

OUR REF: 18230

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29 November 2019

The General Manager  
Northern Beaches Council  
PO Box 82  
Manly NSW 1655

**ATTN** : Rebecca Englund, Principal Planner

Dear Rebecca,

**RE: SUPPLEMENTARY STATEMENT OF ENVIRONMENTAL EFFECTS (DA2019/0916)  
NO. 32 BOWER STREET, MANLY**

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Thank you for the opportunity to provide additional information regarding DA 2019/0916 for No. 32 Bower Street Manly, which includes the demolition of the existing dwelling and construction of a new dwelling with new swimming pools, basement parking and landscaping. This report has been prepared in response to Council's letter dated 14 November 2019, and a subsequent meeting held at Council on 19 November 2019 to discuss the concerns raised. The potential solutions discussed during this meeting have informed the amendments to the architectural and landscape plans, discussed throughout this supplementary Statement of Environmental Effects (SSEE). This document is to be read in conjunction with the attached architectural and landscape plans prepared by Campbell Architecture; an amended arborist report prepared by Botanics Tree Wise People Pty Ltd; and an amended Clause 4.6 Variation to Building Height.

As discussed at our meeting with Council and confirmed in your email of 21 November, amended drawings have been prepared to reduce the proposed building height, increase side setbacks to upper levels, reduce the proposed FSR, clarify removal or retention of trees and increase the proposed number of canopy trees within the site. This SSEE will provide a comparison between the lodged and amended drawings, to identify the changes and confirm RLs, building and wall heights.

This SSEE has been divided into the following sections: The Proposal; LEP Objectives; Planning Controls; Planning Assessment; and Conclusion.

## **1.0 THE PROPOSAL**

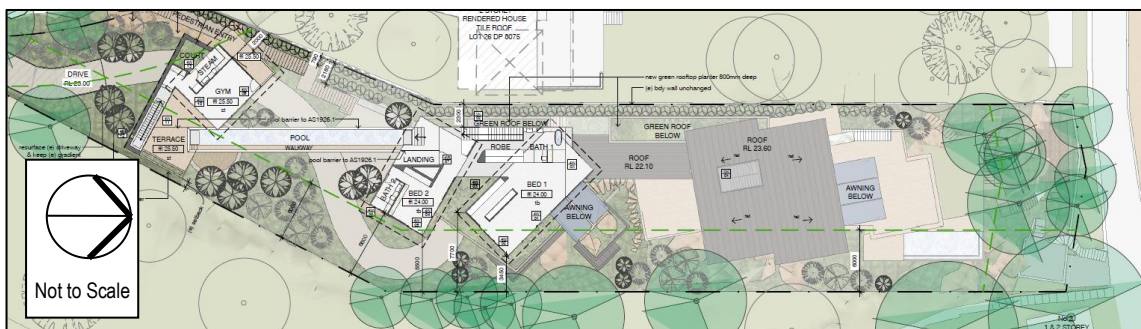
The proposal will continue to have a similar building footprint of the approved DA and involves a series of interconnected pavilions and base buildings at the front, middle and rear of the site. The proposal responds to the sloping topography of the site with a multi-level stepped design.

The changes related to reduction in height, reductions in wall height, and increases in side setbacks on the eastern side. A floor by floor description of the amended plans is provided below. Further details of the proposed development are contained in the amended architectural drawings, prepared by Campbell Architecture (separately submitted).

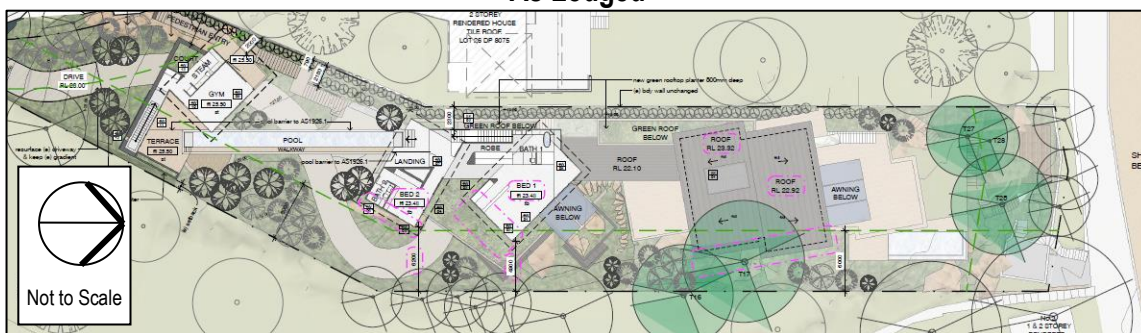
## Level 4

Level 4 is separated into three elements, connected by a lap pool and walkway. The proposed rooms and their uses are consistent with the lodged proposal, and the built form at the front of the site remains at RL 25.50 AHD. The landing area and adjoining rooms have been reduced by 520mm from RL 24.00 AHD to RL 23.48 AHD; and the roof at the lower portion reduced by 680mm from RL 23.60 AHD to RL 22.92 AHD, to accommodate the lowered building height (see Figure 1).

The extent of Bedroom 1, Bedroom 2 and Bathroom 2 have been reduced, with increased setbacks to the eastern boundary minimising encroachment on the 6m buffer to the adjoining reserve (see Figure 1). Bedroom 1 setback has increased from 3,450mm to 4,900mm, and Bedroom 2 setback has been increased to 6,200mm. Bedroom 2 is now outside the 6m reserve setback.



**As Lodged**



**Amended**

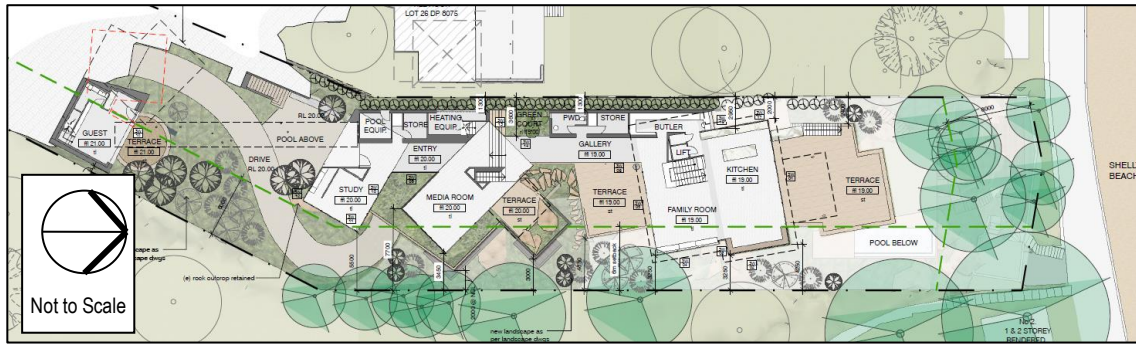
Source: Campbell Architecture

**Figure 1: Level 4 Floor Plan**

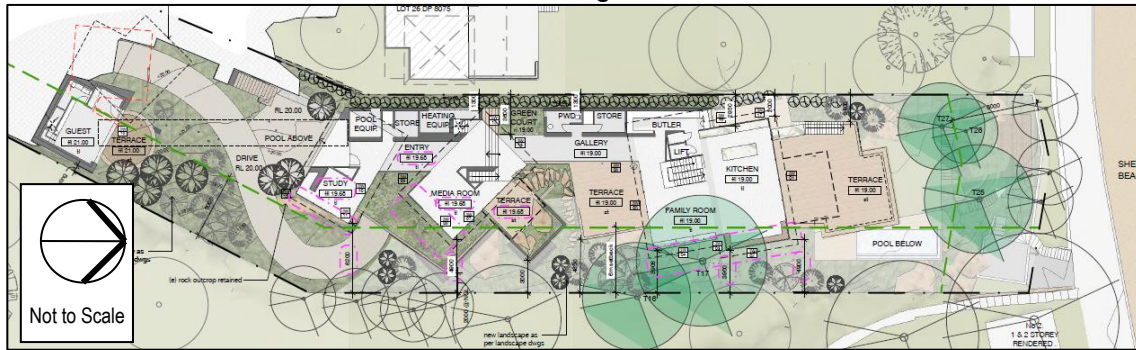
## Level 3

Level 3 is split into several elements. Similarly, the proposed rooms and their uses are consistent with the proposal. The built form at the front of the site remains at RL 21.00 AHD. Further down the site, the main dwelling entry, study, and media room portion has been lowered from RL 20.00 AHD to RL 19.68 AHD. The final element to the rear of the site remains at RL 19.00 AHD (see Figure 2 on the following page).

The extent of the media room and study have again been reduced, as per Bedroom 1 and Bedroom 2, with increased setbacks to the eastern boundary minimising encroachment on the 6m buffer to the adjoining reserve. The study is now outside the 6m reserve setback (see Figure 2 on the following page).



**As Lodged**



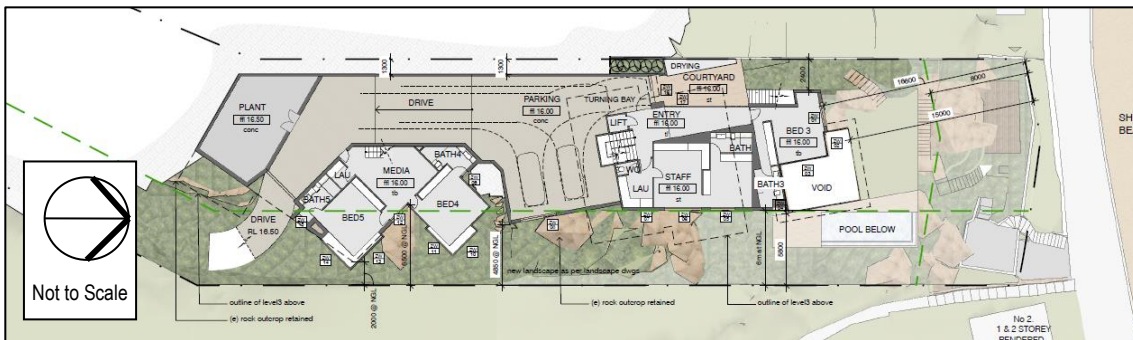
**Amended**

Source: Campbell Architecture

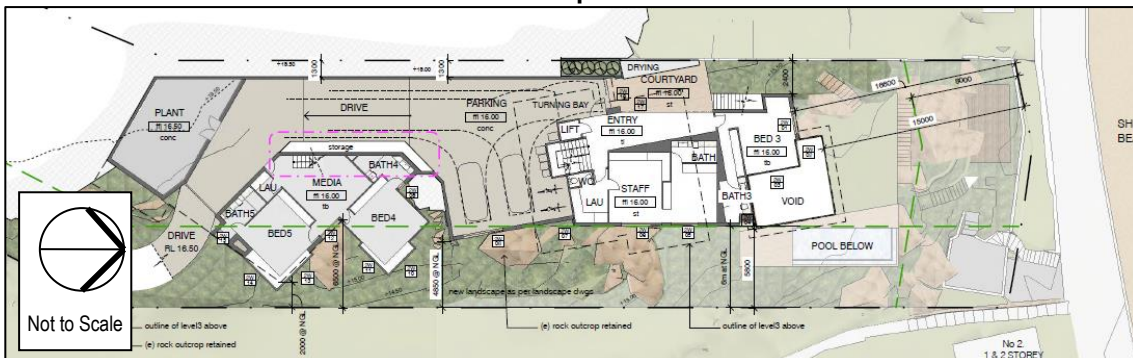
**Figure 2: Level 3 Floor Plan**

**Level 2**

Level 2 remains at RL 16.00 AHD and RL 16.50 AHD. The proposed rooms and their uses are consistent with the proposal. The only changes at this level are an additional storage area, adjoining the driveway; and two bicycle parking spaces to meet Council’s DCP requirements (see Figure 3).



**As Proposed**



**Amended**

Source: Campbell Architecture

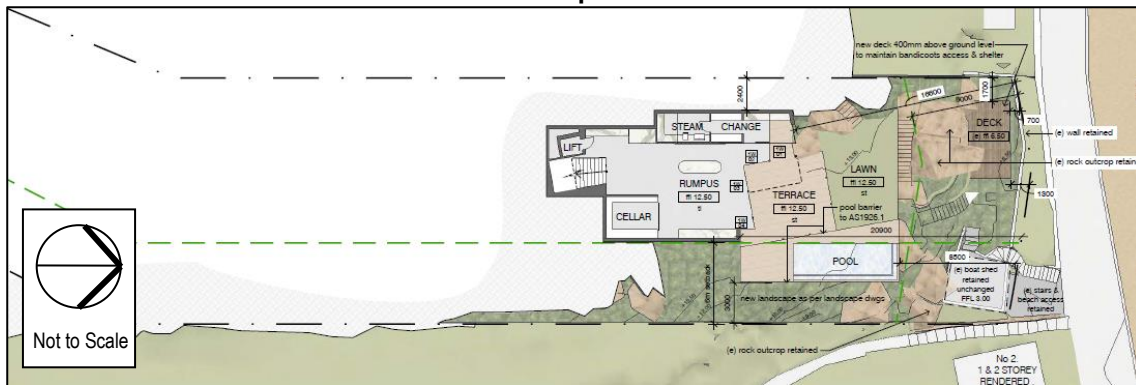
**Figure 3: Level 2 Floor Plan**

**Level 1**

Level 1 remains at RL 12.50 AHD towards the rear of the site. The proposed rooms and their uses are consistent with the proposal (see Figure 4).



**As Proposed**



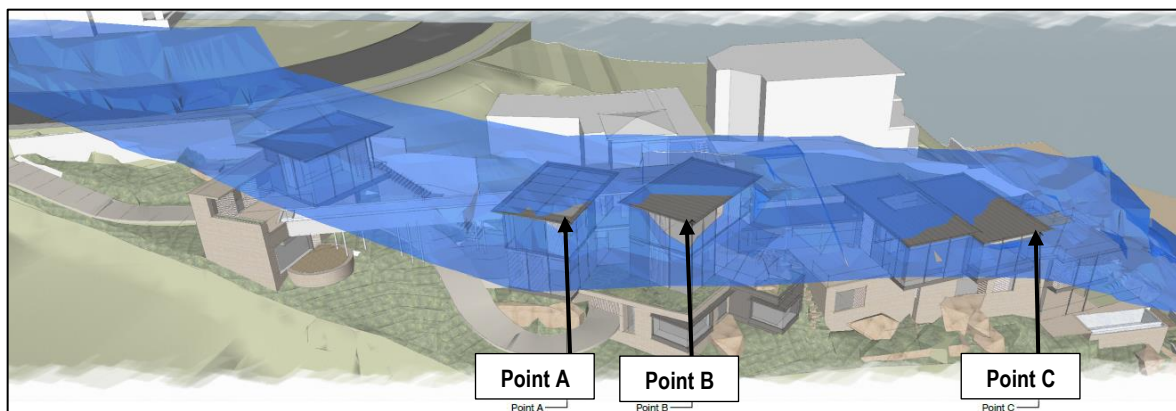
**Amended**

Source: Campbell Architecture

**Figure 4: Level 1 Floor Plan**

**1.1 Height**

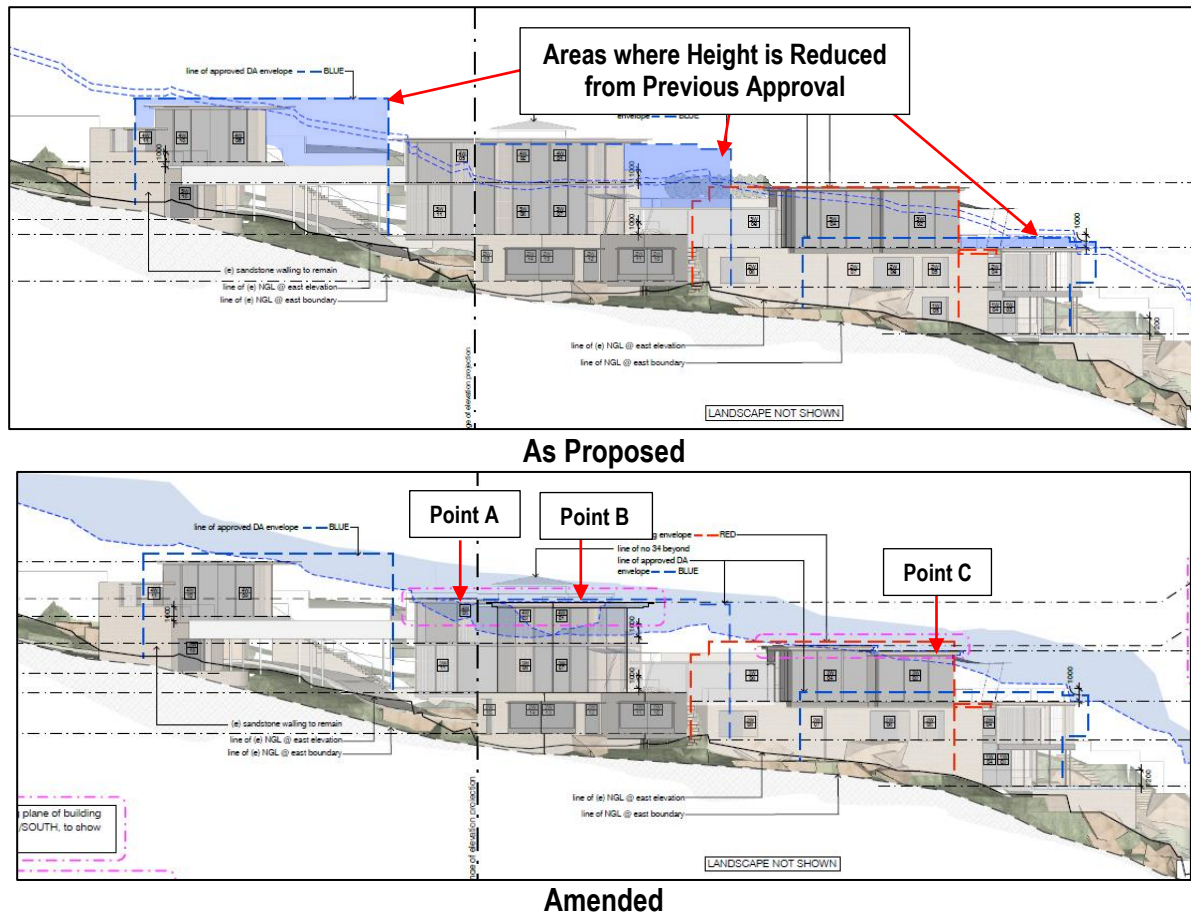
The new dwelling will have building heights of between 6.5m and 10.89m, with majority of the dwelling compliant with the control. The building height at Point A is 9.28m; at Point B is 10.89m; and Point C is 8.46m – 9.46m, (see Figure 5).



Source: Campbell Architecture

**Figure 5: Height Blanket showing the Amended Heights**

The proposed amended new dwelling reduces the previously approved development's building height, which had a maximum height of approximately 11m. It will continue to maintain views from No. 34 Bower Street (see Figure 6).



Source: Campbell Architecture

**Figure 6:** Eastern Elevation showing Proposed and Amended Height in comparison to Previously Approved Height

Importantly, the new proposed building height demonstrates consistency with the objectives of the building height control. These objectives are discussed further in Building height is discussed in detail in the amended Clause 4.6 Application to Vary a Development Standard (separately submitted).

## 1.2 Landscaping

The proposed amended development will provide 1,176m<sup>2</sup> open space, an improvement on the originally proposed DA, and 910m<sup>2</sup> landscaped area, which is 49% of the site area. The amendments increase the prevalence of trees across the site, for a total of 20 additional trees in the proposal. To accommodate the amended proposal, 12 trees are removed, 9 trees will be relocated, and now 11 trees will be retained on site.

Importantly, the *Ficus rubiginosa* (Tree 17) is retained with management and monitoring measures proposed in Annexure 7 of the amended Arborist Report, which states the following, inter alia:

*This Annex has been requested to detail the retention requirement for Tree 17. As detailed, this is a mature and significant *Ficus rubiginosa*, or Port Jackson Fig tree located adjacent to the site's eastern boundary. The tree was originally considered as a High value tree required for retention.*

*As such, the original proposed construction footprint had been set back to allow for this tree's preservation. Further assessment of the tree located extensive decay and poor structure, undermining its significance and leading to a Removal recommendations.*

Council has however since assessed the proposed development and seen the tree as High value and required for retention. The retention of the tree will not affect the currently proposed construction footprint, or development application. As noted, the tree has been affected by decay that has developed throughout its lower canopy and trunk base.

...

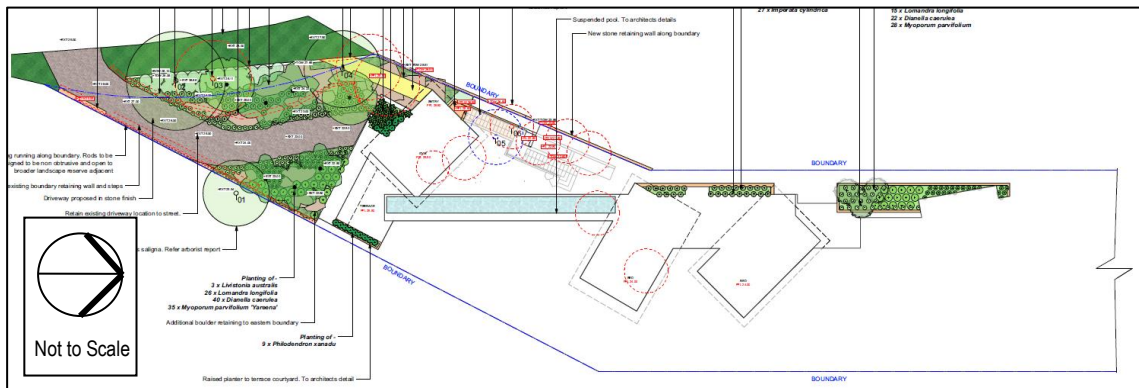
Arboricultural management of this tree will require the removal of all dead wood from throughout the tree's canopy, removal of selected crossed branches and the reduction of end weights on limbs considered to have a higher potential for failure. This may require the reduction of canopy mass by as much as 20%.

The tree will also require ongoing monitoring to assess health. The tree's mature age, structure and limited vigour will mean that the process of decay may well have set a course that cannot be reversed, and the tree will inevitably decline further.

The proposed landscaping across each level of the amended scheme is as follows:

**Level 4**

At Level 4, four trees are retained or relocated, consistent with the original proposal. Dense vegetation is incorporated in the front setback and surrounding the driveway to suit the existing landscape both on and surrounding the subject site. Rock outcrops are retained where possible. A timber pedestrian footbridge leads from the Bower Street to the pedestrian entrance. Three green rooftop planters will soften the built form when viewed across the site from nearby residents (see Figure 7).

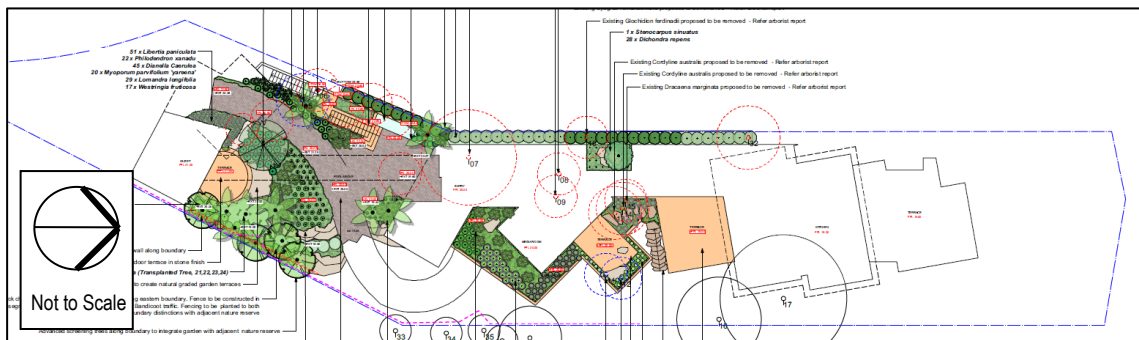


Source: Secret Gardens

**Figure 7: Level 4 Landscape Plan**

**Level 3**

At Level 3, three trees are retained, with additional trees and transplanted trees incorporated. A Queensland Firewheel Tree will grow between the two sections on the western side. A terrace adjoins the guest suite, surrounded by a forest of trees and low to medium height vegetation, creating a green edge along the eastern boundary. Stone steps and landings lead to the main entry point of the residence, and tall screening plants line the western side boundary. Also, on this level are two terraces adjoining the media room and kitchen, and a green roof, which will create landscaped views within the residence (see Figure 8).



Source: Secret Gardens

**Figure 8: Level 3 Landscape Plan**



## 2.0 LEP OBJECTIVES

The LEP Land Use Table contains the objectives for E3 Environmental Management Zone. The objectives and our responses are stated below, inter alia:

**Objective:** *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*

**Response:** The amended proposal will provide a contemporary dwelling and landscaping, designed to maintain the ecological, scientific or cultural values of the locality, and enhance the aesthetic value of the site. Reduction of built upon areas in the 6m setback zone will better protect the ecological significance of the adjoining reserve.

**Objective:** *To provide for a limited range of development that does not have an adverse effect on those values.*

**Response:** The proposed new dwelling and landscaping works is a typical form of development in the locality, with the proposal respecting the area's various built and natural values. The amended proposal will retain the existing *Ficus rubiginosa* and proposes additional canopy and endemic trees across the site.

**Objective:** *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore*

**Response:** Significant trees will be retained where identified as feasible by the Consultant Arborist, with the proposal now including 20 additional new trees; 47 cycads and palms; nearly 200 shrubs; and vegetation to ensure the proposed amended dwelling is compatible with nearby environments and will not dominate the natural scenic qualities of the foreshore.

**Objective:** *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*

**Response:** The proposal has been designed with consideration of the unique and sensitive natural environment of the site and surrounding area. The design will maintain the nearby foreshore, bushland or geological features by retaining and relocating a range of trees; and incorporating new vegetation.

**Objective:** *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutant in stormwater runoff on the ecological characteristics of the locality, including water quality.*

**Response:** Stormwater runoff will be managed in accordance with the Stormwater Management Plan, which has been designed to maintain the ecological characteristics of the locality.

**Objective:** *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

**Response:** The proposal has been thoughtfully sited and designed to benefit the amenity of surrounding development and respond to the site's challenging topography. The amended height, bulk and scale will integrate the building's presence into the foreshore character and will work cohesively with the surrounding environment and land uses.

In our opinion, the proposal satisfies the relevant objectives of the E3 Environmental Management Zone.



## 3.0 PLANNING CONTROLS

### 3.1 Manly Local Environmental Plan (LEP) 2013

A summary of our assessment of the proposed development against the Manly LEP is shown in Table 1.

TABLE 1: MANLY LEP 2013			
Site Area: 1,859m <sup>2</sup>			
Development Standard	Requirement	Proposal	Complies
Height of Building	8.5m	Max 10.89m	NO (see Section 3.1.3)
FSR	0.45:1	0.435:1	YES (see amended Architectural Plans, separately submitted)
Min. Lot Size	500m <sup>2</sup>	1,859m <sup>2</sup>	YES
LEP Provisions		Proposal	Complies/Comments
Land Zoning		E3 – Environmental Management	YES Dwelling is permitted with consent
Bushfire Prone Land		Vegetation buffer incorporated in DA. Bushfire report submitted.	YES
Earthworks		Earthworks objectives considered	YES (Addressed in SEE)
Scenic Protection Land		Foreshore Scenic Protection Area objectives considered	YES (Addressed in SEE)
Terrestrial Biodiversity		Terrestrial Biodiversity Objectives Considered	YES (Added in SEE)

The proposal satisfies the relevant objectives of the Manly LEP and is permissible in the E3 Zone. Although the proposal is not in a recognised heritage area, the proposal addresses the heritage setting of the immediate vicinity. Council has been satisfied with the previously approved proposal that the site is unlikely to contain items of Aboriginal Heritage.

#### 3.1.1 Height of Building

The LEP height provisions are contained in Clause 4.3 and the accompanying height map. Council's LEP prescribes a maximum height of 8.5m for the building, which was exceeded as part of the previous approval. The amended proposal exceeds the development standard of 8.5m by 0.78m – 2.39m, a reduction from the original proposal. The amended proposal also reduces the extent of the overall building height across the site. Areas of additional height are a function of the fall and cross-fall of the site's terrain.

An amended Clause 4.6 Variation has been submitted for the Height non-compliance which is, in our opinion, well-founded. The key arguments contained in the Clause 4.6 Application are stated, inter alia:

*The proposed height facilitates a development consistent with the planning objectives of the environmental management zone;*

...

*The proposal's height, bulk and scale has been carefully considered and designed to maintain the streetscape and reserve amenity and respect the scenic significance of the foreshore and ocean to the rear.*

...

*The proposal and areas of its additional height have been designed to maximise potential views across the site*

from habitable rooms of neighbouring and nearby properties. To maximise views from No. 34 Bower Street, the areas of additional height have been carefully positioned across the site; are stepped in height; and incorporate a flat roof form. This provides reduced view impacts compared to the previously approved heights and maintains ocean views currently enjoyed by No. 34 Bower Street

The previous approval presented a maximum building height of 11m on the site. This was justified in the Development Assessment Report, which states, inter alia:

- The non-compliances are directly associated with cross fall of the site.
- The proposal has an appropriate balance between building height and excavation.
- In the context of the site, the non-compliance is minor
- All houses comply with FSR and minimum landscaped controls so that form and massing of the development satisfies desired future character of the area.
- The building height non-compliance will not result in any unreasonable residential amenity impact in terms of view loss, overshadowing, privacy and visual bulk.
- The proposal is appropriate in terms of view sharing including the maintenance of views to the north.

Accordingly, in our opinion, the additional height is reasonable in this case. Further details are provided in the Clause 4.6 Application to Vary a Development Standard (separately submitted).

### 3.2 State Environmental Planning Policy (SEPP) BASIX – 2004

SEPP (Building Sustainability Index: BASIX) 2004 was gazetted on 26 June 2004 and applies to the subject site. SEPP BASIX requires all alterations and additions in NSW to meet sustainability targets for energy use and water use. In considering the merits of the proposal, it is appropriate to refer to the sustainability targets of the SEPP.

A BASIX Report prepared for the amended proposed development (separately submitted) shows the proposed new dwelling and swimming pools can satisfy the relevant water and energy reducing targets.

### 3.3 Manly Development Control Plan (DCP) 2013

A summary of our assessment of the proposed amended development against the DCP is shown in Table 2. Any variations impacted by the amended scheme will be discussed in the paragraphs following the table.

Provision	Control	Proposal	Complies
Side Setbacks	Eastern Side Setback: Min. 6m to public reserve	Amended Proposal: L1: 6.0m L2: min 2.0m – 6.0m L3: 3.39m – 6.2m L4: 4.9 – 6.2m  The existing carport structure is within 6m of the adjoining open space to the east.	Appropriate on Merit (see Section 3.3.1)
	Western Side Setback: Min. 1/3 of wall height  Requirement: 1.02m – 2.3m	Proposal: 1.3m – 3m	YES (see Section 4.6.1)
Wall Height	Western Wall height: 7.1m, 7.5m, 7.8m  Eastern Wall Height: 7.2m, 7.4m, 8.0m,	Western: max 7.1m, 7.5m, 7.8m  Eastern: max 8.88m – 10.49m (less than max. wall height of the approved development).	YES  NO, varies (see Section 4.6.2)

Open Space	1,022m <sup>2</sup> open space (min. 55% site area)  357.86m <sup>2</sup> soft landscaping (min. 35% open space)	1,176m <sup>2</sup> open space (13m <sup>2</sup> improvement compared to originally proposed)  910m <sup>2</sup> soft landscaping	YES
Landscaping	In low density areas open space should dominate the site. Setbacks of buildings from open space should also be maximised to enable open space to dominate buildings, especially when viewed to and from ... the Ocean and the foreshore.	Open space and landscaping dominate the subject site. The design of the amended proposal maximises open space within all setbacks of the site. When viewed from the foreshore to the rear, landscaping features will dominate the rear, with additional trees proposed and retained.	YES
	Landscaped Areas must be capable of supporting new native tree species that are typically expected to reach a mature height of 10m notwithstanding the minimum dimension requirements at paragraph 4.1.5.2 of this plan	Landscaped areas will continue to support existing and new native tree species with mature heights of up to 10m.	YES
Sunlight Access and Overshadowing	DCP Controls – 3.4.1 Sunlight Access and Overshadowing	Solar access remains compliant, as per the proposal, and will be further reduced by the amended proposal.  See amended Shadow Diagrams (separately submitted)	YES
Maintenance of Views	The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.	The amended proposal is predominantly within the approved DA building envelope and continues to ensure view loss is minimised through design elements, such as the incorporation of flat roofs and pavilion placement on the sloping topography of the site.	YES
	Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.	Minimal loss of views occurs when viewed from the street. The view from No. 34 Bower Street is improved with the height reduction of the amended proposal.	YES
Car Parking	Max. 2 spaces per dwelling	2 car parking spaces with turning bay provided, to allow vehicles to enter and exit the site in a forward direction as per the DCP.  2 bicycle spaces in amended design.	YES
Development on Sloping Sites	The design of development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.	The design is sensitive to the sloping topography of the site and maintains public and private views.	YES

As indicated by the table, the proposal complies with the majority of the controls contained in Council's DCP. Any variations are discussed in the following sections.

### 3.3.1 Side Setbacks

The existing lot is approximately 18.75m wide along the portion where the current dwelling is constructed. The required 6 metre setback to the reserve on the eastern side is almost one third of the site's width (see Figure 11 on the following page). Required setbacks on the western side are 1/3 of the wall height, which vary according to the wall heights. The proposed western side setback is generally no less than 1.3m, which is the same as existing. The side setback on eastern side ranges from 2.0m to 6.2m to the adjoining reserve, similar or less than the existing dwelling. The Level 3 & 4 setbacks are an improvement on the original proposal.

The DCP provides objectives regarding setbacks, with the relevant objectives and our response stated below, inter alia:

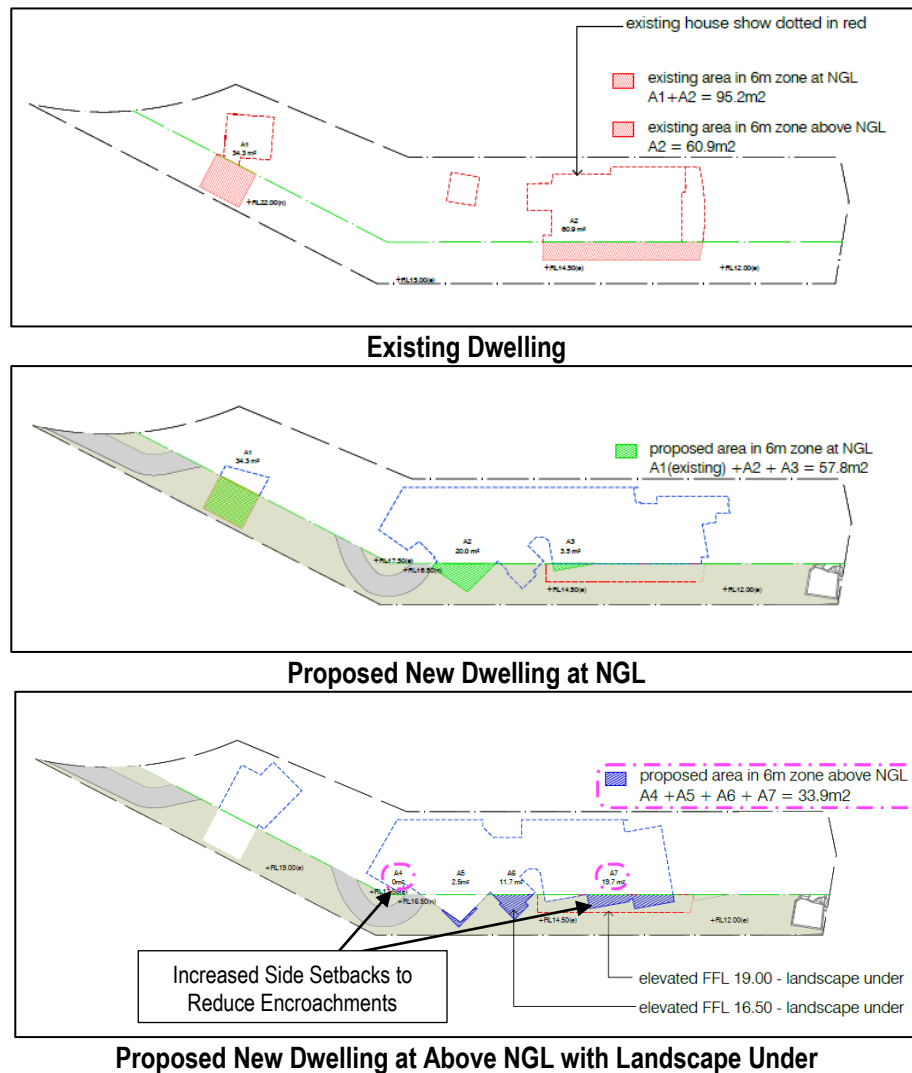
**Objective:** *To ensure and enhance local amenity by:*

- *Providing privacy;*
- *Providing equitable access to light, sunshine and air movement;*
- *Facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces; and*
- *Defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces.*

**Response:** The pavilions' placement and building design will continue to maintain privacy for the neighbouring dwelling at No. 34 Bower Street, with reduced additional overshadowing as a result of the compliant building and wall height on the western elevation and reduced overshadowing impacts on the adjoining reserve. The proposed side setbacks will maintain light, sunshine and air movement between the proposed dwelling, adjoining sites, and the reserve. The proposed side setbacks retain existing views and vistas and will not be readily visible from either Bower Street or Marine Parade due to the sloping nature of the site.

**Objective:** *To promote flexibility in the siting of building.*

**Response:** The amended proposal's form is a reaction to the long, linear shape of the site which would otherwise result from application of the 6-metre open space/reserve setback control on the eastern side. The amended proposal will reduce encroachments within the 6m eastern side setback zone at ground level, an improvement on the originally proposed and existing situations (see Figure 11 on the following page).



Source: Campbell Architecture

**Figure 11: Existing and Amended Proposed Built Areas within 6m Setback Zone**

The height limit for the site is 8.5m, the maximum wall height is 8.0m, and the maximum side setback required on the western side is 2.3m. If all the required setbacks were applied, the remaining developable area is approximately 10 metres. Over a site of this length, the architectural form would be severely constrained. Instead the amended proposal provides an interesting and appropriate form for the location that offers an improvement on the originally proposed eastern side setbacks. In our opinion, this is consistent with the objective to provide flexibility in the siting of a building.

**Objective:**

To enhance and maintain natural features by:

- Accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;
- Ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and
- Ensuring the provisions of State Environmental Planning Policy, No 19 – Urban Bushland are satisfied.

**Response:**

Visibility of the proposed building from the reserve and public pathway is minimised by proposed vegetation and landscaped features. The amended proposal will incorporate additional trees and retain the *Ficus rubiginosa* (Tree 17), as recommended by Council.

The proposal has considered the sensitivities of the location by blurring the line between the public reserve and the subject site with additional landscaping including trees; natural fence forms; and transparent fencing and materials. As discussed in the initial SEE, the proposal has taken into account the provisions of SEPP No. 19 – Bushland in Urban Areas in plant species protection and landscape design.

Additionally, the previous approval included a 0.3m numerical non-compliance on the western side setback. Council's Development Assessment Report offered the following reasoning, inter alia:

- *Minor non-compliance with setback which does not contribute substantially to view loss*
- *It does not obstruct views across rear boundaries*
- *Living room and balcony views are retained, with moderate loss at worst which is not made unreasonably worse by non-compliance*

The proposal similarly maintains views from private open spaces at No. 34 and 43 Bower Street and considers the privacy of adjoining development. This is discussed in our amended Clause 4.6 Application.

Accordingly, in our opinion, the rationale for the proposed setbacks meets the objectives and is well-founded in these circumstances.

### 3.3.2 Wall Height

The DCP calculates maximum wall height on the basis of site slope. The amended proposal has a fully compliant wall height on the western elevation. On the eastern side it varies, similar to the building height, however, is considered reasonable on a sloping site ranging from compliant wall heights general to maximums of between 8.88m to 10.49m.

The proposal's flat roof form and stepped pavilion design has utilised the existing topography of the site which has a steep cross-fall and a significant fall from front to the rear. Despite the additional wall height on the eastern side, the proposal will maintain the required level of solar access, privacy, and views to the reserve. The additional wall height will not be discernible from the street, due to the site's steep slope. This, and existing and additional trees, will minimise the bulk and scale when viewed from both the street and Shelly Beach.

In our opinion, compliance with the numerical wall height control is unnecessary in this circumstance as the objectives for wall height have been achieved.

## 4.0 PLANNING ASSESSMENT

### 4.1.1 Topography & Scenic Impacts

The extent of excavation has been reduced, compared to the current approval. Excavation will be undertaken in accordance with Council's standard conditions of consent. The Geotechnical Report, prepared by Crozier Geotechnical Consultants (separately submitted), supports the proposal. The proposal provides additional landscaped area compared to the control and, as previously discussed, provides access to foraging habitat to support the endangered Long-nosed Bandicoot population.

Existing trees will be maintained as nominated by the Consulting Arborist, with new landscaping including new trees, lawn areas, green roofs, hedging and court yards to enhance the appearance of the site when viewed from the street, the adjoining reserve, beach and foreshore to the rear. A higher portion of existing trees will be retained, specifically the *Ficus rubiginosa* (Tree 17), which will require maintenance and monitoring measures to be undertaken as recommended in the amended Arborist Report (separately submitted) and Tree 18 adjacent.

The amended proposal also allows for existing trees to be retained or replaced, and the incorporation of a total of 20 additional trees (three additional in the amended proposal) throughout to improve the landscape and scenic value of the site.

In our opinion, the amended proposal will improve the existing landscape setting compared to the originally proposed scheme.

#### 4.1.2 Impact on the Area's Character

The surrounding area has a steep fall from street level at Bower Street to Marine Parade and Shelly Beach at the rear. The area is characterised by a mix of two to four-storey dwellings that respond to the sloping topography of the locality. The subject site is no exception with a steep drop towards the foreshore area and a significant cross-fall.

Existing landscaping is sprawling and unkempt, which will be resolved with carefully designed landscaping that maintains a number of trees and vegetation on site. Importantly, the amended proposal will offer a built form with reduced height, bulk and scale compared to the original proposal. Retaining additional trees on site and further planting of endemic species will present a more cohesive scheme that responds to the natural environment. Specifically, through retaining Tree 17 and other significant trees on site, the amended proposal will be less dominant when viewed from the reserve to the east (see Figure 12). The provision of bandicoot foraging material typical of the surrounding natural environment will enhance and augment existing Long-nosed Bandicoot habitat.



Source: Campbell Architecture

**Figure 12:** The Amended Proposal with Landscaping, as viewed from the Reserve (east)

The introduction of tall landscaped elements and mass native and subtropical plantings create a blur between the site and the beach at the rear. Importantly, the amended proposal presents a built form that works cohesively with the topography, existing and new trees, and landscaped features when viewed from Shelly Beach and Marine Parade (see Figure 13 on the following page).



Source: Campbell Architecture

**Figure 13:** The Amended Proposal with Landscaping, as viewed from Shelly Beach (north)

In our opinion, the visual and amenity impact of the proposed amended dwelling is compatible and consistent with the character of the area.

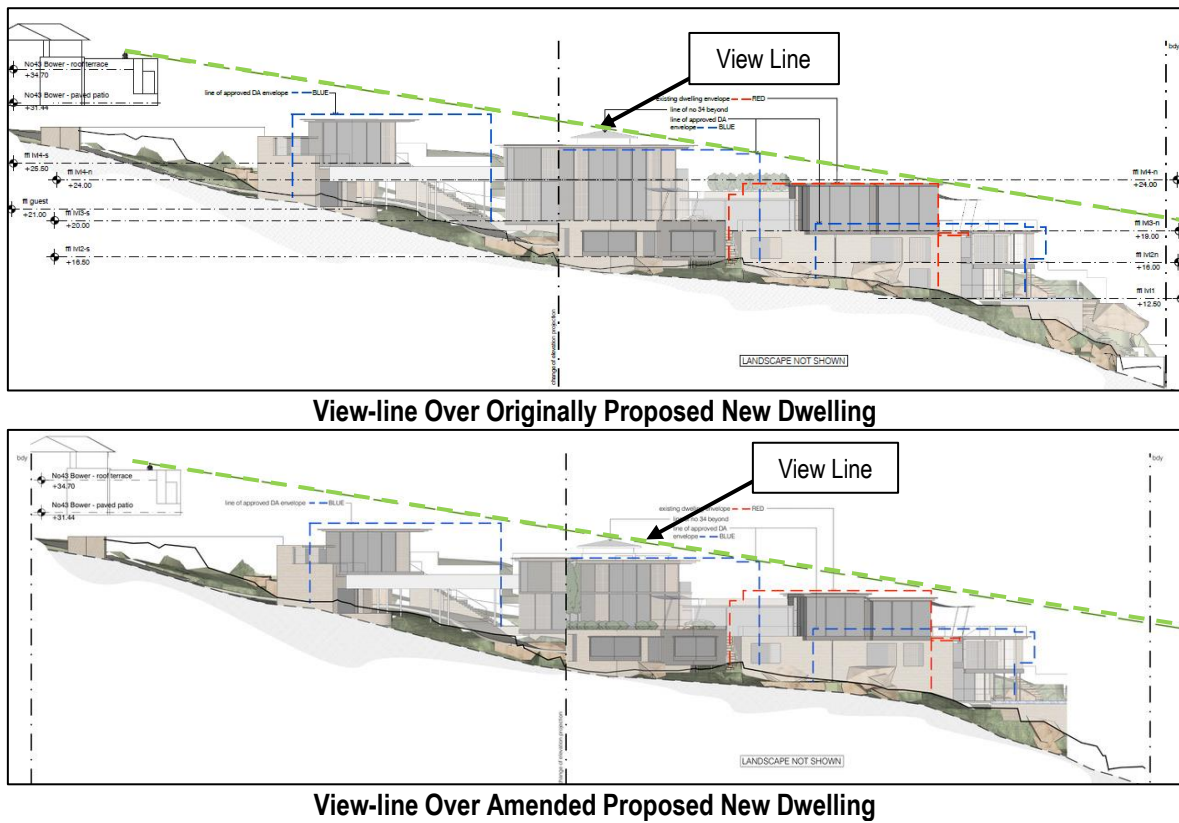
#### 4.1.3 View Impacts

In the assessment of development applications relating to view issues, the NSW Land and Environment Court rely on the principle of the *Tenacity v Warringah Council* [2004] NSWLEC 140. Our assessment of the proposal against this planning principle is included below. The four steps in assessing view affectation are considered as follows:

- Assessment of the views Affected
- From what Part of the Property are Views Obtained?
- The Extent of Impact
- The Reasonableness of the Proposal

As discussed in the initial SEE, minimising view loss from the neighbouring property at No. 34 Bower Street has been an important consideration and is addressed by relocating the built form further south from the neighbour's living areas; maintaining a stepped height; and flat roof forms. This, coupled with a reduction in building height compared to the original proposal and previous approval, provides significantly less intrusive impacts and maintains existing ocean views enjoyed from the living room and balcony of No. 34 Bower Street (see Figure 14 on the following page).





**Figure 14:** Original and Amended Proposed View Impact Diagram, as viewed from The Roof Terrace of No. 43 Bower Street

The proposal has been sensitively designed to retain neighbours' views by careful consideration of heights and placement of the pavilions. Accordingly, it is considered that the proposal favourably relates to its neighbours in relation to the DCP controls for view sharing and achieves the relevant objectives.

## 5.0 CONCLUSION

Having considered Council's comments and concerns, the required amendments have been made to the proposed architectural plans. We look forward to a favourable outcome, and if you require any further information or clarification, please don't hesitate to contact our office on (02) 9362 3364.

Yours faithfully,

Yvette Middleton  
**ASSOCIATE DIRECTOR**