

## **STATEMENT OF ENVIRONMENTAL EFFECTS**

Modification of  
Development Consent DA  
436/2008

Residential Flat Building  
Development

5 Commonwealth Parade,  
Manly

# Statement of Environmental Effects

## Modification of Development Consent DA436/2008 Residential Flat Development

**5 Commonwealth Parade, Manly**

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## 1 INTRODUCTION

On 3<sup>rd</sup> March 2009 development consent DA436/2008 was granted for amendments to the basement design of a residential flat building approved on the 29<sup>th</sup> September 2006 pursuant to development consent DA211/2004.

On 22<sup>nd</sup> June 2009 Council confirmed that DA436/2008 had the effect of adopting for approval the plans the subject of DA211/2004 with the exception of the superseded basement and ground floor plans. On 24<sup>th</sup> July 2014 it was determined that works the subject of DA436/2008 had substantially/physically commenced.

Development consent DA436/2008 has been subsequently modified a number of times including the consolidation of the 4 approved apartments into 3 and the refinement of the architectural detailing to provide superior streetscape, residential amenity and broader urban design outcomes. These previously approved modifications also include changing the curved roof to a flat roof, more efficient planning around the circulation core, enhance privacy through the provision of integrated fixed screening and landscape treatments, the replacement of the car stacker with tandem parking spaces to reduce excavation and potential construction impacts on the neighbouring building and changes to the approved schedule of materials and finishes.

We have again been engaged to prepare a modification application pursuant to section 4.55(2) of the Act. Specifically, the application seeks to further refine the building design to enhance amenity and improve buildability have regard to the recent changes in relation to Class 2 construction and the industry adoption of 3.2 m floor to floor/ floor to roof allowances to ensure that minimum 2.7 m ceiling heights are able to be achieved whilst providing necessary services including sprinklers. In this regard, the application proposes an 820mm increase in overall building height to achieve the above Class 2 BCA/ADG design requirements together with minor changes to facilitate servicing including the removal of the entry awning and the raising of the ground floor planter to allow for service cupboards.

Particular attention has been given to ensuring that the development, as modified, does not result in any unacceptable shadowing impacts to surrounding development and that a reasonable view sharing outcome is maintained with the immediately adjoining properties in particular No. 7 Commonwealth Parade and 1A Fairlight Street.

In addition to this Statement of Environmental Effects, the application is also accompanied by the following:

- Site survey
- Architectural plans, elevations, sections, shadow diagrams
- Stormwater management plans
- Landscape plans
- Geotechnical report

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979 (the Act);

- Manly Local Environmental Plan 2013 (MLEP); and
- Manly Development Control Plan 2013 (MDCP).
- State Environmental Planning Policy Housing (2021) (SEPP Housing).
- State Environmental Planning Policy (Sustainability) 2022.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1A) of the Act. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The application maintains superior streetscape, residential amenity and broader urban design outcomes on this particular site.
- The application satisfies the various relevant local and state planning controls applicable to the site and the proposed development.
- The proposed development is consistent with the desired future character of the Manly precinct have regard to the recently adopted LMR provisions.
- The proposed development, as modified, will not unreasonably compromise the residential amenity afforded to surrounding development through approval of the original scheme in terms of privacy, solar access and view sharing.

On the basis of the above analysis we regard the proposed application as being “essentially or materially” the same as the approved development such that the application is appropriately dealt with by way of Section 4.55(2) of the Act.

## 2 SITE ANALYSIS

### 2.1 Site Description and location

#### 2.1.1 The Site

The subject property is described as Strata Plan 11874, No. 5 Commonwealth Parade, Manly. The site is located on the western side of Commonwealth Parade. The property is irregular in shape, has a frontage of 15.4m to Commonwealth Parade and 9.2m to The Crescent, an average depth of 38.8m and an area of 460m<sup>2</sup>. A location map is included as **Figure 1**.



**Figure 1:** Site Location (Source: Six Maps)

The property is occupied by a three-storey residential flat building with vehicular access via an existing driveway from The Crescent to an existing single garage. The property slopes approximately 6m across its surface in an easterly direction.





*Figure 2: Subject property as viewed from Commonwealth Parade (Source: Google Maps)*



*Figure 3: Subject property as viewed from The Crescent (Source: Google Maps)*

### The Locality

The adjacent property to the north, at 1-3 Commonwealth Parade, is developed with a three-storey residential development. The adjacent property to the south, at 7 Commonwealth Parade, is developed with a seven-storey residential development. Development in this area of Commonwealth Parade is characterised by residential development of varying density. The property located on the opposite side of The Crescent, 1A Fairlight Street, is occupied by a 3 and 4 storey residential flat building located on a corner allotment.



**Figure 4:** Surrounding development as viewed looking north along The Crescent with subject site to right of the photograph (Source: Google Maps)

### 3 DESCRIPTION OF PROPOSED DEVELOPMENT

#### 3.1 Detail of the Proposed Modifications

The development, as modified, is depicted on the accompanying S4.55 architectural plans prepared by Platform Architects. Specifically, the modifications can be summarised as follows:

##### Basement Floor Plan

- Fire hydrant booster and water metre cupboards relocated to the front of the building
- Gas metre cupboards relocated to the Crescent
- Storage areas and room layout redesigned
- FHR relocated
- Parking layout amended to include 3800 x 5400 accessible Bay
- Entry stairs redesigned to allow for accessible parking bay
- Stormwater drainage system updated

##### Ground Level Floor Plan

- Entry stairs redesigned to allow for accessible parking bay
- lobby and riser layout redesigned around service consultant input
- Unit 1 balcony redesigned to allow for fire hydrant booster in cold water meter cupboard
- Interior design updated.

##### Level 1 Floor Plan

- A 160mm increase in floor level
- Gas metre cupboard relocated to the present
- Lobby and riser layout redesigned around service consultant input
- Column added to balcony

##### Level 2 Floor Plan

- A 320mm increase in floor level
- Lobby and riser layout redesigned around service consultant input
- Unit 3 ensuite, laundry and pantry redesigned

**Level 3 Floor Plan**

- A 520mm increase in floor level
- Internal layout redesigned
- Spa and sauna included
- Balcony tiles replaced by timber decking
- Non accessible balcony areas change from pebble finish to timber decking

**Roof Plan**

- An 820mm increase in the approved ridge level and the introduction of a new skylights.

The amended stormwater design detailed on the accompanying hydraulic plans prepared by Mance Arraj Engineers.

## 4 STATUTORY PLANNING FRAMEWORK

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15(1) of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential adverse environmental impacts are discussed below.

### 4.1 Environmental Planning and Assessment Act 1979

Section 4.55(2) of the Act provides that:

(2) *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:*

*(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

.....

In answering the above threshold question as to whether the proposal represents “substantially the same” development the proposal must be compared to the development for which consent was originally granted, and the applicable planning controls. In order for Council to be satisfied that the proposal is “substantially the same” there must be a finding that the modified development is “essentially” or “materially” the same as the (currently) approved development - Moto Projects (no. 2) Pty Ltd v North Sydney Council [1999] 106 LGERA 298 per Bignold J.

The above reference by Bignold J to “essentially” and “materially” the same is taken from Stein J in Vacik Pty Ltd v Penrith City Council (unreported), Land and Environment Court NSW, 24 February 1992, where his honour said in reference to Section 102 of the Environmental Planning and Assessment Act (the predecessor to Section 96):

*“Substantially when used in the Section means essentially or materially or having the same essence.”*

What the abovementioned authorities confirms is that in undertaking the comparative analysis the enquiry must focus on qualitative elements (numerical aspects such as heights, setbacks etc) and the general context in which the development was approved (including relationships to neighbouring properties and aspects of development that were of importance to the consent authority when granting the original approval).

When one undertakes the above analysis in respect of the subject application it is clear that the approved development remains, in its modified state, an application proposing the construction of a residential flat building on the site which will continue to relate to its surrounds and adjoining development in a manner consistent with that sought through approval of the original application. The primary modifications relate to servicing requirements and compliance with the Class 2 BCA/ADG ceiling height and floor to floor industry standards. We are satisfied that the modifications sought will not give rise to unacceptable streetscape or residential amenity impacts in terms of views, privacy or solar access.

The Court in the authority of *Stavrides v Canada Bay City Council* [2007] NSWLEC 248 established general principles which should be considered in determining whether a modified proposal was “substantially the same” as that originally. A number of those general principles are relevant to the subject application, namely:

- The proposed use and residential density do not change,
- The building form, footprint, height, floor space, car parking, landscaping and drainage circumstances are not materially altered,
- The modifications maintain the previously approved/ intended residential amenity outcomes (to residential properties within the vicinity of the site) in terms of privacy, visual bulk, acoustic privacy, overshadowing and view sharing.

On the basis of the above analysis, we regard the proposed application as being “essentially or materially” the same as the approved development such that the application is appropriately categorised as being “substantially the same” and is appropriately dealt with by way of Section 4.55(2) of the Act.



## 4.2 Manly Local Environmental Plan 2013

### 4.2.1 Zoning

The subject property is zoned R1 General Residential pursuant to Manly Local Environmental Plan 2013 (MLEP 2013) with residential flat buildings permissible in the zone with consent. The stated objectives of the zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

A residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing. The proposed 4 storey development contains 3 dwellings and to that extent is appropriately defined as a residential flat building and permissible with consent in the zone.

The proposed development meets the relevant zone objectives as it provides for the housing needs of the community within a medium density building typology. Accordingly, there are no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

### 4.2.2 Height of Buildings

Pursuant to clause 4.3 MLEP 2013 the height of any building on the land shall not exceed 11 metres above ground level (existing) as detailed on the heights of building map. The stated objectives of this clause are:

- (a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- (b) *to control the bulk and scale of buildings,*
- (c) *to minimise disruption to the following:*
  - (i) *views to nearby residential development from public spaces (including the harbour and foreshores),*
  - (ii) *views from nearby residential development to public spaces (including the harbour and foreshores),*
  - (iii) *views between public spaces (including the harbour and foreshores),*
- (d) *to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

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

The dictionary to the LEP defines building height to mean:

***building height (or height of building)*** means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

***ground level (existing)*** means the existing level of a site at any point.

We confirm that the development, as modified has a maximum building height of 11 metres when measured above ground level existing and accordingly is compliant with the standard.

Pursuant to the provision at section 4.15 of the Act as the numerical standard is satisfied the proposal is “deemed to comply” with the associated objectives no further enquiry is required in this regard.

#### **4.2.3 Floor Space Ratio**

Pursuant to Clause 4.4 MLEP 2013 the maximum FSR for development on the site is 1.5:1 representing a gross floor area of 1093.8 square metres. The stated objectives of this clause are:

- (a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
- (b) *to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*
- (c) *to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*
- (d) *to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*
- (e) *to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

As previously indicated, the previously approved GFA/ FSR are not altered as a consequence of the works proposed.



#### 4.2.4 Foreshore Scenic Protection Area

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

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

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

- The height, scale and architectural presentation of the development are not significantly altered with the building remaining contextually appropriate having regard to the built form characteristics established by adjoining development.
- The overall design quality of the building ensures that it will be a landmark development within its context.
- Having regards to the Land and Environment Court of NSW planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed building offensive, jarring or unsympathetic to its context or surrounds.
- The development will not give rise to any adverse physical or amenity impacts on the foreshore areas and will enhance the visual amenity of the area generally.

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

## **4.3 Manly Development Control Plan 2013**

### **4.3.1 Street Townscape**

We have formed the considered opinion that the development appropriately responds to the design principles contained at clause 3.1.1 of the Manly DCP as follows:

- The design quality and visual aesthetic of development on this site is significantly enhanced as a consequence of the contemporary building design sought.
- The height, form and massing of the development is complimentary and compatible with that established by adjoining residential flat development and medium density development generally within the site's visual catchment.
- The height, bulk and scale of the development will not give rise to any adverse streetscape impacts and will in fact enhance the scenic amenity of the area when viewed from surrounding public and private land.
- The proposed front and side boundary setbacks are consistent with those originally approved and established by recently approved and constructed development within the precinct.
- Development incorporates a varied palette of materials and finishes providing for a visually interesting building presentation in the round.
- Bin storage is integrated into the design of the development and appropriately screened such that it will not be discernible as viewed from the street.
- The development maintains appropriate levels of privacy, sunlight and view sharing to surrounding development as detailed in this report.

Council can be satisfied that the development responds appropriately to the Design Principles contained at clause 3.1.1 of the Manly DCP.

### **4.3.2 Landscaping**

In accordance with the provisions of clause 3.3 of Manly DCP the outcomes afforded by the approved landscape plan prepared by Scape Design are not compromised with such plan nominating appropriate ground level and upper level balcony edge planter box plantings to ensure the building sits within a landscape setting and appropriate visual privacy is maintained between adjoining development.

Such landscaping will continue to provide for a significantly enhanced landscape outcome for the site and will soften the edges of the building form as viewed from the street frontage and the immediately adjoining residential properties. These provisions are satisfied.

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

The modified scheme has been developed through site and contextual analysis to identify the constraints and opportunities associated with the site having regard to the height, proximity, and orientation of adjoining residential development. Particular attention has been given to ensuring that the development not only responds to its immediate built form context, and the form of development anticipated within the zone, but importantly, to ensure that appropriate residential amenity is maintained to the immediately adjoining residential properties in relation to solar access, views and privacy.

It has been determined that the previously approved highly articulated and modulated building form and massing will be maintained with the increase in overall building height not giving rise to any unacceptable/ non-compliant residential amenity impacts in terms of overshadowing as depicted on the accompanying shadow diagrams.

In relation to privacy, we confirm that internal living and adjacent private open space areas continue to be orientated towards both street frontages with side boundary facing fenestration limited and off-set from windows in adjoining development where possible to prevent direct overlooking opportunities between properties. We have formed the considered opinion that a reasonable level of visual and aural privacy will be maintained between adjoining development.

The proposal provides for the sharing of both public and private views with view corridors maintained across the site and down both sides of the property. From our own observations, a view sharing outcome is maintained to all adjoining properties including No. 7 Commonwealth parade and 1A Fairlight Street.

Accordingly, we have formed the considered opinion that a view sharing scenario is maintained in accordance with the DCP provision and the view sharing principles established in the matter of Tenacity Consulting Pty Ltd v Warringah Council [2004] NSWLEC140.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development by virtue of its height or floor space offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the sites visual catchment.

#### **4.3.4 Stormwater Management**

All stormwater will be disposed of to the street drainage system as detailed on the accompanying hydraulic plans prepared by Mance Arraj Engineers.

#### **4.3.5 Waste Management**

The previously approved waste storage and collection arrangements are not altered.

#### **4.3.6 Mechanical Plant Equipment**

The previously approved mechanical plant location and acoustic performance/ outcomes are not altered.

#### **4.3.7 Dwelling Density and Subdivision**

The previously approved dwelling density is not altered.

#### **4.3.8 Setbacks**

Having regard to the clause 4.1.4 setback provisions we note that the modified development maintains the previously approved setbacks which are complimentary and compatible with those established by adjoining development and development generally within the sites visual catchment. We have formed the considered opinion that the proposed development by virtue of its front and side setbacks will not be perceived as inappropriate or jarring in a streetscape context.

Accordingly, the site specific and contextually responsive setbacks are considered entirely appropriate under the circumstances.

#### **4.3.9 Open Space and Landscaping**

Pursuant to clause 4.1.5 development on the land shall provide a minimum open space of 50% of the site area of which 30% shall be landscaped area. A maximum of 40% of the required open space can be above ground level. A minimum of 12m<sup>2</sup> of private open space must be provided for each apartment with a minimum dimension of 2 metres.

We confirm that the previously approved total open space and landscaped area outcomes are not compromised.

#### **4.3.10 Parking, Vehicular Access and Loading**

The previously approved quantum of off-street parking spaces is maintained.

#### **4.3.11 Compliance Table**

	Control	Proposed	Compliance
<b>Manly Local Environmental Plan 2013</b>			
Height of Buildings	Max 11m overall	Maximum 11m	YES
Floor Space Ratio	Max 0.75:1	No change	No change
<b>Manly Development Control Plan 2013</b>			
Dwelling Density	No change	No change	No change
Front Setback	Maintain consistent setback	No change	No change
Side Setbacks	1/3rd wall height.	No change	No change
Open Space	Min 50% of which 30% is to be soft landscaped	68.5 of which 17.4% is soft landscaped	No change
Private Open Space	Min 12sqm / dwelling	>12sqm/ dwelling	No change
Carparking	No change	No change	No change

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

As the original application was assessed and considered pursuant to this state planning policy it remains relevant to an assessment of the modifications sought. The application is accompanied by the required Design Verification Statement prepared by Platform Architects demonstrating that the overall design quality of the development is not compromised.

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

This SEPP applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX Assessment accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

#### **4.6 Matters for Consideration pursuant to section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended**

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

##### **4.6.1 The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations**

This report clearly and comprehensively addresses the statutory regime applicable to the application pursuant to the Manly LEP 2013 and Manly DCP 2013.

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

#### *Context and Setting*

- i. What is the relationship to the region and local context in terms of:*
  - *The scenic qualities and features of the landscape*
  - *The character and amenity of the locality and streetscape*
  - *The scale, bulk, height, mass, form, character, density and design of development in the locality*
  - *The previous and existing land uses and activities in the locality*

These matters have been discussed in the body of this report.

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

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*
- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be acceptable with regard to the applicable legislation.

*Access, transport and traffic:*

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

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

These issues have been discussed in detail in the report. The development provides adequate carparking facilities in conformity with the standards of the policy.

*Public Domain*

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

*Utilities*

This matter has been discussed in detail in the body of this report.

*Flora and Fauna*

The site will be landscaped. The planting and landscaping treatments will enhance the landscape quality of the locality.

*Waste Collection*

Normal domestic waste collection applies to this development.

### *Natural hazards*

N/A

### *Economic Impact in the locality*

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

### *Site Design and Internal Design*

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

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

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the desired future character and built form controls of the DCP.

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

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

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

### *Construction*

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

- *The environmental planning issues listed above*



- *Site safety*

Normal site safety measures and procedures will ensure that no safety or environmental impacts will arise during construction.

#### **4.6.3 The suitability of the site for the development**

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

The adjacent development does not impose any unusual or impossible development constraints. The site is well located with regards to public transport and utility services. The development will not cause excessive or unmanageable levels of transport demand.

The development responds to the topography of the site, is of adequate area, and has no special physical or engineering constraints is suitable for the proposed development

#### **4.6.4 Any submissions received in accordance with this act or regulations**

It is envisaged that Council will appropriately consider any submissions received during the notification period.

#### **4.6.5 The public interest**

It is considered that the development is sensitive both to the natural and built environments and is consistent with the provisions of the Manly LEP and DCP.

## 5 CONCLUSION

The application seeks to further refine the building design to enhance amenity and improve buildability have regard to the recent changes in relation to Class 2 construction and the industry adoption of 3.2 m floor to floor/ floor to roof allowances to ensure that minimum 2.7 m ceiling heights are able to be achieved whilst providing necessary services including sprinklers. In this regard, the application proposes an 820mm increase in overall building height to achieve the above Class 2 BCA/ADG design requirements together with minor changes to facilitate servicing including the removal of the entry awning and the raising of the ground floor planter to allow for service cupboards.

Particular attention has been given to ensuring that the development, as modified, does not result in any unacceptable shadowing impacts to surrounding development and that a reasonable view sharing outcome is maintained with the immediately adjoining properties in particular No. 7 Commonwealth Parade and 1A Fairlight Street.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1A) of the Act. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The application maintains superior streetscape, residential amenity and broader urban design outcomes on this particular site.
- The application satisfies the various relevant local and state planning controls applicable to the site and the proposed development.
- The proposed development is consistent with the desired future character of the Manly precinct have regard to the recently adopted LMR provisions.
- The proposed development, as modified, will not unreasonably compromise the residential amenity afforded to surrounding development through approval of the original scheme in terms of privacy, solar access and view sharing.

On the basis of the above analysis we regard the proposed application as being “essentially or materially” the same as the approved development such that the application is appropriately dealt with by way of Section 4.55(2) of the Act.

**BOSTON BLYTH FLEMING PTY LIMITED**



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