensive planning history comprising various development applications, modification applications and complying development certificates.

There is no planning history that is of particular relevance to the subject proposal aside from its predominant use for commercial office purposes. A pre-development application was lodged for the subject development and planning advice provided in 2024.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
 - *Chapter 2: Vegetation in non-rural areas*
 - *Chapter 6: Water catchments*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Housing) 2021*
 - *Chapter 4: Design of residential apartment development*
 - *Chapter 5: Transport orientated development*
 - *Chapter 6: Low and Mid-rise Housing – Aims only*
- *State Environmental Planning Policy (Planning Systems) 2021*
 - *Chapter 2: State and Regional Development*
- *State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
 - *Chapter 4: Remediation of Land*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
 - *Chapter 2: Infrastructure*
- *North Sydney Local Environmental Plan 2013.*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas Chapter 10: Sydney Harbour Catchment	Y
Sustainable Buildings SEPP	No compliance issues identified subject to imposition of conditions on any consent granted.	Y

State Environmental Planning Policy (Housing) 2021	<p>Chapter 4: Design of residential apartment development</p> <p>The development has been considered in detail against the design principles in Schedule 9, the Apartment Design Guide and advice has been received from the design review panel. Below is a detailed consideration confirming substantial compliance with the Schedule 9 and the ADG.</p>	Y
State Environmental Planning Policy (Housing) 2021	<p>Chapter 5: Transport Orientated Development</p> <p>The aim of the Chapter is to increase housing density within 400m of existing and planned public transport. A Transport Orientated Development Area is generally within 400m of a metro station in a local government area to which the chapter applies. However, referral to s152 North Sydney Council is not a local government area identified and therefore the chapter does not apply.</p> <p>Within the NSLEP 2013 Crows Nest is a Transport Orientated Development Precinct. However, the subject site is situated outside the Precinct.</p>	N/A
State Environmental Planning Policy (Housing) 2021	<p>Chapter 6: Low and mid rise housing</p> <p>The subject site is within 400m walking distance of a public entrance to a metro and on land to which the chapter applies pursuant to s164 of Chapter 6.</p> <p>Part 4 covers residential flat buildings and shop top housing. Section 175 in Part 4 permits development for shop top housing with a building height of up to 24m but this is for Zone R3 Medium Density Residential and R4 High Density Residential. The development being within MU1 Mixed Use Zone does not rely on the provisions within Chapter 6. However, it is generally in alignment with the aims of the chapter to encourage development well located to goods, services and public transport.</p>	N/A
State Environmental Planning Policy (Planning Systems) 2021	<p>Chapter 2: State and Regional Development</p> <ul style="list-style-type: none"> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises an estimated development cost of more than \$30 million. 	Y
State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021	<p>The site is not within an identified State Significant Precinct stipulated in SEPP (Precincts – Eastern Harbour City) 2021.</p>	Y
SEPP (Resilience & Hazards)	<p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> Section 4.6 - Contamination and remediation has been considered and the land is not considered contaminated pursuant to s4.6(1)(a) 'Contamination and remediation to 	Y

	be considered in determining development application' of Chapter 4 of the SEPP.	
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>Chapter 2: Infrastructure</p> <ul style="list-style-type: none"> • Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions. • Section 2.119(2) Impact of road noise or vibration on non-road development has been considered and is satisfactory subject to conditions. 	Y
Proposed Instruments	No proposed instruments identified.	Y
NSLEP 2013	<ul style="list-style-type: none"> • Clause 1.2 – Aims of Plan • Clause 2.3 – Zone objectives • Clause 2.7 – Demolition requires development consent • Clause 4.3 – Height of Buildings • Clause 4.4A – Non-residential floor space ratios • Clause 4.6 – Exceptions to development standards • Clause 5.10 – Heritage Conservation • Clause 6.10 – Earthworks • Clause 6.12A – Residential flat buildings in Zone MU1 Mixed Use 	Y (refer to Cl. 4.6)
NSDCP 2013	<p>Part B - Development Controls</p> <ul style="list-style-type: none"> • Section 1 - Residential Development • Section 10 – Car parking and transport • Section 12 - Access • Section 13 – Heritage and conservation • Section 16 - Trees and Vegetation Management • Section 17 - Erosion and Sediment Control • Section 18 - Stormwater Management • Section 19 - Waste Management • Section 20 - Public Infrastructure <p>Part C - Character Statements</p> <ul style="list-style-type: none"> • Section 2 – North Sydney Planning Area • Section 2.3 – Eden Neighbourhood 	Refer to Key Issues of report

Consideration of the relevant SEPPs is outlined below

State Environmental Planning Policy (Biodiversity and Conservation) 2021
- Chapter 2 Vegetation in non-rural areas

The aims of this Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 2.3 of the SEPP as the site is within both North Sydney Council LGA and the MU1 Mixed Use zone (formerly B4 Mixed Use).

The development is supported by an arborist report which assesses the potential impact to street trees and trees on the northern boundary. The trees are recommended for retention. The aims of the chapter in Part 2.1 of the SEPP (Biodiversity and Conservation) 2021 are considered to be satisfied.

- *Chapter 6 Water Catchments*

Chapter 6 of the SEPP relating to water catchments applies to the site. All stormwater from the proposed development can be treated in accordance with Council's Stormwater Management Policy and would satisfy the relevant provisions of Chapter 6.

State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy – Sustainable Buildings 2022 ('BASIX SEPP') applies to the proposal. The objectives of this Policy are to encourage delivery of sustainable buildings, minimise consumption of energy, reduce greenhouse gas emissions, minimise consumption of mains supplied potable water and ensure good thermal performance of buildings.

The application is accompanied by BASIX Certificate No. 1780741M prepared by Efficient Living Pty Ltd dated 22 January 2025 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

State Environmental Planning Policy (Housing) 2021

- *Chapter 4 Design of residential apartment development*

Chapter 4 of the Housing SEPP applies to the development because it consists of the substantial redevelopment of the existing building greater than 3 storeys and containing at least 4 dwellings.

Section 147 of SEPP requires that the consent authority to take into consideration the following as part of the determination of DAs:

- a) *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development or modification application set out in Schedule 9,*
- b) *the Apartment Design Guide, and*
- c) *any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

The application has been reviewed having regard to the criterion and design principles as set out in the ADG.

The tables below provide a comprehensive assessment against the principles, objectives and controls of State Environmental Planning Policy (Housing) 2021 and the ADG.

A design verification statement has been provided by Jason Fraser (Registration No 8431) of Woods Bagot in accordance with Clause 29 of the *Environmental Planning and Assessment Regulation 2021*.

The application was referred to the Design Excellence Panel (DEP) for comment on 8 April 2025. The Panel offered in principle support to the proposal and recommendations were made concerning the podium form, building separation and ecological sustainability. These comments are reproduced later in the report within the external referral section.

Section 147 of the Housing SEPP requires the consent authority to take into consideration the principles contained in Schedule 9 of the SEPP and provisions of the Apartment Design Code. The table below assesses the proposal against these provisions.

Principle 1: Context and neighbourhood character

The proposed development seeks an adaptive reuse of an existing building maintaining built form characteristics such as the pebblecrete modular façade that contributes to the streetscape and maintains sufficient non residential floor space to contribute services to the neighbourhood. The development is a good design appropriate in its context and has both social, economic and environmental attributions such as maintaining the character of the building, adding landscaping and the reduced carbon emission benefits of adaptive reuse.

Principle 2: Built form and scale

The building generally remains in terms of built form maintaining the bulk and scale of the tower and the larger podium fronting the streetscape is an appropriate design response activating the streetscape and inviting pedestrians to access the non-residential facilities and services. The development is a good design utilising the existing modular pebblecrete façade of the building and the podium has plenty of articulation and a varied but sympathetic use of colours and materials.

Principle 3: Density

The development is of a good design achieving a high level of amenity for residents of each apartment and this is indicative by compliance with solar access, cross ventilation, provision of private open space and common open space. The density of the development is acceptable akin to the existing building density being an adaptive reuse.

Principle 4: Sustainability

The proposed development achieves a good outcome in terms of amenity for occupants with all units receiving cross ventilation. The roof will comprise of solar panels to improve the energy efficiency of the building and features such as a rain garden, rain water tanks and car spaces equipped with EV charging points are committed to as outlined in the response to Council's RFI and detailed in the architectural plans.

Principle 5: Landscape

The existing basement footprint will limit the potential for deep soil planting, nevertheless the development provides detailed landscape plans proposing a varied planting schedule for both ground level common open space areas and on structure landscaping is proposed. The development has a positive landscaped outcome compared to the limited landscaping currently within the subject site.

Principle 6: Amenity

The development provides good amenity to the residents of the apartments noting there is a high compliance with both cross ventilation and solar access. Each apartment is compliant

in internal size and have a compliant provision of private open space in accordance with the requirements in the ADG. There is also a compliant provision of storage for each apartment and appropriate provision of bulky storage in the basement of the development.

Principle 7: Safety

The RFB is considered appropriately designed to ensure a high level of safety for people occupying or visiting the site.

The development clearly distinguishes various parts of the site and building for public, communal and private use.

Principle 8: Housing diversity and social interaction

The proposed development does seek a housing typology of primarily 2 bedroom and 3 bedroom apartments and a larger penthouse unit for the roof level. The housing mix is however acceptable with the apartments internal layouts being of a high standard providing sufficient housing choice and living needs.

Principle 9: Aesthetics

The development achieves a building with a varied and balanced composition of elements, colours and materials. The retention of the modular pebblecrete character of the building is a good conservation outcome and the podium and use of sandstone and bronze cladding are sympathetic materials and finishes in the context of the surrounding streetscape.

Apartment Design Guide (ADG)

The proposal has also been assessed against the relevant provisions within the ADG as follows:

Amenity	Design Criteria	Comment	Compliance
2F - Building Separation	<p>Minimum separation distances for buildings are:</p> <p>Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24m between habitable rooms/balconies 	<p>The ADG prescribes when applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. The proposal does not comply but maintains the current relationship with adjoining buildings but changes the use and thus impact.</p>	<p>No – please refer to the merit assessment in 3F Visual Privacy of the ADG.</p>

Amenity	Design Criteria	Comment	Compliance
	<ul style="list-style-type: none"> • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms 		
3D - Communal Open Space	<p><i>Criteria 1: Communal open space has a minimum area equal to 25% of the site.</i></p> <p><i>Criteria 2: Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</i></p>	<p>The common open space area on the ground floor is 229m² and 285m² on Level 1 equating to 514m² which is 28% of the site (refer to Sheet No. DA8200). The proposed communal open space complies with the minimum area stipulated in Objective 3D-1 (Design Criteria 1) of the ADG.</p> <p>38% of the common open space receives direct sunlight at mid-winter not compliant with criteria 2. However, evidence is provided confirming greater than 50% direct sunlight is achieved at the equinox and summer solstice (refer to Sheet No. DA8823).</p> <p>Compliance with Objective 3D-1 is achieved with the adequate provision of common open space enhancing residential amenity and providing adequate opportunity for landscaping.</p>	<p>Criteria 1 – Yes</p> <p>Criteria 2 - No, however acceptable subject to merit assessment</p>
3E – Deep Soil Zones	<p><i>Deep soil zones are to meet the following minimum requirements:</i></p> <ul style="list-style-type: none"> • 6m minimum dimension • Minimum 7% of the site area 	<p>The development allocates a limited provision of deep soil within the rear setback of the site. Design guidance in the ADG notes it may not be possible on sites to achieve the design criteria due to the location and building typology having limited or no space.</p> <p>This is applicable to the site due to the existing basement and the site being within a MU1 Mixed Use Zone.</p>	<p>No</p> <p>Subject to merit assessment</p>
3F - Visual privacy	Design criteria 1 in Objective 3F-1 of the ADG stipulates a minimum separation from the building to the side boundary of 6m for habitable rooms and 3m for non-habitable	Comments on compliance for up to 4 storeys	No Subject to merit assessment

Amenity	Design Criteria	Comment	Compliance												
	<p>rooms up to 4 storeys, 9m for habitable rooms and 4.5m for non-habitable rooms for 5-8 storeys and 12m for habitable rooms and 6m for non-habitable rooms for 9+ storeys.</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><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></table> <p>Figure 8 – Separation Criteria, 3F Visual Privacy of the Apartment Design Guide</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>The proposed Level 1 decking at approximately 1.6m does not comply with the minimum 6m and the south western corner of Level 1 does not comply. At Levels 2 & 3 the building generally complies with setback requirements apart from the south western corner.</p> <p>Comments on compliance for 5-8 storeys</p> <p>The side setbacks to the boundaries of the site being 8.86m and 8.57m do not comply with the requirement for a 9m setback as per directions in Design Criteria 1, Objective 3F-1 of the ADG. There is also a non-compliance with the south western corner of the building.</p> <p>Comments on compliance for 9+ storeys</p> <p>The side setbacks to the boundaries of the site being 8.86m and 8.57m do not comply with the requirement for a 12m setback as per directions in Design Criteria 1, Objective 3F-1 of the ADG. There is also a non-compliance with the south western corner of the building.</p> <p>The existing building is 11 storeys plus two storey plant room.</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													
Level 1															

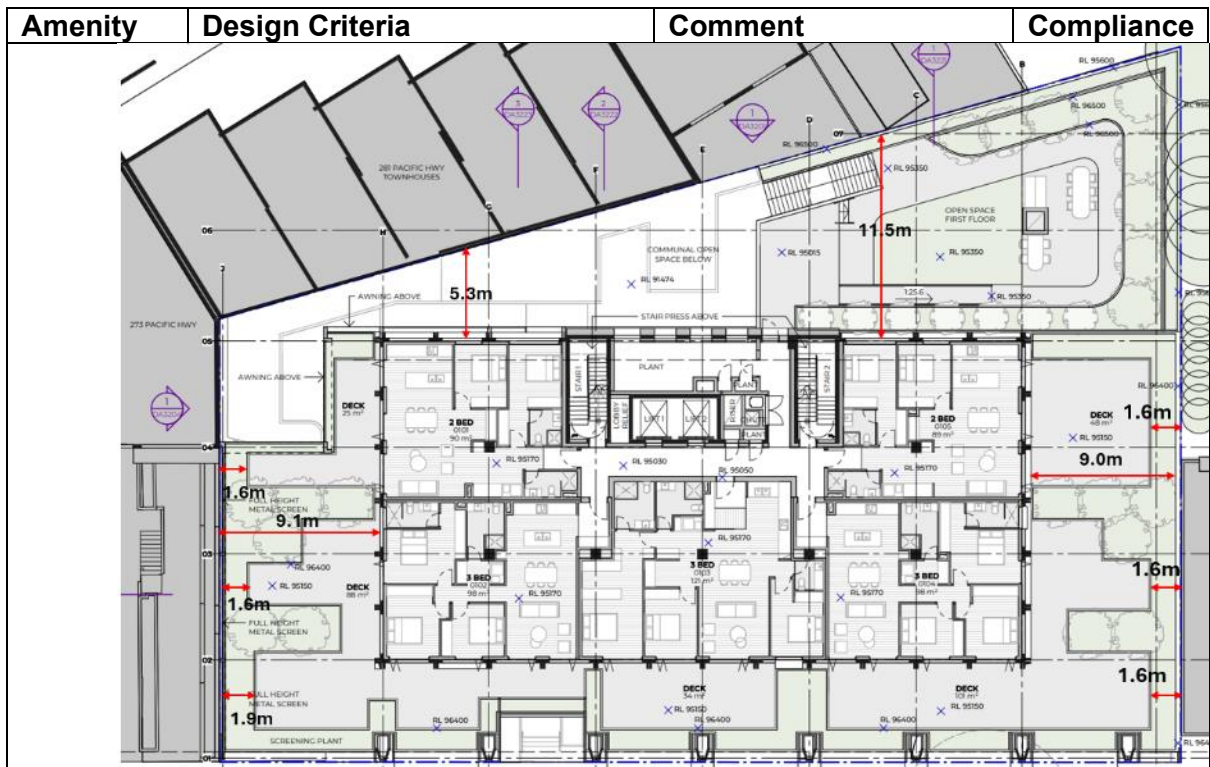


Figure 9 – Annotated Proposed Level 01 Floor Plan, Dwg No. DA2204 Rev A

Level 2 – 3 (4 storeys):

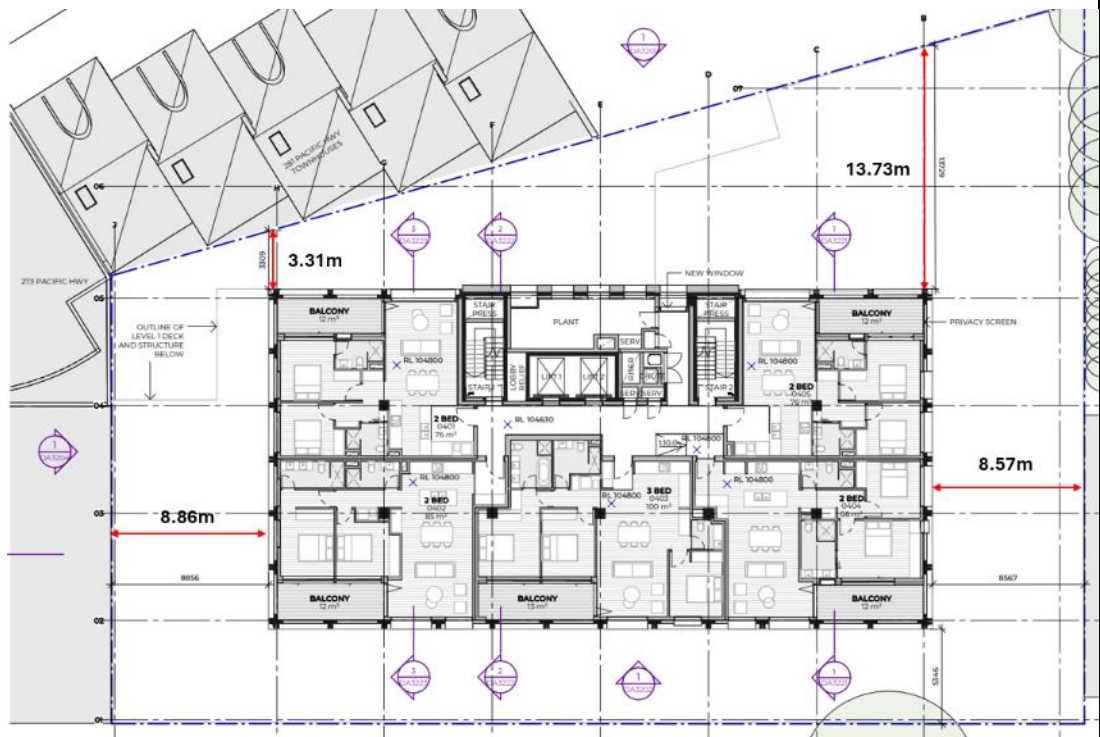




Figure 10 – Annotated Proposed Level 04 Floor Plan (Typical L02-L09), Dwg No. DA2205 Rev A

Merit Assessment: The effects of non-compliance with side setbacks of the Level 1 private terraces 1m high planters are addressed by combined shrub planting to provide privacy between the terraces

Amenity	Design Criteria	Comment	Compliance
	<p>and adjoining properties (refer to 2.10 'Level 1 Private Terrace' of the Landscape Package prepared by Urbis and other fixed privacy measures built into the facade. A condition of consent is however warranted for a screen planting condition requiring an improved choice of planting to act as screen planting along the northern boundary of the Level 1 common open space to have an improved mitigation against loss of visual and acoustic privacy of residents at 28 West Street. This is deliberated in the key issues section of this report.</p> <p>The south western corner apartments with a non-compliant rear setback have no direct or close views to windows or private open space of adjoining properties. The rear boundary of the site comprises a high brick wall on the boundary and views from the south western corner apartments will be directed to the roofs of 281 Pacific Highway. Views to the south from apartments are generally views to the city or the adjoining Union Hotel and North Sydney Police Station not impacting upon neighbouring residential properties.</p> <p>The future development of adjoining land to the immediate west could potentially be compromised by the non-compliance setback requirements to the south-west corner at the lower levels of the building. However, the effects of this could reasonably be mitigated through privacy design measures and careful building design to take advantage of site orientation and aspect of adjoining land.</p>		
	  <p>Figures 11 & 12 – Photo detailing rear boundary brick wall and views from an existing side (southern) window on Level 4</p> <p>Level 4 – 7 (5-8 storeys):</p>		

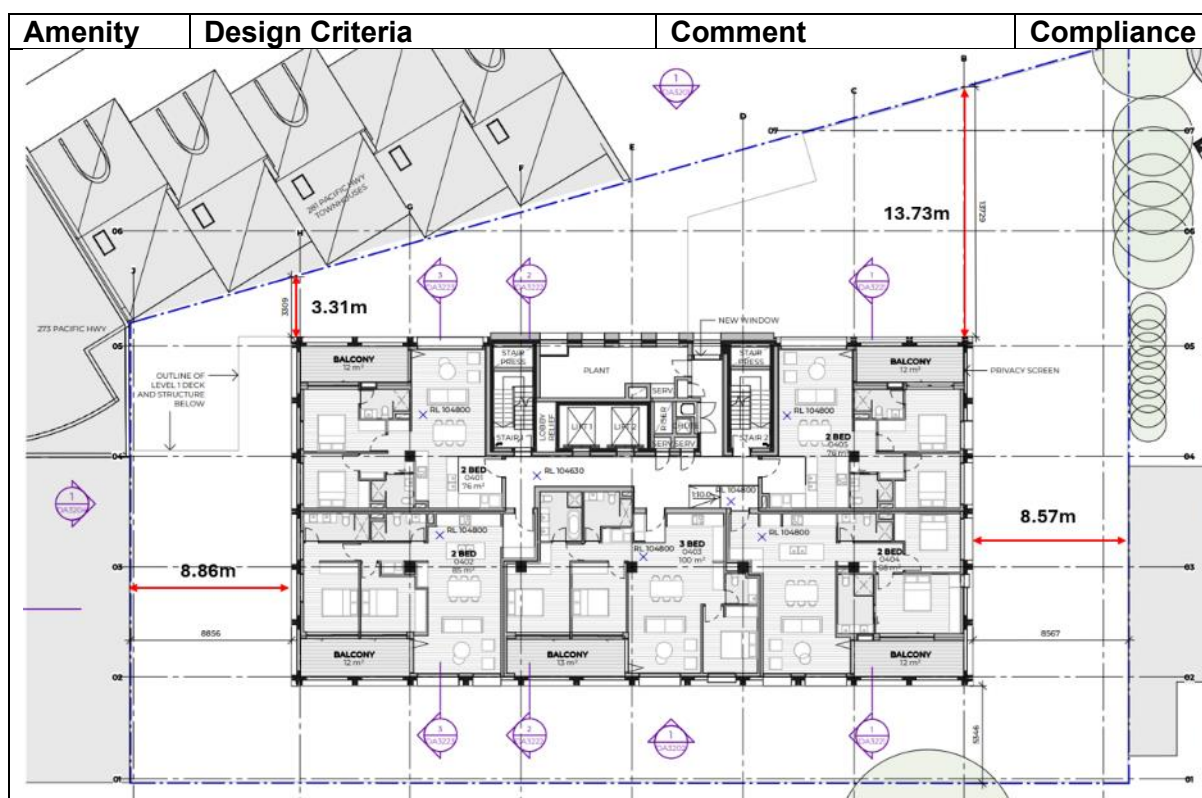


Figure 13 – Annotated Proposed Level 04 Floor Plan (Typical L02-L09), Dwg No. DA2205 Rev A

The side setbacks to the boundaries of the site being 8.86m and 8.57m do not comply with the requirement for a 9m setback as per directions in Design Criteria 1, Objective 3F-1 of the ADG. There is also a non-compliance with the south western corner of the building.

Most of surrounding developments do not exceed 4 storeys apart from the residential flat building at 299 Hazelbank Place therefore there is a reduced opportunity for direct or close views. The development provides privacy measures for the north western corners of the building including privacy screens for the balcony and cladding to prevent direct overlooking to windows and private open space of apartments at 299 Hazelbank Place.

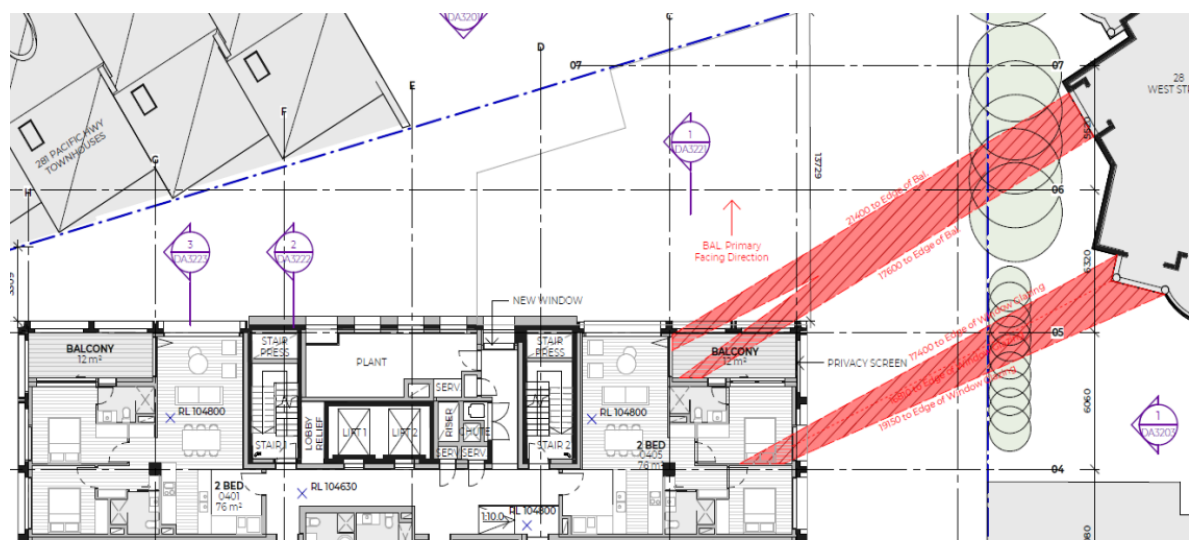


Figure 41 Building separation of northern units

Source: Woods Bagot

Figure 14 – Building separation diagram and privacy mitigation measures between the north western corner units and 299 Hazelbank Place

Amenity	Design Criteria	Comment	Compliance
Level 8 – 11 (9+ storeys): For Levels 8 – 10 privacy measures are maintained for the north western corner units facing 299 Hazelbank Place and the penthouse is designed with additional side setbacks and a landscaped planter for the perimeter is proposed to further mitigate against loss of privacy to adjoining sites.			
3G – Pedestrian Access & Entries	<i>Building entries and pedestrian access connects to and addresses the public domain</i> <i>Access, entries and pathways are accessible and easy to identify</i>	The pedestrian entry is clearly identifiable from West Street. The building entry and pedestrian access is designed to address the public domain.	Yes
3H – Vehicle Access	<i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</i>	The car parking entry will remain as per the existing. The car park entry albeit a reuse of an existing entry generally satisfies the design guidance. Most notably the entry to the car park is integrated with the building's overall façade. The vehicular entry comprises of dark bronze metal cladding which is a characteristic material and colour of the podium facing West Street.	Yes
3J – Bicycle and Car parking	<i>For development in the following locations:</i> <ul style="list-style-type: none"> <i>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</i> <i>on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</i> <i>The car parking needs for a development must be provided off street</i> <i>Parking and facilities are provided for other modes of transport</i>	The site is located within 800 metres of a railway station being the Victoria Cross Metro. However, the minimum car parking requirements as set out in the Guide to Traffic Generating Developments is not applicable and instead the North Sydney parking rates are applicable being the lesser parking requirement. The proposed basement is designed to include the provision of other modes of transport principally bicycle parking and a motorbike parking space satisfying Objective 3J-2.	Yes
Amenity	Design Criteria		
4A - Solar and	<i>Living rooms and private open spaces of at least 70% of</i>	95.9% of units (47 out of 49) living rooms and private	Yes

Amenity	Design Criteria	Comment	Compliance
daylight access	<i>apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</i>	open space receive more than 2 hours solar access. The architectural package includes both solar access and a winter solstice sun eye view diagram confirming compliance with the minimum 70% stipulated in Design Criteria 1.	
4B - Natural ventilation	<i>All habitable rooms are naturally ventilated.</i> <i>The layout and design of single aspect apartments maximises natural ventilation.</i> <i>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents – At least 60% of apartments are naturally cross ventilated</i>	The majority of units are designed as dual aspect apartments maximising natural cross ventilation. 81.6% of apartments are naturally cross ventilated as shown in the Cross Ventilation Diagram (DA8001 Rev A).	Yes
4C - Ceiling Heights	<i>Ceiling height achieves sufficient natural ventilation and daylight access - Minimum 2.7m (habitable rooms), 2.4m for second floor where it does not exceed 50% of the apartment area.</i>	The development seeks to use each existing floor for every level. The existing floor to ceiling heights provides sufficient floor to ceiling heights compliant with the minimum 2.7m for habitable rooms. The ceiling height for the ground floor is approximately 3.4m compliant with the minimum criteria of 3.3m.	Yes
4D 1 - Apartment size and layout	<i>Apartments are required to have the following minimum internal areas: 50m² (1B), 70m² (2B), 90m² (3B)</i> <i>Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</i> <i>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</i>	Each apartment is designed to exceed the minimum internal areas as well as the additional space for additional bathrooms and space required for a bedroom unit stipulated in Design Criteria 1, Objective 4D-1. The units are designed so that every habitable room has a window not less than 10% complying with Design Criteria 2, Objective 4D-1.	Yes
4D 2 - Apartment size and layout	<i>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height</i>	The development designs each respective apartment so that habitable room depths are not excessive	Yes

Amenity	Design Criteria	Comment	Compliance															
	2. <i>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</i>	and open plan layouts have an appropriate depth as well as located with glazed aspects to ensure the environmental performance of each unit is maximised.																
4D 3- Apartment size and layout	1. <i>Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)</i> 2. <i>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</i> 3. <i>Living rooms or combined living/dining rooms have a minimum width of:</i> <ul style="list-style-type: none"><i>3.6m for studio and 1 bedroom apartments</i><i>4m for 2 and 3 bedroom apartments</i>	The bedrooms including master bedrooms are designed with a minimum area greater than 9m ² or 10m ² and the bedroom dimensions are greater than 3m. The width of the living rooms comply with the minimum 4m for 2 and 3 bedroom apartments stipulated in Design Criteria 3 of Objective 4D-3. The bedrooms within each apartment are also provided with robes which exceed the minimum 1.5m stipulated in the design guidance in Objective 4D-3 of the ADG.	Yes															
4E - Private open space and balconies	Design Criteria 1 Design Criteria 1 in Objective 4E-1 of the ADG requires a minimum private open space of 10m ² with a minimum depth of 2m for 2 bed apartments and a minimum area of 12m ² with a minimum depth of 2.4m for 3-bedroom apartments. Below is a compliance table prepared confirming that sufficient areas are provided but for Levels 2 – 9, however the 3 bedroom apartments balconies do not have a minimum depth of 2.4m.	Reasoning is provided by Woods Bagot in the supporting Housing SEPP Design Statement stating the spatial constraints of the adaptive reuse of the tower. It is noted the balconies have a marginal non compliance and still achieve a source of outdoor amenity and the internal amenity and size of the apartments outweigh any loss in amenity for residents of the respective 3 bedroom apartments.	Yes & No Subject to merit assessment															
	<table><tr><th>Dwelling type</th><th>Min area</th><th>Min depth</th><th>Levels 2-9 Compliance</th><th>Level 10 Compliance</th></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td><td>Yes – 12m² and 2m depth</td><td>Yes – 12m² and 2m depth</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td><td>Yes – 13m² No - 2m depth</td><td>Yes – 13m² Yes – 2.4m depth</td></tr></table>	Dwelling type	Min area	Min depth	Levels 2-9 Compliance	Level 10 Compliance	2 bedroom apartments	10m ²	2m	Yes – 12m ² and 2m depth	Yes – 12m ² and 2m depth	3+ bedroom apartments	12m ²	2.4m	Yes – 13m ² No - 2m depth	Yes – 13m ² Yes – 2.4m depth		
Dwelling type	Min area	Min depth	Levels 2-9 Compliance	Level 10 Compliance														
2 bedroom apartments	10m ²	2m	Yes – 12m ² and 2m depth	Yes – 12m ² and 2m depth														
3+ bedroom apartments	12m ²	2.4m	Yes – 13m ² No - 2m depth	Yes – 13m ² Yes – 2.4m depth														
4E - Private open space and balconies	Design Criteria 2 <i>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a</i>	The above ground apartments with private open space on the podium exceed the minimum area stipulated in Design Criteria 1.	Yes															

Amenity	Design Criteria	Comment	Compliance
	<p><i>minimum depth of 3m.</i></p> <p>Objective 4E-2 - Primary private open space and balconies are appropriately located to enhance livability for residents.</p> <p>Objective 4E-3 - Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</p> <p>Objective 4E-4 - Private open space and balcony design maximises safety.</p>	<p>The apartments at ground level have private open space which exceeds the minimum area of 15m².</p> <p>The private open space and balconies are appropriately located adjacent to living/dining and kitchen areas of each apartment.</p> <p>Where balconies face south, they are designed with a dual outlook to ensure access to sunlight.</p> <p>The balconies comprise of a glass balustrade for the balconies not desirable within the ADG. Design guidance in the ADG prefers the use of solid balustrades. However, in this instance the use of glass does not dominate from the pebblecrete framing of the building façade.</p> <p>The balconies are not climbable and are to be designed at a NCC compliant height.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
4F - Common circulation and spaces	<p>1. The maximum number of apartments off a circulation core on a single level is eight</p> <p>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	The development complies with 5 apartments off the circulation core on Levels 1 -9 and two lifts serve a total of 49 apartments.	Yes
4G - Storage	<p>Studio apartments - 4m³</p> <p>1 bedroom apartments - 6m³</p> <p>2 bedroom apartments - 8m³</p> <p>3 + bedroom apartments - 10m³</p>	Storage Plans (DA8101 Rev A & DA8102 Rev A) confirm sufficient provision of storage for each apartment by providing	Yes

Amenity	Design Criteria	Comment	Compliance
		storage in each apartment and within the basements.	

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development with an estimated development cost of more than \$30 million. Accordingly, the Sydney North Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021

The site is not within an identified State Significant Precinct stipulated in SEPP (Precincts – Eastern Harbour City) 2021.

- *State Environmental Planning Policy (Resilience and Hazards) 2021*

Chapter 4: Remediation of Land

The existing site comprises a commercial building with ground floor child care centre and the site does not encompass activities that may cause contamination having referenced Table 1 of Appendix 1 of the Contaminated Land Planning Guidelines.

Consideration has therefore been given to whether the land is contaminated pursuant to s4.6(1)(a) 'Contamination and remediation to be considered in determining development application' of Chapter 4 of the SEPP. The land concerned is not within an investigation area or comprises uses identified in Table 1 of the contaminated land planning guidelines and therefore no preliminary investigation of the land for contamination is necessary.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The site is on land adjacent to a road corridor with an annual average daily traffic volume of more than 20,000 vehicles (Pacific Highway).

The development which includes residential accommodation must satisfy the criteria in s2.120(3) being the following:

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

The application is supported by an Acoustic Impact Assessment Report prepared by JHA Consulting Engineers. JHA in Section 4.4 of the assesses traffic noise from Pacific Highway and in order to meet the internal noise levels in T&I SEPP façade recommendations are provided including window and door insulation.

A standard condition of consent (C66 Noise and Vibration from Major Roads and Rail Corridors) can be applied to minimise noise from Pacific Highway and compliance with the requirements of s2.120(3) of SEPP (Transport and Infrastructure) 2021.

North Sydney Local Environmental Plan 2013

The relevant local environmental plan applying to the site is the *North Sydney Local Environmental Plan 2013* ('the LEP'). The proposal is consistent with these aims of the LEP as the proposal in particular maintains a diversity of employment and services through the non-residential floor space on the ground floor and the use of the existing building tower for residential increases dwelling stock not adversely affecting residential amenity in terms of visual and acoustic privacy, solar access and view sharing.

Zoning and Permissibility (Part 2)

The site is located within the MU1 Mixed Use Zone pursuant to Clause 2.2 of the LEP.

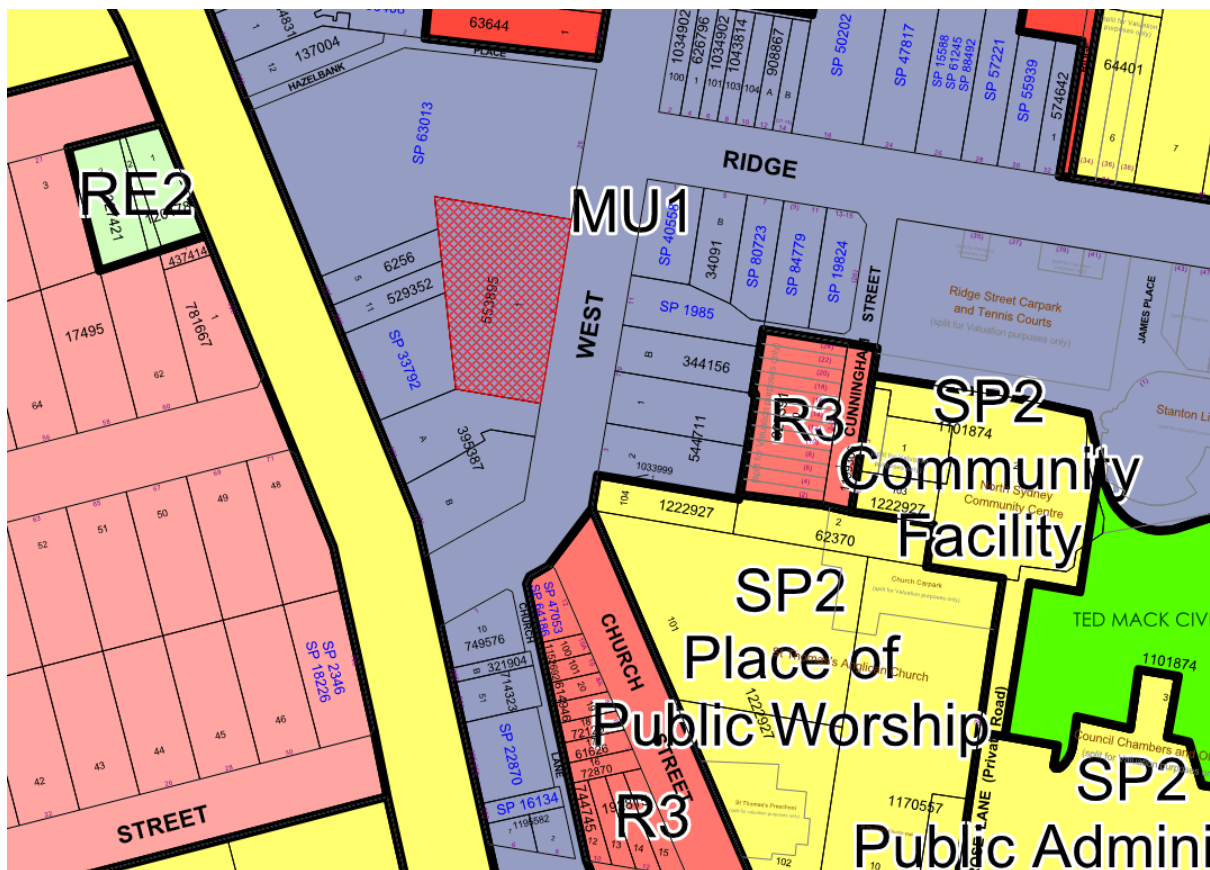


Figure 15 – Land Zoning Map (site hatched in red)

According to the definitions in the NSLEP 2013 Dictionary, the proposal satisfies the definition of shop top housing which is a permissible use with consent in the Land Use Table in Clause 2.3.

The zone objectives for the MU1 Mixed Use Zone include the following:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*

- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.
- To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses concentrated on the lower levels and residential uses predominantly on the higher levels.

The proposal is consistent with these zone objectives for the following reasons:

- The provision of non-residential ground floor tenancies encourages employment opportunities.
- The podium adjacent to West Street ensures activation of the street and the high quality design of the podium plus provision of landscaping ensures the ground level is inviting for pedestrians.
- The adaptive reuse of the existing structure would achieve a high design quality and an appropriate residential amenity for the site that is appropriate to the context of the site.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below. The proposal does not comply with the development standard in Part 4 of the LEP/Clause 4.3 Height of Buildings and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum 13m maximum building height.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	13 metres	The maximum building height proposed is 43.45m (RL 134,740) which is a variation of 30.45m over the 13 metre height limit.	No* (Refer Clause 4.6)
Non-Residential FSR (CI 4.4A(2))	Min 0.5:1	The proposed non-residential floor area is 909m ² which would result in a compliant 0.501:1. A non-residential GFA compliance diagram is provided within the architectural set (Sheet No. DA8200 Rev A) demonstrating compliance with the permitted non-	Yes

		residential floor space ratio pursuant to clause 4.4A in North Sydney Local Environmental Plan 2013.	
Heritage conservation (Cl 5.10)	(1) Objectives The objectives of this clause are as follows – (a) to conserve the environmental heritage of North Sydney, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	The proposal is satisfactory as it will not adversely impact on the character nor significance of the adjacent heritage listed Union Hotel, St Thomas' Church, the heritage listed terrace group at 4 – 10 Ridge Street nor the McLaren Street and Holtermann Estate D conservation areas.	Yes
Earthworks (Cl 6.10)	(1) The objective of this clause is 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.	The demolition plans confirm demolition works are primarily limited to the existing building and components of the existing basement with limited earthworks proposed. Any ancillary earthworks such as with the provision of a landscaped rear common open space are unlikely to have a detrimental impact on environmental functions, neighbouring uses or features of surrounding land.	Yes
Residential Flat Buildings in Zone MU1 Mixed Use (Cl 6.12A(3))	Development consent must not be granted for development for the purpose of a residential flat building on land to which this clause applies unless the consent authority is satisfied that - (a) the residential flat building is part of a	The development complies with Cl. 6.12A(3) as the development is not wholly residential and no part of the ground floor facing the street is used for residential accommodation.	Yes

	<p>mixed use development, and</p> <p>(b) no part of the ground floor of the building that is facing a street is used for residential accommodation.</p>		
--	---	--	--

The proposal is considered to be generally consistent with the LEP.

Clause 4.6 Exceptions to development standards

Detailed assessment of variation to Clause 4.3 Height of Buildings

Clause 4.3 of the North Sydney Local Environmental Plan 2013 (NSLEP) relates to the maximum permitted building height for a site and refers to the Height of Buildings Map. The relevant map identifies the subject site as having a maximum height of 13m for the land zoned MU1 Mixed Use. Building Height is defined as:

“Building height (or height of building) means:

- In relation to the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or*
- In relation to the RL of a building – the vertical distance from the Australian Height Datum to the highest point of the building*

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

The maximum height zones within the immediate area are shown below:



Figure 16 – Height of Building Map (site hatched in red)

The location and extent of the non-compliance is provided in the images below:

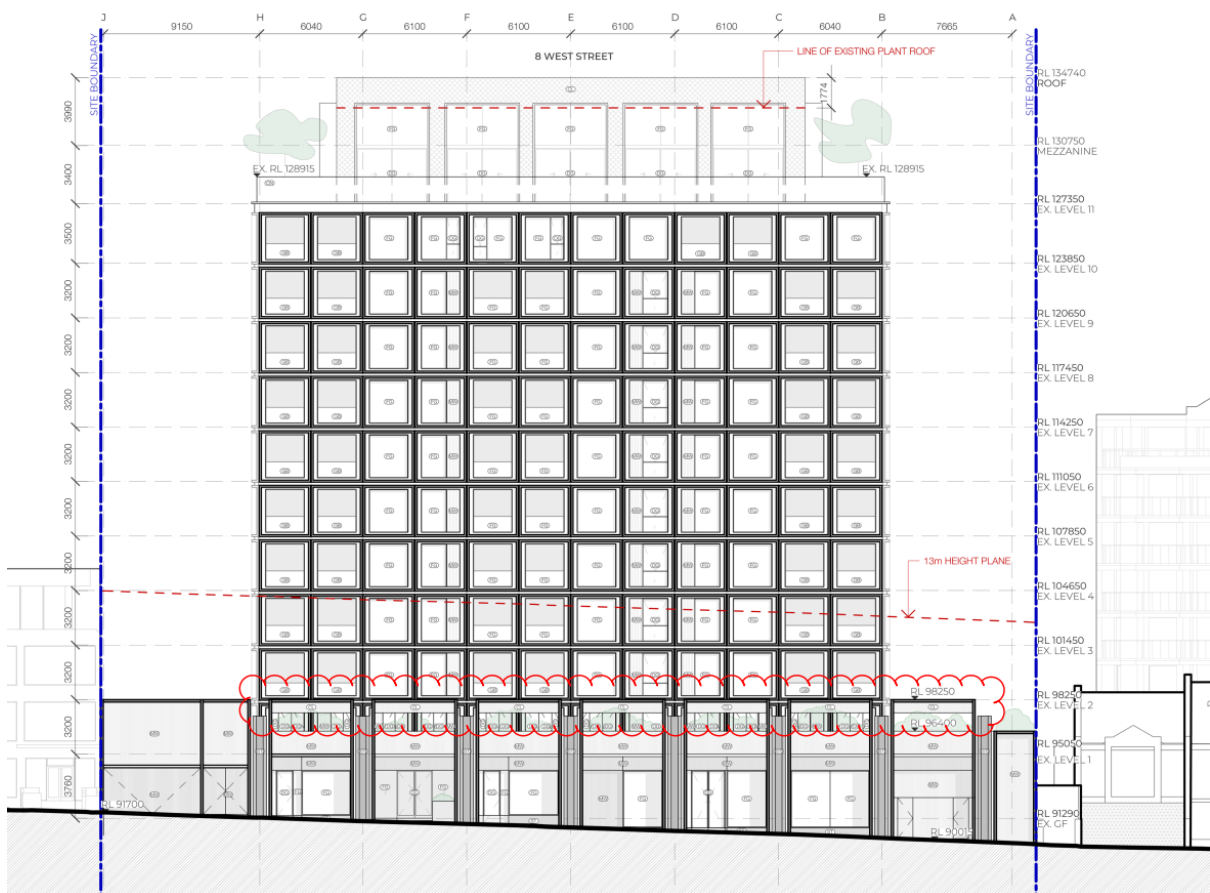


Figure 17 – Proposed East Elevation, DA3201 Rev B



Figure 18 – Proposed North Elevation, DA3203 Rev B

The proposed development seeks a variation to the development standard relating to height (Clause 4.3). The NSLEP identifies a maximum height control of 13m of the area of the site zoned MU1 Mixed Use. The existing building has a maximum building height of 41.86m (RL 133.145) which is a variation of 28.86m (222%). The maximum building height proposed is 43.45m (RL 134,740) which is a variation of 30.45m over the 13 metre height limit.

Clause 4.6(1) outlines the objectives of the standard which are to “provide an appropriate degree of flexibility in applying certain development standards to particular development” and “to achieve better outcomes for and from development by allowing flexibility in particular circumstances”.

Clause 4.6(3) states that:

“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”*

The applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of NSLEP 2013. The Clause 4.6 request for variation is assessed as follows:

Is the planning control in question a development standard?

The Height of Buildings control under Clause 4.3 of the North Sydney Local Environmental Plan 2013 is a development standard.

What are the underlying objectives of the development standard?

The objectives of the Height of Buildings development standard under Clause 4.3 of NSLEP 2013 are:

- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) to promote the retention and, if appropriate, sharing of existing views,*
- (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) to ensure compatibility between development, particularly at zone boundaries,*
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,*
- (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.*

Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))

There have been several Court cases that have established provisions to assist in the assessment of Clause 4.6 statements to ensure they are well founded and address the provisions of Clause 4.6.

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

“An objection under State Environmental Planning Policy 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The judgment goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with

the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation):

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone."*

The Clause 4.6 statement was prepared having regard to the first method of the *Wehbe* court case and judgement.

The first method in determining whether compliance with a development standard is unreasonable or unnecessary identified in *Wehbe v Pittwater Council [2007] NSWLEC 827* and summarised as follows:

To establish that the objectives of the standard are achieved despite the non-compliance with the standard (Ground 1). This is the most common method used in determining cl 4.6 variations.

These considerations are addressed in the following sections.

The objectives of the development standard are achieved notwithstanding non-compliance with the standard

Each of the objectives of the building height standard specified in clause 4.3 of NSLEP are assessed below and which demonstrates that they are achieved notwithstanding the proposed non-compliance with the standard.

Cl 4.3 Height of Buildings

Objective (1)(a): to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient

The development has a minimal impact to the topography of the site with the existing building already exceeding the maximum building height and the height variation is due to demolition of existing roof plant to be replaced with a roof top penthouse.

Objective (1)(b): to promote the retention and, if appropriate, sharing of existing views

The proposed development involves the adaptive reuse of an existing building largely retaining the bulk and scale of the building including the tower. The new rooftop penthouse addition which has a variation in height would not detract from views in part due to the height of the existing commercial building and the existing plantroom structure. The existing building presents an unusual built form within the broader North Sydney context, and in

height significantly higher than the height of surrounding properties. The location of new building work above the height standard however would not impact on existing views.

Objective (1)(c): to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development

The development proposing a penthouse addition to replace large and bulky roof plant infrastructure would have a varying increase in height between 1.592m – 1.779m.

The additional height would have a negligible impact on surrounding streets and neighbouring properties with the bulk of shadows primarily affected by the podium and enlarged ground level situated below the maximum building height. Below are winter solstice diagrams and clouded in yellow are shadows cast from the roof of the building which exceeds the maximum building height.

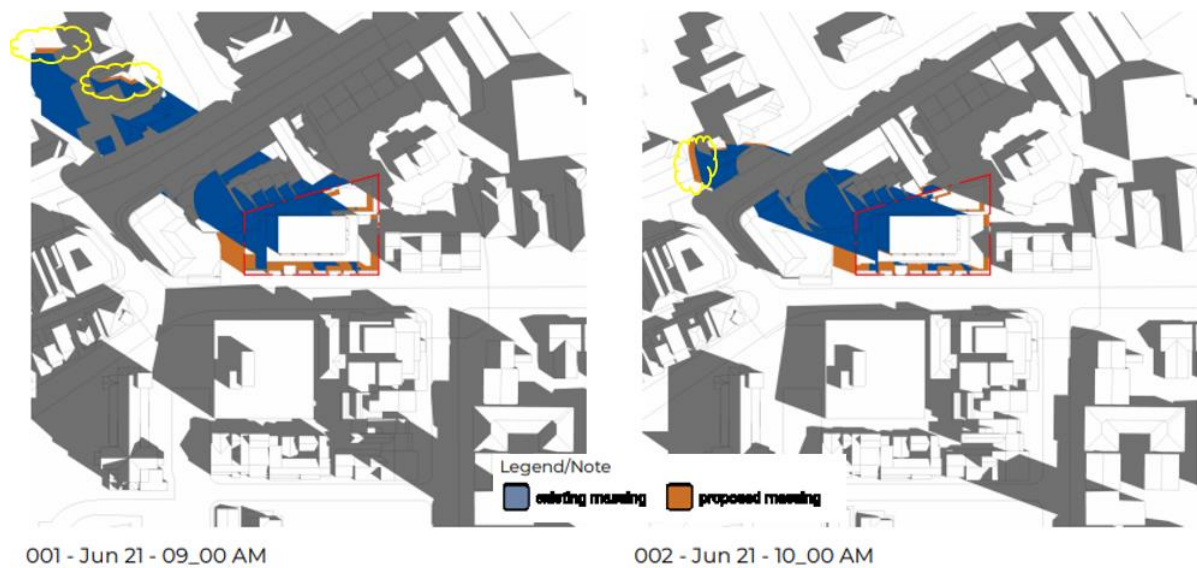


Figure 19 & 20 – Annotated 9am & 10am Winter Solstice Shadow Diagrams, DA8821 Rev A

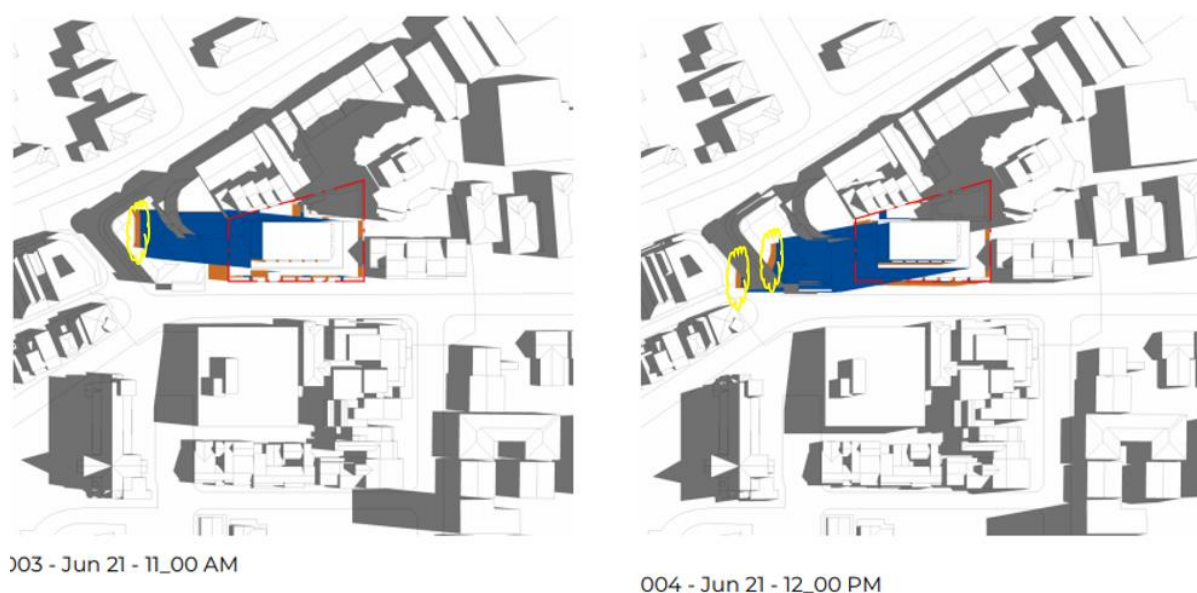
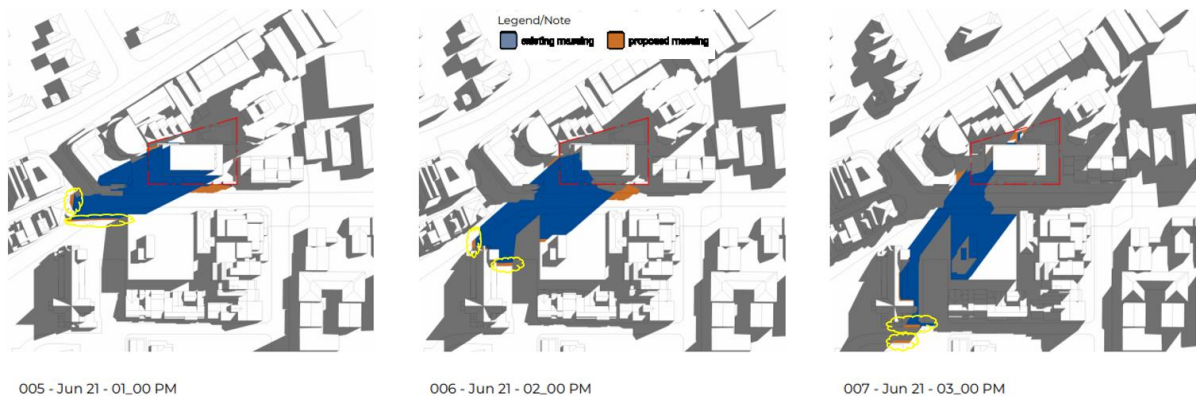


Figure 21 & 22 – Annotated 11am & 12pm Winter Solstice Shadow Diagrams, DA8821 Rev A



Figures 23, 24 & 25 – Annotated 1pm, 2pm & 3pm Winter Solstice Shadow Diagrams, DA8821 Rev A

Objective (1)(d): to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings

The supporting Cl. 4.6 has addressed privacy impact arising from the proposal noting that the windows on the existing building for the commercial building have a worse outcome with views to the most affected balconies of 299 Hazelbank Place and the development actively implements privacy measures to limit views to 299 Hazelbank Place and orientating outlooks to the general cityscape and streetscape.

The penthouse addition which adds to a further increase in height has been designed with setbacks being inset from the tower façade and landscaping is proposed on the fringes of the rooftop preventing any direct or close views of surrounding properties.



Figure 26 – Photomontage 3 showing the penthouse addition inset from the northern tower facade, DA9003 Rev A

Objective (1)(e): to ensure compatibility between development, particularly at zone boundaries

The site is zoned MU1 Mixed Use and adjoining sites are also zoned MU1 Mixed Use. There is no necessity for designing the development to respond to a differing zoning in the vicinity of the site.

Objective (1)(f): to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,

The existing commercial building at 8 West Street was designed by McConnell, Smith and Johnson architects and constructed in 1973 following a building application approval in 1972. It is one of several other buildings in Sydney designed by MSJ. Other notable buildings include the Water Board building in Pitt Street (1963), Sydney University Law Scholl Building in Elizabeth Street (1969) and the Law Courts Building in Macquarie Street (1977).

The building is clearly greater in height than surrounding buildings and is a building constructed prior to current existing planning controls that determine the scale and density of development.

The development despite the current height exceedances does minimise its bulk and scale by adaptively reusing the tower building for residential use and providing a suitable podium scale below the maximum building height to provide an improved streetscape presentation and an appropriately high quality design response by promoting non-residential ground floor use and activation of the streetscape.

The increase in height is due to a penthouse roof addition which replaces an existing plant room. The penthouse addition is considered an improved aesthetic outcome compared to the existing plant room and mobile infrastructure and does not significantly increase the scale and density of the development commensurate with the existing scale of the development.

The height control objectives articulate the ultimate function of establishing the height of buildings. The maximum height for buildings on land is identified on the Height of Buildings Map. As previously described, the maximum building height permitted on the subject site is 13m for the MU1 zoned land, with the maximum height proposed being 43.45m (RL 134,740) which is a variation of 30.45m or 234%. In numeric terms this is 1.59 meters higher than the existing building. The proposal although contravenes the standard, does uphold the objectives of the development standard. The development also upholds the objectives of the zone as detailed earlier in this report.

The proposed height of the development and proposed breaches are considered to be in keeping with the existing bulk and scale of the building and the additional height would not have a discernible impact upon the streetscape or surrounding locality.

Clause 4.6(3)(b) are there sufficient environmental planning grounds to justify contravening the standard

Clause 4.6 (3)(b) states development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated there are sufficient environmental planning grounds to justify the contravention of the development standard.

The Land & Environment Court judgment in *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 2018, assists in considering whether there are sufficient environmental planning grounds to justify a variation from the development standard. Preston J observed at [24]:

“...First, the environmental planning grounds advanced in the written request must be sufficient to justify contravening the development standard. The focusis on the aspect or element of the development that contravenes the development standard, not on the development as a whole and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied...that the written request has adequately addressed this matter.”

The planning grounds stipulated in the Cl. 4.6 justifying contravention to the maximum height controls are identified as follows:

Ground 1 – Adaptive reuse

The existing building was constructed in 1973 with a maximum building height of 41.86m (RL 133,145). The existing building which exceeds the maximum building height is representative of a key period of development in the North Sydney area and the proposed development seeks to honour the contribution of the building, whilst adapting it for the next phase of its practical life which would not be possible unless the maximum height of building is varied.

Ground 2 – Sustainability

The proposed development is focused on the adaptive reuse of the existing commercial building which mitigates against carbon emissions compared to the knock down and rebuild of the building. The proposed development has been designed to retain the structure of the existing building which will reduce project emissions by 2,903 metric tonnes of CO₂ and retention of the precast façade reduces emissions by 290metric tonnes of CO₂. There are therefore reduced environmental impacts of the proposed development.

Ground 3 – Amenity of Penthouse

The additional height allows the penthouse to be on two levels with provision of five bedrooms and integration of the lift overrun. The penthouse will have a void with internal tree planting and designed representative of a high quality and amenity penthouse. The demolition of the existing plant room and equipment to be replaced with an architecturally designed penthouse apartment and rooftop.

On the basis of the above assessment, the proposed development is supportable because it is consistent with the objectives of the height standard and the objectives for development within the zones in which the development is proposed to be carried out.

In conclusion, this cl 4.6 Request satisfactorily demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case because:

1. The objectives of the development standard are achieved notwithstanding the non-compliance.
2. There are sufficient environmental planning grounds to justify contravening the development standard including because the proposed works will enable an improved aesthetic outcome for the rooftop, adaptive reuse of the building and orderly economic development without adverse impacts to amenity and is consistent with the objects under clause 1.3 of the EPA Act.

3. This cl 4.6 Request has adequately addressed the matters required to be demonstrated in subclause (3).

(b) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- **North Sydney Development Control Plan 2013**

The proposed development is subject to the provisions of North Sydney Development Control Plan 2013 (NSDCP 2013).

The proposal needs to address and satisfy the relevant provisions of Part B of NSDCP 2013. The most relevant parts of Part B have been addressed and reproduced below:

Part B Section 2 Commercial and Mixed Use Development

Part B Section 2 of NSDCP 2013 is discussed in the table below:

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 2 - Commercial and Mixed Use Development												
	<i>complies</i>	Comments										
2.2 Function												
2.2.1 Diversity of Activities	Yes	The ground floor retail tenancies differ in sizes allowing a variety of uses and blank walls are avoided. The non residential ground floor is appropriately designed to satisfy the objectives and provisions in s2.2.1 of NSDCP 2013.										
2.2.2 Maximise Use of Public Transport	Yes	The site is appropriately located close to public transport whether buses on Pacific Highway or the Victoria Cross Metro. The site due to its location has good access to public transport meeting Objective O1, s2.2.2 of NSDCP 2013.										
2.2.3 Mixed Residential Population – Size of units	Merit Assessment	<p>The development comprises of a housing mix of the following housing mix:</p> <table><tr><td>2 bed apartments</td><td>36 (74%)</td></tr><tr><td>3 bed units</td><td>11 (22%)</td></tr><tr><td>4+ bed units</td><td>2 (4%)</td></tr><tr><td colspan="2">Including 5 bed penthouse</td></tr><tr><td>Total</td><td>49</td></tr></table> <p>The housing mix comprising larger style apartments with no studio or 1 bedroom apartments was raised with the Applicant following a preliminary assessment.</p> <p>Further justification has been provided by the Applicant (Response to RFI dated 6 June 2025) noting there is a significant demand still for 2 bed,</p>	2 bed apartments	36 (74%)	3 bed units	11 (22%)	4+ bed units	2 (4%)	Including 5 bed penthouse		Total	49
2 bed apartments	36 (74%)											
3 bed units	11 (22%)											
4+ bed units	2 (4%)											
Including 5 bed penthouse												
Total	49											

		<p>3 bed and larger apartments in the LGA due to the practical preference for apartment living rather than traditional house living.</p> <p>The Applicant also provides examples of projects benefitting from the Crows Nest Transport Orientated Development Precinct providing smaller scale apartment living.</p> <p>It is also noted that the development is an adaptive reuse and restricted to the existing building template which is conducive to a blend of mostly 2 and 3 bedroom apartments and although smaller units could be included this would impact on the financial feasibility of the development and potentially reduced amenity compared to the ADG criteria.</p> <p>A detailed consideration of the merits of the housing mix is contained within the 'Key Issues Section in this report.</p>
2.3 Environmental Criteria		
2.3.1 Clean Air	Yes	<p>The development where practical avoids an adverse impact to air quality. Examples include promotion of alternative means of transportation such as cycling with bicycle parking provided and end of trip facilities.</p> <p>The site also benefits from a significant investment in landscaping which assists in improving air quality.</p>
2.3.2 Noise	Yes	<p>An Acoustic Report is included within the development package. JHA Acoustic consultants state NCC and NSDCP acoustic criteria are common practice for Class 2 developments in NSW and it is anticipated compliance can be achieved.</p> <p>A standard condition concerning acoustic privacy of residential apartments can be applied (C65 Acoustic Privacy – Residential Apartments).</p>
2.3.4 Reflectivity	Yes	<p>The development provides a satisfactory proportion of solid to void on the facades. The existing windows of the building do not permit sufficient sunlight for residential living and although larger glazed openings are proposed the general pebblecrete modulated facades of the building will remain a characteristic feature of the building.</p>

2.3.5 Artificial Illumination	Yes	The external façade of the building will not be floodlit.																								
2.3.6 Awnings	Yes	<p>Below is a table detailing the required dimensions for an awning stipulated in Provision P2, s2.2.6 Awnings of NSDCP 2013.</p> <table><tr><th colspan="4">Table B-2.5 - Awnings</th></tr><tr><th>Requirement</th><th>MU1 Mixed Use Zone</th><th>Proposed Awnings</th><th>Compliance</th></tr><tr><td>Minimum Width</td><td>2m (min)</td><td>Approx. 5m</td><td>Yes</td></tr><tr><td>Setback from kerb - General</td><td>1.1m</td><td>2.3m</td><td>Yes</td></tr><tr><td>Setback to accommodate trees</td><td>1.5m</td><td>2.3m</td><td>Yes</td></tr><tr><td>Height above footpath level</td><td>3.2m – 4.2m</td><td>3.6m</td><td>Yes</td></tr></table> <p>The awnings proposed generally comply with the requirements stipulated in Table B-2.5, s2.3.6 of NSDCP 2013.</p>	Table B-2.5 - Awnings				Requirement	MU1 Mixed Use Zone	Proposed Awnings	Compliance	Minimum Width	2m (min)	Approx. 5m	Yes	Setback from kerb - General	1.1m	2.3m	Yes	Setback to accommodate trees	1.5m	2.3m	Yes	Height above footpath level	3.2m – 4.2m	3.6m	Yes
Table B-2.5 - Awnings																										
Requirement	MU1 Mixed Use Zone	Proposed Awnings	Compliance																							
Minimum Width	2m (min)	Approx. 5m	Yes																							
Setback from kerb - General	1.1m	2.3m	Yes																							
Setback to accommodate trees	1.5m	2.3m	Yes																							
Height above footpath level	3.2m – 4.2m	3.6m	Yes																							
2.3.7 Solar Access	Yes	The development provides a compliant provision of solar access to apartments in the development and marginal additional shadows would not adversely affect adjoining residential properties.																								
2.3.8 Views	Yes	The bulk and scale of the development would largely remain apart from an enlarged ground floor and associated podium having no view impact for surrounding properties.																								
2.3.9 Acoustic Privacy	Yes	The supporting acoustic statement prepared by JHA Services confirms residents within the development will have a reasonable level of acoustic privacy in accordance with NCC and DCP requirements.																								
2.3.11 Visual Privacy	Yes	Detailed consideration against ADG criteria regarding visual privacy confirms appropriate measures are incorporated throughout the development including measures where separation distances to adjoining properties are limited.																								
2.4 Quality built form																										

2.4.1 Context	Yes	The development sufficiently responds to the existing opportunities and constraints of the site by adaptive reuse of the building and replacing roof top plant for a penthouse addition which is an aesthetically improved outcome and redistributing plant and equipment within the building.
2.4.3 Setbacks	Yes	<p>The development proposes to have a ground floor podium with a nil front setback satisfying the requirement of Provision P3, s2.4.3 of NSDCP 2013.</p> <p>Compliance with side and rear setbacks are considered in detail earlier in the report against the criteria the ADG.</p>
2.4.4 Podiums	Yes	<p>Concerns were conveyed to the Applicant following a preliminary assessment concerning the height of the Podium frames in context with the existing streetscape which is a concern shared by the Panel.</p> <p>A design amendment has been made to the Podium to match the existing building's level 2 datum line which integrates better with the existing 2 storey streetscape and reducing its bulk.</p> <p>The original height of the podium was RL 99230 and this has been reduced to RL 98250 being a reduction of 980mm.</p> <p>The amendment is inline with directions of the Design Excellence Panel who sought a slight reduction in height.</p>
2.4.5 Building Design	Yes	<p>The existing pebblecrete framing for the elevations of the building will retain the square framed box façade of the building.</p> <p>The window openings will be increased and where appropriate privacy screens are located on the elevations of the building being either dark bronze metal cladding or metal privacy battens and for the podium a combination of materials comprising dark bronze metal cladding, flat cladding and sandstone cladding is proposed.</p> <p>The retention of pebblecrete to the elevations of the tower and the variety of materials and finishes to the lower level is considered to generally be a high-quality built form outcome generally satisfying the Objectives and Provisions in s2.4.5 'Building Design' of NSDCP 2013.</p>

2.4.6 Skyline	Yes	The development demolishes the plant facilities and integrates within the building in accordance with directions in Provision P7, s2.4.6 of NSDCP 2013.
2.4.8 Balconies - Apartments	Yes	The balconies are considered integrated into the existing building satisfying Provision P2, s2.4.8 of NSDCP 2013.
2.4.10 Streetscape	Yes	The development has a positive outcome proposing a nil front setback, active uses facing the street, glazed facades plus the podium provides visually interesting elements therefore the provisions in s2.4.10 'Streetscape' of NSDCP 2013 are generally satisfied.
2.4.11 Entrances and Exits	Yes	The main residential entry to the building is visible with a continuous path of travel and separate access is proposed for the non-residential ground floor tenancies. The development generally satisfies the objectives and provisions in s2.4.11 of NSDCP 2013.
2.4.12 Nighttime appearance	Yes	Large windows are proposed for the ground floor facing West Street as per the directions of Provision P1, s2.4.12 of NSDCP 2013.
2.4.13 Public Spaces and facilities		The building including podium, ground level non residential floor space and additional landscaping is considered to interact and contribute positively to the street level.

2.5 Quality Urban Environment		
2.5.1 Accessibility	Yes	<p>The application is supported by an Access Report prepared by ABE Consulting. The report considers compliance with the BCA, Disability (Access to Premises – Buildings) Standards 2010 and Council DCP requirements.</p> <p>Where non compliances are noted recommendations and performance solutions are proposed but ABE Consulting are able to confirm that at DA stage, the development can readily achieve compliance with BCA provisions.</p>
2.5.2 Safety and Security	Yes	<p>The development has been reviewed by NSW Police Force and recommendations are provided concerning safety and security. Recommendations entail appropriate provision of electronic surveillance, lighting, signage and appropriate landscaping.</p>
2.5.3 Illumination	Yes	<p>The development will not hinder the safety of pedestrians in the public domain after dusk.</p>
2.5.4 High Quality Residential Accommodation	Yes	<p>Apartments provide a high level of internal amenity which is detailed in detail against the criteria of the ADG. Compliance is achieved with respect to internal areas, lift provision, number of apartments sharing a lobby space and internal dimensions of apartments.</p>
2.5.6 Private Open Space	Yes	<p>The apartments provide balconies and private open space of a complaint size satisfying the criteria in the ADG.</p>
2.5.7 Vehicular Access	Yes	<p>The development being an adaptive reuse seeks to utilise an existing vehicular access. The vehicular access is the only point for the building, which is a requirement of Provision P3, s2.5.7 of NSDCP 2013.</p>
2.5.8 Car Parking	Merit Assessment	<p>The development makes provision for 45 car parking spaces including 10 accessible parking spaces.</p> <p>The provision of of 45 car spaces exceeds the <i>maximum residential parking rates</i> stipulated in Table B-10.1, Section 10.2 of the NSDCP 2013.</p> <p>The development is considered to provide an appropriate balance between vehicular parking for residents whilst allocated for alternative parking such as motorbike and bicycle parking. The development also provides additional facilities such</p>

		<p>as end-of-trip facilities for non-residential uses and bicycle parking.</p> <p>The table below also identifies other compliances and non-compliances against applicable provisions in Section 10 of the NSDCP 2013. including a shortfall of motorbike parking, no car wash bay and no non-residential bicycle parking.</p>
--	--	--

Parking Type	DCP Requirement	Proposed Number	Compliance
Car (Residential)	2 bedroom – 0.7 space / dw 36 2 bed units x 0.7 = 25.2 3 + bedrooms – 1 space / dw 13 3 + bedrooms x 1 = 13	45 Cars	No – exceedance of 7 car spaces
Car (Non-Residential)	1 space / 400m ² non-residential GFA 909m ² / 400m ² = 3	None	Yes – maximum parking rates apply
Accessible Car	One acceptable parking space per adaptable dwelling = 10 adaptable dwellings	10 accessible spaces	Yes
Motorcycle	1 space / 10 car spaces = 49/10 = 4.9 spaces	4 motorcycle spaces	Yes
Car Wash Bay	1 car wash bay	Yes	Yes
Bicycle (Residential)	1 / 1 dwelling Visitor 1 / 10 dwellings 54 spaces	54 bicycle spaces	Yes
Bicycle (Non-residential)	1 / 250m ² GFA – Occupants 2 + 1 / 100m ² over 100m ² GFA 14 spaces	14 bicycle spaces	Yes

Table 1: Parking rates and compliance

2.5.9 Garbage Storage	Yes	<p>The development proposes a residential and retail bin room within Basement 1 and separate bulky waste storage spaces are provided within both Basement 1 and 2.</p> <p>Furthermore, there is a bin storage room located on the Ground Level which is a holding space for bin collection days.</p> <p>The number of bins within the storage rooms complies with the amount stipulated in the Waste Management Plan prepared by Elephants Foot Consulting and Council's Waste Operations Officer.</p>
2.5.10 Site Facilities	Yes	<p>The development provides the appropriate provision of storage spaces for dwellings inclusive of storage spaces in the basement levels. This is discussed in greater detail against in the ADG earlier in this report.</p>

2.6 Efficient Use of Resources		
2.6.1 Energy Efficiency	Yes	A compliant BASIX certificate has been submitted.
2.6.9 Adaptive Reuse of Buildings	Yes	The building is an adaption and reuse which is a positive outcome having environmental, energy efficiency and building conservation benefits.
2.6.11 Green Roofs	Yes	On structure landscaping is proposed including a landscaped podium which provides amenity benefits for occupants of the building, an opportunity for an increase in biodiversity and improves the aesthetics of the urban environment.

Part C – Area Character Statements

Part C Section 2 North Sydney Planning Area

Part C Section 2 provides specific planning objectives and controls for the North Sydney Planning Area. In particular, s2.3 'Eden Neighbourhood' character statement applies. If there is a discrepancy between Part B and Part C, the provisions within this Part take precedence over the provisions within Part B of the DCP.

The development generally complies with the desired future character of the Eden Neighbourhood providing different sized non-residential spaces on ground level able to accommodate a range of tenants.

It is noted that the desired built form requirements for the Eden Neighbourhood are generally 4 storeys. The development is an adaptive reuse of a 1970's building and although greater than 4 storeys have merits in continuing the life span and character of the building.

The podium is two storeys in scale and although podiums of 4 storeys are advocated in the Eden Neighbourhood a lesser scale as per that shown in the architectural plans is appropriate in context with the streetscape.

Local Infrastructure Contributions Plan

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to payment of contributions towards the provision of local infrastructure. The contributions payable have been calculated in accordance with Council's Contributions Plan as follows:

Development type	Existing	Proposed	Unit	Increase
Residential accommodation	0	49 units	36 x 2 bed 13 x 3+ bed	49 units
Non-residential accommodation				
<i>Office premises – buildings with 4 or more storeys</i>	5730 sqm	0 sqm	21 sqm/worker	-272.9 workers
<i>Business premises</i>	75 sqm	909 sqm	35 sqm/worker	23.8 workers

Contribution amounts payable

Applicable contribution type		
-------------------------------------	--	--

s7.11 contribution		
<i>A s7.11 contribution is not applicable because the loss in office premises will have a net decrease in workers therefore the procedure as per the Contributions Plan is to impose a s7.12 levy as it yields a higher contribution amount that application of a s7.11 contribution.</i>		
s7.12 contribution details	<i>Development cost:</i>	\$48,915,113.00
<i>(payment amount subject to indexing at time of payment)</i>	<i>Contribution:</i>	\$489,151.00

Conditions requiring the payment of contributions at the appropriate time are included in the attached conditions.

Section 7.24 Provision of regional infrastructure of the EP&A Act

A Housing and Productivity Contribution (HPC) applies in the Greater Sydney, Illawarra Shoalhaven, Lower Hunter and Central Coast regions. Contributions collected help to deliver essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. The HPC is separate to the contributions paid to councils for local infrastructure, such as local roads, drainage and local open space.

The contribution applies to development applications for residential development. In the Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 the base amount for medium or high-density residential development is \$10,000.00 for a new dwelling.

The change of use of the existing commercial building into shop top housing would create forty nine (49) new dwellings which would attract a base rate contribution of \$490,000.00. However, no contribution is applied for commercial development due to the alterations to the building resulting in a reduction in commercial GFA. A new dwelling is under the umbrella definition of new dwelling in the Order and Clause 13(1)(c) of the Order applies.

13 Calculation of HPC units for medium or high-density residential development

- (1) Subject to this clause, the number of new dwellings for medium or high-density residential development is the sum of the following:
 - (a) the number of dwellings that the development consent authorises to be erected,
 - (b) the number of dwellings that will result from any alteration to, or enlargement or extension of, an existing building that the development consent authorises,
 - (c) the number of dwellings that will result from a change of use of any existing building, including from one type or residential accommodation to another.

The housing and productivity contribution (HPC) set out in the table below is required to be made:

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$490,000.00
Transport project component	\$0
Total housing and productivity contribution	\$490,000.00

At the time of payment, the amount of the HPC is to be adjusted in accordance with the Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act 1979 agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

A Housing and Productivity Contribution must be included within the determination.

(c) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(d) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS 2601;

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are relevant to the proposal.

The application is supported by both a BCA Report, Fire Engineering Statement and a BCA Compliance Report and has been subject to assessment by Council's Building Officer.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

3.2 Section 4.15(1)(b) - Likely Impacts of Development

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

All likely impacts of the proposed development have been appropriately considered by this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

1. Statutory Controls	Yes
2. Policy Controls	Yes

3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing Facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	Relevant S4.15 considerations of the Environmental Planning and Assessment Act 1979	Yes

Natural Environment

The proposed development has a positive impact and a net improvement providing an increase in landscaping within the site. Landscaping to the ground level includes a variety of planter beds with shrubs, groundcovers and tree planting. The podium also has extensive planter beds with an array of shrubs, ground covers and trees and the upper most fringes of the penthouse have planter beds. The landscaping improves the aesthetics of the development, contributes to good amenity and landscaped character of the streetscape.

Built Environment

The siting, scale, bulk, and massing of the development would predominantly remain noting the development seeks to reuse the existing tower for residential use. The design predominantly retains the built form character of the tower retaining the modulated pebble create façade and adapting windows for residential living. The podium as amended is considered to be appropriately scaled and sited with a predominantly nil front setback. The scale and height is appropriate and in context with the streetscape. There are also positives with the proximity of the non-residential ground floor to the street and activation of the streetscape.

The proposal exceeds the building height development standard of North Sydney Local Environmental Plan 2013. A Clause 4.6 Objection has been submitted in support of the non-compliance.

The variation to the building height has been assessed and is supported, in this circumstance, because the current form of the building would largely remain and the additional height of the penthouse to replace existing plant and equipment would have an aesthetic improvement to the surrounding built environment. The proposal is noted for being consistent with State Environmental Planning Policy Housing Design Quality Principles and criteria in the Apartment Design Guide.

Accordingly, the proposal is consistent with the existing and future desired character of the area precinct.

Social Environment

No adverse social impacts have been identified as part of the assessment. The provision of additional dwellings would in principle provide for additional housing in close proximity to the

North Sydney CBD and within an existing mixed use zone. The development also provides a sufficient provision of common open space to add to social interaction within the site.

Economic Environment

The proposed development will have no adverse economic impact, it will benefit in the longer term the sustainability of the Eden Neighbourhood and will in the immediate term contribute to maintaining jobs in the construction industry. The proposal achieves the minimum non-residential floor space requirements required for the Mixed Use zone and will promote appropriate non-residential uses that are appropriate to the neighbourhood.

The loss of existing commercial floor space within the LGA would be negligible noting the current supply of commercial office floor space available within the adjoining North Sydney CBD and nearby St Leonards commercial areas, including available small lettable office space that is available for small firms and start-up ventures through co-working spaces.

The proposed development will provide temporary employment through the construction of the development. In addition, the ground floor non-residential tenancies will provide future employment associated with the site.

3.3 Section 4.15(1)(c) - Suitability of the site

The site is located in the MU1 Mixed Use Zone and within the Eden Neighbourhood of the North Sydney Planning Area. The proposed development being shop top housing is permissible within the MU1 Mixed Use zoned land.

The shop top housing development responds to the constraints and opportunities of the site, development controls, area and context, as evidenced by its substantial compliances with relevant controls in the Apartment Design Guide as detailed previously within the report.

3.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

3.5 Section 4.15(1)(e) - Public interest

The application was advertised for a period of twenty-one (21) days between 21 March 2025 and 11 April 2025 in accordance with the North Sydney Community Engagement Protocol criterion. Seven (7) submissions were received raising objections to the proposal.

The concerns raised are summarised below:

- The development includes windows and balcony areas on the rear side of the building. This will impact privacy of residents of 28 West Street from town houses to apartments.
- Additional residential living will increase cars and other vehicles and the area of West Street in front of the proposed development is already hazardous for drivers attempting to exit the underground parking at 28 West Street due to lack of visibility.
- The development appears to encroach on and over the existing public pedestrian pathway and West Street is already constrained forcing foot traffic onto the adjoining bike path.
- The proposed communal residential courtyard on Level 1 will impinge significantly on the privacy and noise levels of approximately 21 units in 28 West Street.
- The increased height to accommodate a two storey penthouse is not supported and a more appropriate use would be a communal area.

- No indication has been made on what is happening with the current microwave towers on the existing structure.
- The creation of another loading zone in front of the building almost opposite an existing loading zone adjacent to Ridge Street restricts limited parking and access for local amenities.
- The signage has not been affixed to the building for the requisite period.
- The planned development will significantly affect the value of townhouses and apartments within 28 West Street.

The above issues were considered thoroughly in the assessment of the development application and provided to the Applicant for response following a preliminary review of the application. The submissions were not substantive to warrant refusal or significant amendments to the development, and it is considered appropriate privacy mitigations measures has been provided for the residential units facing West Street as well as the Level 1 common open space.

Further, the development provides a reasonable and efficient use of the existing basement and invested in appropriate bin storage and a plan for loading and deliveries for the site.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements			
Rail authority for the rail corridor	Section 2.48 & 2.122(4) - <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	Written notice of the application to TfNSW was completed concerning the developments likely affect to electricity transmission and the traffic generating impact of the development to a classified road. Concurrence was rejected by TfNSW because the scale of the development does not trigger referral to TfNSW as a traffic generating development and the clause relating to electricity transmission is a matter for the relevant electricity supply authority.	Y

Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Ausgrid consented to the development subject to conditions of consent. The conditions which are reproduced in the attached conditions of consent provide prescriptive advice on the responsibility of ensuring protection of existing overhead powerlines and underground cables. Design directions are provided for the substation asset within the site.	Y
Sydney Water	Section 78 – <i>Sydney Water Act 1994</i> Consent authority to notify Corporation of development and building applications.	Conditions of consent were recommended such as the requirement for the Applicant to apply for a Section 73 Compliance Certificate prior to Occupation and Building Plan Approval prior to the issue of a Construction Certificate.	Y
NSW Police Force	NSW Police considered crime risks and safety matters and provided various recommendations which are included within the conditions of consent concerning the provision of surveillance cameras, lighting, signage and landscaping design.		Y
Design Excellence Panel	CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel ('DRP')	The advice of the DEP has been considered in the proposal and is further discussed in the SEPP 65 assessment and the Key Issues section of this report. Below are the comments provided to the Applicant by DEP.	Y
Design Excellence Panel Discussion, Comments & Recommendations: <ol style="list-style-type: none"> 1. The Panel commends the applicant for providing a high-quality submission including the architectural drawings, 3D views, illustrations, context analysis, photomontages, planning report and the presentation offered at the meeting. 2. The proposal represents a well-resolved scheme that creates residential apartments through adaptive reuse and part demolition of the existing 11-storey commercial building. 3. The Panel supports the applicant's strategy of removing the topmost plant room level and replacing it with double-height penthouse apartments. Addition of the penthouse results in a 1.774m increase above the existing plant room height. Based on review of the photomontages and architectural drawings, the height exceedance is supported by the Panel. Furthermore, the additional overshadowing impact in mid-winter has been clearly described by the applicant as part of their analysis, and the impact is acceptable in the Panel's view. 			

4. The Panel offers in-principle support to the proposal and expects that the applicant will incorporate and/or address the below recommendations offered in this report to Council's satisfaction.

Podium Form and Expression:

- a. The Panel highly commends the overall quality of the architectural resolution, materiality, finishes and colours considered within the scheme, including the treatment of the new 2-storey podium. The approach of creating a new podium by extending the ground floor retail up to the West Street alignment is also supported. Additionally, the overall design strategy that creates vertical rhythm within the podium design is commended by the Panel since it appropriately borrows architectural cues from the existing terraces (a predominant typology) in the vicinity.
- b. The Panel further discussed that the vertical bays and frames proposed for the new podium would appear overpowering in relation to the surrounding streetscape. In particular, the Panel noted that, compared to the broader street network – including Pacific Highway, Ridge Street, and McLaren Street – West Street has a more local character, with predominantly 2 to 4 storey residential buildings. To achieve a more appropriate street presence, the Panel suggests that a slight reduction in the overall height of the frames will be beneficial.
- c. Based on review of the photomontages and the streetscape elevations, the height of the new podium appears to extend beyond the existing building's 2-storey datum line. The Panel suggests that the topmost horizontal frame should be lowered to sit below this datum to ensure better suitability with the existing streetscape.
- d. Furthermore, the applicant should provide an additional 3D photomontage that includes the existing terraces at 28 West Street, to enable a more thorough review of the new podium design in relation to the existing terraces.
- e. The Panel recommends that a continuous awning be provided to enhance pedestrian amenity along the street interface.

Building Separation at the South Western Corner:

- f. The Panel considers the building separation along the western boundary to be generally acceptable, given that the proposal involves adaptive reuse. In this instance, guidance offered by the NSW ADG Part 4R – Adaptive Reuse – should be relied upon. However, the Panel notes that the existing south western building corner is in close proximity to the rear boundary, within a range of 3 to 5 metres.
- g. Given the adjacency to the neighbouring property to the west, the Panel suggests that the applicant investigate whether an alternative configuration of the apartment layout could be developed to mitigate potential cross-viewing issues with future neighbours. The Panel discussed a scenario in which the adjoining property at 281 Pacific Highway could be redeveloped in future as a 4 to 6 storey residential flat building.
- h. Alternatively, the applicant should consider appropriate screening devices within the lower 4-6 residential levels to address potential future cross-viewing issues, subject to Council's review and satisfaction.

Ecologically Sustainable Development (ESD) Principles:

- i. Council should satisfy itself that the following sustainability recommendations for delivering beyond the minimum BASIX requirements are incorporated by the applicant:
 1. Ceiling fans to all living rooms and bedrooms as a low energy alternative.
 2. Provision of a rainwater tank to allow collection, storage and reuse within the site.
 3. Full electrification of the development including all mechanical and hot water systems, domestic and commercial cooking, and the ability for all residents to charge electric vehicles in the car park.

Design Intent Sections:

- j. Developed architectural drawings should fully describe the design intent and include details of each primary façade type in the form of 1:20 sections and elevations (or using appropriate detailed 3D design material) indicating proposed materials, construction systems, balustrade types and fixings, balcony edges, window operation, integrated landscape planter beds, junctions, rainwater and balcony drainage, including any downpipes, ventilation/exhaust provisions and similar details within the proposal. Similarly, set downs to wet areas should be carefully resolved as part of the DA stage. Typical wall details to be developed to meet NCC2022 requirements.

Conclusion:

Recognising its independent and advisory-only role, the Panel offers in-principle support for the proposal, given its potential to achieve the expected design excellence merits. However, the Panel expects the applicant to amend the proposal to incorporate and/or address the recommendations outlined in this report to Council's satisfaction.

Development Services Manager's Note:

The outcome of this review by the Design Excellence Panel is not determinative and is one of the many inputs into the assessment process. Applicants are urged to have high regard to the Panels input and respond accordingly.

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	<p>Council's Engineering Officer reviewed the submitted development application and has recommended various conditions of consent. Conditions of note are as follows:</p> <ul style="list-style-type: none"> - Construction and Traffic Management Plan: to ensure appropriate measures have been considered for site access, storage and operations of the site. - Structural Adequacy of Existing Building: a structural engineer is to ensure the structural integrity of the building. 	Yes (subject to conditions)

- Maintain Property Boundary Alignment Levels: the property boundary levels must match the levels which existed prior to the commencement of works.
- Basement Car Park to comply with relevant standards – the basement layout must be assessed against the requirements of AS2890.1 in areas where modifications to existing parking areas, height clearances and parking aisles are proposed. Any deviations from the Standard must be reviewed and certified by a practising traffic engineer certifying the intent of AS2890.1 is still present with all parking areas to be accessible and manoeuvrable by B85 vehicles.
- Required Infrastructure Works: construction of a new footpath is required across the entire site frontage in West Street. The roller shutter door is to be removed from the CC plans.
- Stormwater Disposal: site drainage plans must be prepared for approval prior to issue of any Construction Certificate.

Bond for Damage and Completion of Infrastructure Works: a security deposit must be provided to Council to the sum of \$105,000.00 to ensure appropriate security for works on public land.

Planning Comment: it is noted Council's Development Engineer seeks removal of the roller shutter door and this is supported. The location of the roller shutter door requires a vehicle to wait not wholly within the site but parking across a footpath and cycle way. Figure 11 of the Stantec Traffic Statement confirms a vehicle straddles the public footpath and the roller shutter door does not allow parking a vehicle wholly within the site whilst waiting for the door to open. The placement of the roller shutter door and impact to vehicles entering the site has a potential impact to pedestrian safety and a disruption to the streetscape contrary to Objectives O1 and O2 in s2.5.7 'Vehicular Access' of NSDCP 2013.

Figure 11: B99 Vehicle Position in front of Roller Shutter Waiting to Open

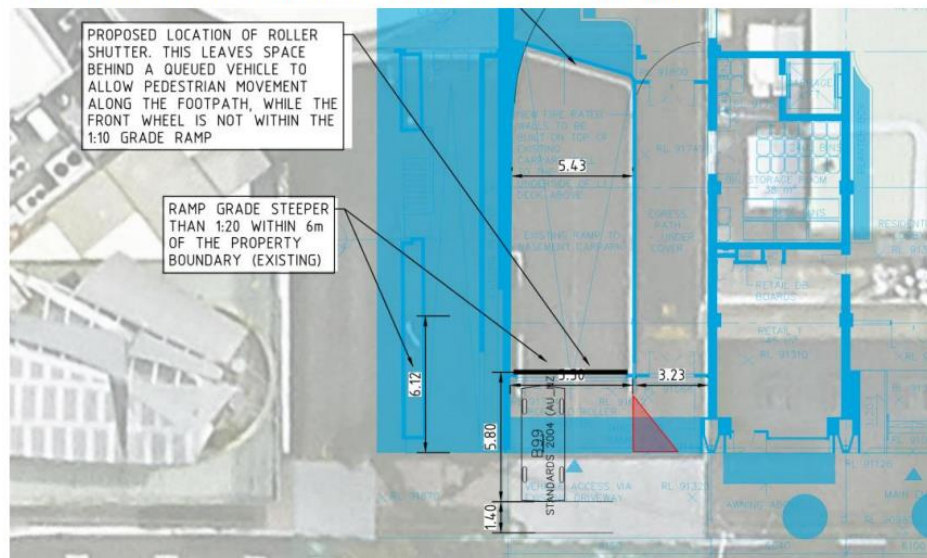


Figure 27 – B99 Vehicle Position in front of Roller Shutter Waiting to Open

Traffic	<p>Council's Traffic Engineering Officer reviewed the proposal and raised concerns in relation to traffic generation and car parking. These issues are considered in more detail in the Key Issues section of this report. Below is a summary of the referral response by Council's Traffic Engineer.</p> <p>Residential Car Parking: The proposal does not comply with Council's DCP requirements, as it fails to provide parking in accordance with the DCP prescribed rates. The argument that the reduction from the existing parking supply justifies the proposed provision is not supported, and the parking must comply with the North Sydney DCP inclusive of the adaptable parking.</p> <p>Accessible Car Parking: the provision of accessible car parking is in accordance with the DCP requirements.</p> <p>Bicycle Parking: the argument that existing bicycle racks on the site frontage can accommodate visitor parking is not supported. The development should ensure compliance with the DCP by incorporating the required visitor bicycle parking within the site.</p> <p>End of trip facilities: should be provided to staff according to the DCP requirements.</p> <p>Motorcycle Parking: the development proposes to provide 4 motorcycle spaces with a length of 3m and 1.2m width and is in accordance with the DCP requirement.</p> <p>Car Wash Bay: should be provided to comply with the DCP requirement.</p> <p>Loading Dock: on-site loading must be provided per DCP Part B Section 10.4 P2, which requires one MRV space for developments over 30 dwellings. Council does not support on-street loading arrangement. On-street parking is on high demand in the LGA, and the development should not impact on street parking supply or create operational conflicts. The proposed loading dock is proposed to be shared with different land uses; therefore, a Loading Dock Management Plan should be provided.</p> <p>Traffic Comment: the Traffic & Transport team does not review internal car park design, including circulation ramps. However, the compliance review and swept path assessment indicate that the vehicle ramp and parking aisles do not meet Australian Standards and do not allow for two-way traffic flow. It is recommended that the car park design be approved and signed off by a private certifier.</p> <p>Upon receipt of the amended plans and a supplementary traffic report prepared by Stantec the application was referred to Council's Traffic Engineer for additional review. The non-compliant exceedance in car parking was noted and the design for an on-street loading zone was not supported for two reasons:</p> <ol style="list-style-type: none"> 1. Approving such development would mean we are dedicating public space to a private entity which could prevent Council from undertaking any future infrastructure changes to the space. 	Refer to key Issues especially concerning the loading dock.
---------	--	---

	<p>2. Approving such arrangement could also set a precedent where other site may apply for on-street loading zones, therefore, undermining DCP requirements.</p>	
Building	<p>An assessment has concluded the cumulative volume of the proposed building work represents more than half of the total volume of the building in accordance with Section 64(1)(a) of the EP&A Regulation.</p> <p>Additionally, an assessment of the existing building has concluded the measures contained within the building are inadequate for the protection of persons using the building, facilitate egress from the building and/ or restrict the spread of fire from the building to other buildings nearby in accordance with s 64(1)(b) of the EP&A Regulation.</p> <p>Council must consider whether it is appropriate to require the existing building to be brought into total or partial conformity with the current Building Code of Australia (BCA) in accordance with s 64(2) of the EP&A Regulation.</p> <p>ASSESSMENT</p> <p>The BCA Compliance Audit Report prepared by MBC Group has been reviewed and considered. A site inspection of the existing building has also been undertaken. It is recommended the existing building be brought into partial conformity with the BCA in accordance with s 64(2) of the EP&A Regulation.</p> <p>The upgrades relate to ensuring there are provisions for structural stability and spread of fire, fire suppression, fire hydrant, safe egress, fire stopping, portable fire extinguishers, emergency lighting and exit signs.</p> <p>Conditions have been included to upgrade the unobstructed widths of paths of travel to exits, protection of service penetrations through fire resisting construction, upgrade tulip style (twist) handles, emergency warning and intercom systems, exit signs, emergency lighting, fire isolated exits/stairs, portable fire extinguishers, sprinkler system, hose reels and the fire hydrant system.</p> <p>A condition was not imposed to upgrade existing fire doors as fire doors should be inspected and commissioned under the AFSS assessment process. In the event that the certifier assessing the CC application holds a different view, the matter is captured by s 14 of the DC&FS Regulation, which relates to restricting the spread of fire.</p> <p>All new proposed building works must comply with the National Construction Code – Building Code of Australia in accordance with the prescribed condition under s 69 of the EP&A Regulation.</p> <p>Standard and Non-standard conditions of consent are recommended inclusive of building work in accordance with the provisions of the NCC and a condition is stipulated requiring the upgrade of the existing building – fire spread and safe egress.</p>	Yes
Health	<p>Standard acoustic amenity conditions can be applied inclusive of NCC based requirements and there are no environmental health specific</p>	Yes

	conditions required for the proposed development. Any future applications concerning the future use of the ground floor retail premises may require appropriate health conditions.	
Waste	<p>Upon receipt of amended plans and additional information the following Waste Management comments were provided:</p> <ol style="list-style-type: none"> 1. The bin storage room must be large enough to fit 6 x 660L uncompacted waste bins + 17 x 240L recycling bins. Note: the property must purchase 660L bins. 2. Servicing once per week. The bin room must be designed to access 660L bins. 3. The residential waste bins need a temporary bin holding area for collection off the street and within 2-5 meters of the street alignment. The proposed holding bay must fit the required bins. Please check the bin holding area can accommodate these bins. 4. Properties with a lift must have a garbage chute and 240L recycling bin on each level or dual waste/recycling chutes. 5. Space must be provided for a 120L food waste bin on each level 6. There needs to be bulky waste storage area to hold household clean up material. This should be separate from the garbage room. 7. The door width for the bin room and bulky waste room must be 1.5m. 8. Commercial bins must be separate from residential bins. <p>Planning Comments:</p> <p>The development can supply 6 x 660L waste bins and 17 x 240L recycling bins. It is noted referring to the WMP prepared by Elephants Foot a more conservation provision of 6 x 660L general waste bins and 20 x 240L recycling bins has been planned for. A temporary bin holding area is provided which although not within 2-5m of the street frontage is sited as close as possible, but prioritisation of the retail frontage and activation of the streetscape is a greater priority addressing mixed use development and non-residential floor space ratio objectives in NSLEP 2013.</p> <p>The development generally satisfies the Waste Management referral providing separate storage between residential and non-residential, providing a chute and a bulky waste storage area.</p> <p>It is noted the original Waste Management referral sought for the provision of onsite Council collection using a HRV with a height clearance of 4.5m. This requirement following receipt of additional information has been rescinded.</p>	Refer to key Issues
Strategic	<p><u>Non-Residential Floor Space</u></p>	Refer to key Issues

	<p>I note that the DA has been referred to Strategic Planning to comment on the reduction in the non-residential floor space.</p> <p>It is noted that the development will result in a loss of employment floor space with the demolition and adaptive reuse of an existing commercial building for a mixed use development. However, the proposed development complies with the minimum non-residential FSR requirement of 0.5:1 under the <i>North Sydney LEP 2013</i>. The development proposes 907sqm of non-residential GFA on a 1,814sqm site.</p> <p><u>Apartment Mix</u></p> <p>I note that the DA has also been referred to Strategic Planning to comment on the apartment mix.</p> <p>It is noted that the DA proposes a total of 49 apartments with a mix of 2, 3 and 4+ bedroom apartments. However, no studio or one bedroom apartments are provided. This is not compliant with the <i>North Sydney DCP 2013</i> which requires the following mix of dwellings (Part B, Section 2, Clause 2.2.3, P3):</p> <ul style="list-style-type: none"> - Studio – 10-20% of total dwellings - 1 bedroom – 25-35% of total dwellings - 2 bedroom – 35-45% of total dwellings - 3 bedroom+ - 10-20% of total dwellings <p>The 2021 Census figures state the average housing size in the North Sydney LGA is 1.97 with 2 bedroom apartments the dominant dwelling type. Household projections undertaken by .id also indicate that lone person households in the LGA are expected to increase by more than 20% between 2021 and 2036.</p> <p>Whilst the figures don't reflect dwelling preferences, it can be argued that lone and 2 person households may choose or need one bedroom dwellings as a more affordable option. Furthermore, the Census figures indicate lone person households are in most need of affordable housing and that there are almost 10% more 2 bedroom apartments than studio/one bedroom apartments in the LGA.</p> <p>Council's <i>Local Housing Strategy</i> (LHS) contains <i>Objective 3: Inform housing diversity and affordability issues in North Sydney</i>. The LHS identifies a clear housing supply gap for key worker housing and affordable housing for the very low- and low-income households. It also identifies the need to maintain / manage a diverse dwelling mix to meet identified demand and facilitate affordable choices whilst also providing housing to meet the needs of seniors and people with disabilities.</p>	
--	---	--

	<p>Providing a dwelling mix in the <i>North Sydney DCP 2013</i> is also identified in the LHS as a mechanism to manage growth to ensure dwelling diversity meets demand.</p> <p>The <i>North Sydney Local Strategic Planning Statement (LSPS)</i> reiterates the shortfall of studio and one bedroom dwellings in the LGA (7,800 in 2019) and an additional 7,750 lone person and couple only households anticipated by 2036, requiring small dwellings. To provide for the current and future population, the LSPS states the need to ensure an appropriate diversity of dwelling types in new residential developments.</p> <p>The State Government also advocates for a mix of dwellings with the <i>State Environmental Planning Policy (Housing) 2021</i> setting out design principles for residential apartment development in Schedule 9, Section 8:</p> <p><i>8 Housing diversity and social interaction</i></p> <p><i>(1) Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>(2) Well designed residential apartment development responds to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p>The <i>NSW Apartment Design Guide</i> also requires a diverse dwelling mix of types and sizes to accommodate a range of need now and into the future (Objective 4K-1), ensuring “housing choice and... equitable housing access”.</p> <p>Based on the above, the applicant’s justification for the non-compliance with the DCP dwelling mix requirement, “<i>to achieve the optimum amenity outcome on the site and produce a product that aligns with market demand in this location</i>”, is considered inadequate. The development is required to include a mix of studio and one bedroom apartments to cater for the LGA’s growing smaller households and those requiring a more affordable housing option.</p>	
Landscape	<p>The proposed development and relevant lodgement documentation has been assessed for potential impact to existing trees as well as the proposed landscape design and associated works.</p> <p>The proposed development is supported noting the following site conditions and impacts:</p> <p><i>T6 Brachychiton acerifolius</i> (3x1m) located in the council verge in front of 8 West St and shown for retention, will be impacted by proposed SW works. As this tree is in poor condition, an improved outcome would be achieved by removing this tree, and replacing with <i>1 x Fraxinus griffithii</i> (100l) on the edge of the northern boundary (approximately 1.5m further north than existing T6) in the council verge in front of 8 West St, to avoid canopy being suppressed by existing T5.</p>	Yes

	<p>Awnings shall either include cut-outs, be reduced or deleted, to avoid conflict with existing or future tree canopy growth.</p> <p>All existing overhead wires across the frontage of 8 West St shall be undergrounded at the cost of the applicant, to avoid future impact to street trees.</p>	
Heritage	<p>Heritage Impact Assessment</p> <p>a) North Sydney LEP 2013</p> <p>The proposal has been considered, and an assessment has been carried out against the objectives and, with reference to <i>North Sydney LEP 2013 Clause 5.10 (5) Heritage Assessment</i> relating to land that is in the vicinity of a heritage item. The proposal is satisfactory as it will not adversely impact on the character nor significance of the adjacent heritage listed Union Hotel, St Thomas' Church, the heritage listed terrace group at 4 – 10 Ridge Street nor the <i>McLaren Street</i> and <i>Holtermann Estate D</i> conservation areas.</p> <p>a) <u>North Sydney DCP 2013</u></p> <p>An assessment of the proposal, with reference to <i>North Sydney DCP 2013 Part B Section 13.4 Development in the vicinity of heritage items</i> has been made with the following elements of the DCP being of note:</p> <p>Part B Section 13 Heritage and Conservation</p> <p>The following table assesses the proposal with respect to Part B Section 13 being the development controls for development affected by or affecting identified heritage and conservation.</p> <p>Compliance Table – B13.4 – Development in the Vicinity of Heritage Items</p> <p>west of the site is St Thomas' Church [I 0887 – 34 McLaren Street], also identified as an item of environmental heritage. The heritage listed terrace group at 4 – 10 Ridge Street [I 0963/ 0964/ 0965/ 0966] are set to the north of the site.</p> <p>Historical context</p> <p>8 West Street was designed by McConnell, Smith and Johnson architects and constructed in 1973 following a building application approval in 1972. [MSJ group building e.g.s - Water Board building in Pitt Street (1963), Sydney University Law Scholl Building in Elizabeth Street (1969), Law Courts Building in Macquarie Street (1977). The subject building represents a fine example of the late Twentieth Century Sydney Regional School of design.</p> <p>The adaptive reuse of the MSJ building is supported and is a positive approach that repurposes the existing building and prolongs its lifespan</p>	Yes

	<p>within its site context. The input from the design excellence panel is supported and their recommendation is reiterated below in context with the heritage assessment.</p> <p>Conclusion and recommendation</p> <p>With reference to the above, an assessment of the proposal has been undertaken in terms of <i>North Sydney LEP 2013 Clause 5.10 Heritage conservation</i> and <i>North Sydney DCP 2013 Part B: Section 13 Heritage and Conservation</i>. Appropriate consideration of the issues raised in the pre-da was given by the design excellence panel. Their recommendation that:</p> <ul style="list-style-type: none"> the podium be revised so that a more appropriate street presence can be achieved by a reduction in the overall height of the frames by lowering the topmost frame to sit below the 2-storey datum set by the properties to the north. Also, the integrated approach to dealing with sun/shade issues by the applicant was preferred. additional details in the form of 1:20 sections and elevations (or using appropriate detailed 3D design material) indicating proposed materials, construction systems, balustrade types and fixings, balcony edges, window operation, integrated landscape planter beds, junctions, rainwater and balcony drainage, including any downpipes, ventilation/exhaust provisions and similar details within the proposal have been requested <p>will ensure an appropriate and high-quality outcome is achieved. As such, the proposal is supported heritage grounds.</p>	
--	--	--

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the DCP/Council's Community Participation Plan from 21 March 2025 until 11 April 2025 the notification included the following:

- A sign placed on the site;
- Notification letters sent to adjoining and adjacent properties;
- Notification on the Council's website.

The Council received a total of seven (7) unique submissions, comprising 7 objections not in support of the proposal. The issues raised in these submissions are considered in **Table 7**.

Table 7: Community Submissions

Issue	Council Comments
-------	------------------

<p>Visual Privacy</p> <p>The development includes windows and balcony areas on the rear side of the building. This will impact privacy of residents of 28 West Street from town houses to apartments.</p>	<p>Please refer to Section 5.2 of the Key Issues where neighbouring amenity inclusive of visual and acoustic privacy is considered in detail.</p>
<p>Traffic and Vehicular Access</p> <p>Additional residential living will increase cars and other vehicles and the area of West Street in front of the proposed development is already hazardous for drivers attempting to exit the underground parking at 28 West Street due to lack of visibility.</p>	<p>Stantec provided traffic generation modelling with assistance from the Guide to Transport Impact Assessment 2024 which calculated a net reduction in trips from the shop top housing compared to the existing commercial building to the satisfaction of Council's Traffic Engineer.</p>
<p>Public Domain</p> <p>The development appears to encroach on and over the existing public pedestrian pathway and West Street is already constrained forcing foot traffic onto the adjoining bike path.</p>	<p>No works are consented to outside the subject site and the no work is permitted on public open space without the prior written consent of Council (refer to Condition E15 No work on Public Open Space).</p>
<p>Visual and Acoustic Privacy</p> <p>The proposed communal residential courtyard on Level 1 will impinge significantly on the privacy and noise levels of approximately 21 units in 28 West Street.</p>	<p>Please refer to Section 5.2 of the Key Issues where neighbouring amenity inclusive of visual and acoustic privacy is considered in detail.</p>
<p>Height</p> <p>The increased height to accommodate a two storey penthouse is not supported and a more appropriate use would be a communal area.</p>	<p>The provision of common open space to the ground floor and podium are in accordance with ADG design guidance and are designed to be well consolidated, easily identified and usable.</p> <p>The height variation due to the height of the penthouse has been considered in detail within earlier in this report and there is sufficient justification and planning grounds to support the variation.</p>
<p>Plant & Equipment</p>	<p>The microwave towers are not essential infrastructure for the use of the site being shop top housing and indicated for demolition in the demolition plans.</p>

No indication has been made on what is happening with the current microwave towers on the existing structure.	
Loading Zone The creation of another loading zone in front of the building almost opposite an existing loading zone adjacent to Ridge Street restricts limited parking and access for local amenities.	The loading zone will be subject to a separate approval process and Council's Traffic Engineer notes a loading zone outcome is subject to support from the community and endorsement by the Traffic Committee and ultimate approval as a Council meeting.
Notification Signage The signage has not been affixed to the building for the requisite period.	The Applicant has confirmed in response that the signage has been affixed for the requisite notification period.
Property Value The planned development will significantly affect the value of townhouses and apartments within 28 West Street.	Council cannot take into consideration the potential impact of a proposal on the property value of adjoining land. This is not a matter for consideration under s4.15 of the EP&A Act 1979.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Podium

Council following a preliminary assessment raised concerns with the podium considered to be too bulky and dominant in context with the streetscape. The podium form and expression was also a core issue for consideration by DEP and the Panel suggested a reduction in the overall height of the Podium to ensure better suitability in the existing streetscape.

The Applicant in response has made amendments reducing the height of the podium from RL 99,230 to RL 98,250. The revised podium is considered to have an improved outcome more compatible with the 2 storey character of the adjoining townhouses at 28 West Street as depicted in the below photomontage.



Figure 28 – Photomontage 3 showing the penthouse addition inset from the northern tower facade, DA9003 Rev A

5.2 Visual and Acoustic Privacy

The development has received submissions from neighbouring properties with concerns regarding a loss of visual amenity and acoustic privacy due to the outlook from the north western corner of the building and from the Level 1 common open space therefore it is warranted for deliberation as a key issue.

The potential for privacy mitigation was initially raised during the pre-development stage and the Applicant has duly considered measures to mitigate against loss of visual privacy with the following measures proposed:

- For the Ground Floor no windows are provided along the northern boundary and the north western boundary.
- Screen Planting is provided along the boundaries of Level 1 private open space*.
- Privacy screens are proposed to the northern façade of balconies on Levels 2-10.
- Screen planting is proposed along the northern and eastern boundaries for the penthouse balcony.

The Applicant provided a useful building separation diagram which is within the supporting SEE confirming an acceptable separation distance to windows of the residential flat building at 28 West Street and a privacy screen for the balconies and privacy wall for the north western corner bedroom further mitigates against direct overlooking.

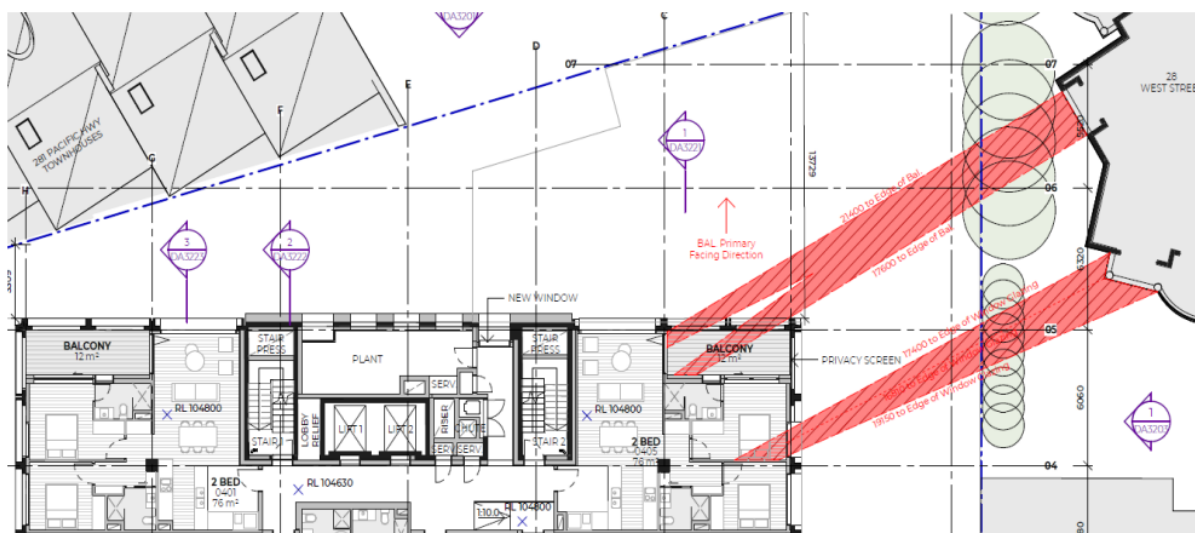
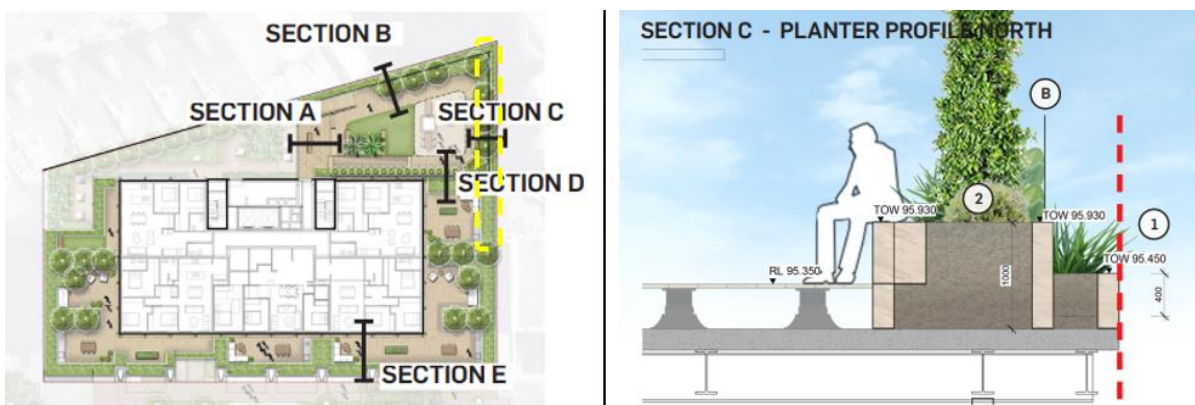


Figure 41 Building separation of northern units

Source: Woods Bagot

Figure 29 – Building separation diagram (Levels 2 – 10) showing separation distances and privacy mitigation measures between 8 & 28 West Street

Screen Planting on the northern boundary of the common open space has been reviewed in detail noting the plant species detailed in the Landscape Plans. Although some plants have the potential for screening such as 2 x *Tristaniopsis laurina* 'Water Gum 7m x 5m' and 7 x *Alocasia macrorrhiza* 'Giant Toro 2 x 1.5m' most plant species have limited effect as a screen plant. It is therefore warranted for a privacy condition requiring appropriate screen planting and a privacy screen to improve privacy and screen planting along the northern boundary of the Level 1 common open space as well as the side boundary between the deck of Unit 0105 and the rear private open space of 28 West Street. These privacy measures will have an improved mitigation against loss of visual and acoustic privacy of residents at 28 West Street. The location of the proposed screen planting subject to condition is annotated in the below diagrams extracted from Section 2.9 'Level 1 Communal Courtyard' in the Landscape Plans.



5.3 Housing Mix

Housing Mix was one key issue raised with the Applicant within the preliminary assessment letter dated 30 April 2025. The housing mix is contrary to Provision P3, s2.2.3 of the NSDCP

2013 providing a priority for larger households and apartment types and an insufficient provision of smaller or 1 bedroom apartments.

Table B-2.1: Dwelling Mix		
<i>Dwelling Size</i>	<i>% Total Dwellings</i>	<i>Proposed % Dwellings</i>
Studio	10-20%	Nil
1 bedroom	25-35%	Nil
2 bedroom	35-45%	73%
3 bedroom +	10-20%	27%

Council Assessment Officer considered the justification provided within the supporting SEE for the variation is insufficient to support the proposed dwelling mix. Stating that the dwelling mix is “informed by the existing floorplate” does not achieve the strategic intent of unit mix within the development. Similarly, reference to “market demand” does not sufficiently address the future housing need for future communities in North Sydney.

Further justification was required by Council addressing the potential for an increase in supply of smaller units both within the development and more strategically over the locality. A review of Council's LSPS is recommended with a view to addressing Council's aim of meeting housing demand for future communities. Consideration must be given to providing some smaller units within the development to improve the provision for this site. A change to the typical floor plan could assist in improving provision for this site.

The Applicant in response provided the following justification within the supporting response to RFI letter prepared by Beam Planning. The Applicant contends although there is a need for smaller housing types and there is also a significant demand for larger housing units particularly with a trend for families seeking to move from traditional detached/semi-detached low density housing to the practicalities of apartment living. The Applicant also notes the Crows Nest accelerated TOD program and the new development states providing the opportunity for delivering smaller scale units and an example State Significant Development is cited for providing smaller scale units. Finally, the Applicant notes the challenge of providing apartments that wholly fit with housing mix criteria and also achieving financially feasible developments.

The Assessment Officer in deliberation of the Housing Mix non-compliance notes the various justifications and supports the variation in this instance particularly due to the inherent restraints in delivering an adaptive reuse of a site inherently reliant on an existing building floorplate and notes the development as proposed provides a highly compliant development with criteria of the ADG with high amenity.

5.4 Car Parking, Bicycle Parking & End of Trip Facilities

Following a preliminary assessment and noting the Traffic Engineer referral concerns were raised with the exceedance in car parking. 49 car parking spaces were provided exceeding the maximum residential parking provision of 38 car spaces contrary to the maximum rates in Table B-10.1, s10.2 of NSDCP 2013.

The Applicant in response has provided a reduced car parking provision of 45 car spaces. The reduced parking has allowed for inclusion of end of trip facilities, accessible end of trip facilities plus lockers.

The provision of 45 car spaces is supported because it allows sufficient balance between car parking which is still integral for most households but also a compliant provision of alternative

transport such as bicycles and motorbikes, storage and plant and equipment facilities. The development now ensures the compliant provision of end of trip facilities and lockers as per the directions in Provision P11, s10.5 'Bicycle Parking and Associated Facilities' of NSDCP 2013.

The parking provision therefore is considered to satisfy the objectives in s10.2 'Parking Provision' of the DCP facilitating alternative transport modes, minimising the reliance on private car usage and ensuring an appropriate level of on-site car parking.

The Applicant has also increased the provision of bicycles with 68 bicycles within the basements compliant with the requirements of the NSDCP requirements stipulated in the below table prepared by Council's Traffic Engineer:

Table 4.2: Bicycle Parking Requirements

Use	Size	Bicycle Parking Rate		Bicycle Parking/ EOT Requirement	
		Occupants/ Staff	Visitor/ Customer	Occupants/ Staff	Visitor/ Customer
Residential	49 apartments	1 per dwelling	1 per 10 dwellings	49	5
Retail	909m ²	1 per 150m ² GFA	1 per 600m ² GFA	7	3
Total				56	8

5.5 Loading Dock

Council's Traffic Engineer has stipulated in the referral the requirement for on-site loading as per the requirements of Provision P2, Section 10.4 'Loading and Servicing Facilities' in NSDCP 2013 (*below in italics*).

P2 Developments containing more than 30 dwellings but less than 60 must provide at least 1 service delivery space, capable of accommodating at least 1 Medium Rigid Vehicle. Development containing less than 30 dwellings must provide at least one delivery/service/trade standard parking space.

Council's Traffic Engineer has provided the following reasoning for the on-site loading comprising 1 x MRV space within the subject site and no on street loading (*below in italics*).

On-site loading must be provided per DCP Part B Section 10.4 P2, which requires one MRV space for developments over 30 dwellings. Council does not support on-street loading arrangement.

On-street parking is on high demand in the LGA, and the development should not impact on street parking supply or create operational conflicts.

The proposed loading dock is proposed to be shared with different land uses; therefore, a Loading Dock Management Plan should be provided

Stantec have provided a detailed exploration of options for accommodating on site loading for either an HRV or an MRV and the following significant issues have arisen.

Loss of non-residential floor space: the allocation of an MRV space within the egress path adjacent to the existing ramp would impact upon the retail space known as retail 1 requiring amendments to the size of the space resulting in a non-compliance in non-residential FSR and a reduced activation of the streetscape. Similarly, if the retail space known as retail 1 were used by an MRV this would reduce the development capability in activation of the streetscape and result in a non-compliance with the development standard Cl. 4.4 Non-residential floor space ratios.

Inability to exit the site in a forward direction: the provision of an on site loading dock would require MRV's to enter the site in a forward direction but reverse out to the street through the footpath and cycleway and is considered an unsafe outcome.

The provision of an on street loading zone is considered the most appropriate outcome given the constraints of the adaptive reuse of the site. On street loading as per Stantec exploration is the safer option for the footpath and cycleway and although an on street parking space would be lost the loading bay can be restricted to certain times allowing usual on street parking to not be affected entirely.

Council's Traffic Officer has confirmed if the merits of the on street loading bay is supported this request will be subject to a separate post consent process including community consultation and consideration by Council's Traffic Committee which includes voting members such as the Police.

6. CONCLUSION

The proposal seeks consent for substantial demolition and adaptive reuse of an existing 11-storey commercial office building with existing ground floor retail and childcare uses into residential apartments with ground floor retail and an expanded podium.

The proposal has a positive environmental impact on the natural and built environment increasing the provision of landscaping within the site and adding to the landscaped character of the streetscape and the design of the building retains the built form character of the tower retaining its modulated pebblecrete façade and the podium is an appropriate design response activating the streetscape and well designed with appropriate use of colours and materials. The development also has a positive social impact designed to add housing supply, the ground level contributes to activation of the streetscape and sufficient internal areas provide high amenity common open space. There are economic advantages in both the short term and long term with employment generated through construction and the ongoing use of the ground floor non-residential tenancies.

The development being shop top housing is permissible in the MU1 Mixed Use zoned land and the development responsive to the constraints and opportunities of the site and where reasonable noting the adaptive reuse the development generally complies with the relevant controls in the Apartment Design Guide therefore the development is suitable for the site and its MU1 Mixed Use Zone.

In total 7 submissions have been received concerning visual and acoustic privacy, traffic congestion and road safety and height exceedance. The development provides a reasonable outcome to mitigate against privacy of residents in adjoining sites and the development will result in an appropriate use of parking within the basement including alternative transport and the on street loading has been conveyed as the most appropriate option for the site and adaptive reuse of the site.

The development has been assessed in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979 and it represents an acceptable planning and design outcome for this site and will contribute positively to both the character of the street, the immediate locality and the residential amenity of the area.

The proposal accords with the design principles for residential apartment development, it highly complaint with criteria and objectives in the Apartment Design Guide and the development is supported by the Design Excellence Panel and has responded to the requirement to reduce the height of the podium to achieve a more appropriate street presence. The development satisfies the aims of Chapter 4 'Design of residential apartment

development' and the requirements in Cl. 147 'Determination of development applications for residential apartment development' of SEPP Housing 2021.

The proposal has been assessed against the relevant objectives and provisions of the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013. The proposal satisfies the key planning controls in the North Sydney Local Environmental Plan apart from Clause 4.3 Height of Buildings development standard. A Clause 4.6 Statement has been submitted with the application justifying the variation. In this case the variation is considered to be reasonable or necessary in the circumstances of this case and there are sufficient environmental planning grounds to support varying the control in this instance.

The proposed development is consistent with the zone objectives for the MU1 Mixed Use Zone satisfying the zone objectives for area of the site by providing non-residential ground floor tenancies encouraging employment opportunities the podium plus provision of landscaping is inviting for pedestrians.

7. RECOMMENDATION

That the Development Application DA No 34/2025 for adaptive reuse of an existing 11 storey commercial office building into shop top housing at 8 West Street, North Sydney be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent