

STATEMENT OF ENVIRONMENTAL EFFECTS

PROPOSED ADDITIONS TO EXTEND EXISTING REAR BALCONIES
ON TWO LEVELS OF EXISTING FOUR STOREY APARTMENT BUILDING

AT

126 BOWER STREET, MANLY

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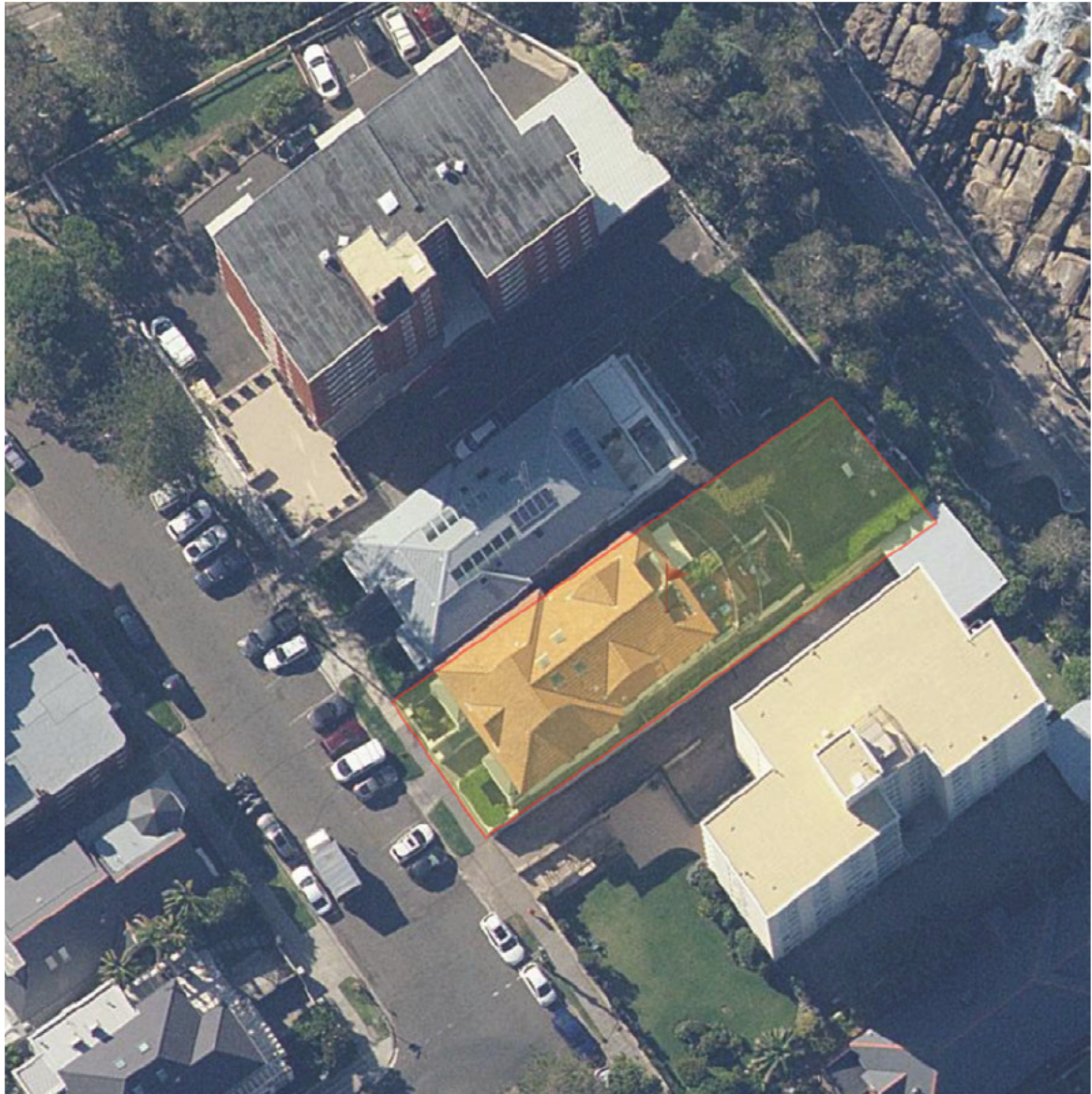
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1. INTRODUCTION

This statement of environmental effects supports a development application for the extension of existing elevated rear balconies on two levels of an existing four-dwelling apartment building on SP 38216 at 126 Bower Street, Manly.



LOCALITY MAP OF SITE AND SURROUNDING AREA



AERIAL VIEW OF SITE

2. LOCALITY CONTEXT AND SITE ANALYSIS

2.1 THE SITE

The site is located on the north east side of Bower Street. The site is a rectangular residential block of 660.40m² in area. The site width is 13.715m along the street boundary. The length is 48.11m along the south eastern boundary and 46.845m along the north western boundary. The existing development on the site is a four-storey apartment building with pitched and hipped tiled roof that includes gabled dormer windows. The site slopes from the street down to the rear boundary. The rear boundary adjoins the foreshore of Cabbage Tree Bay. The site is situated on a headland above Manly Point. Expansive ocean views are enjoyed from the subject site and the adjacent sites. The bulk and scale of the existing development is modest in comparison to surrounding development.

2.2 THE SURROUNDING LOCALITY

The surrounding neighbourhood is generally zoned E4 (environmental living). There is a mixture of architectural styles in the immediate vicinity with no single style dominating the streetscape. Other development in the area includes nine-storey residential buildings.

2.3 HERITAGE

The existing building has no significant heritage relevance or historical value. The proposal has no impact on any nearby heritage item.

3. THE PROPOSAL

The proposal seeks approval for the following :

- Extension of the existing elevated balconies on levels 2 and 3 of the existing apartment building. The balcony on Level 2 will extend 1.3m towards the rear (north east) boundary. The balcony on Level 3 will extend 1.0m to the north east. In addition, the curved geometry of the balconies will be changed so that the altered balconies will be rectangular in shape rather than having a curved north east edge.

The objectives of the proposed work are as follows:

- To provide more geometrically functional private outdoor space associated with the living areas of each of the existing four apartments. The curved geometry of the current balconies is considered impractical spatially and is somewhat dated in aesthetic.
- The balconies require some remediation due to concrete deterioration. The proposal includes replacement of existing balustrading that has corroded and is non-compliant in terms of current safety requirements. The non-compliant horizontal steel tubing style balustrading is to be replaced with new frameless glass balustrading to achieve fall-protection safety.

4. ZONING AND DEVELOPMENT CONTROLS

4.1 In addition to the NSW state and regional planning policies, the following planning instruments are of relevance to the development :

Manly Local Environment Plan 2013 (LEP)

Manly Development Control Plan 2013 (DCP)

5. STATE ENVIRONMENTAL PLANNING POLICY 55 : REMEDIATION OF LAND

Under Clause 7(1)(a) of State Environmental Planning Policy No. 55 Remediation of Land, consideration has been given as to whether the land is contaminated. The site has been used for residential purposes and there is no history to suggest that the site is contaminated. The application does not require further consideration under clause 7(1)(b) and (c) of SEPP.

6. STATE ENVIRONMENTAL PLANNING POLICY (BASIX 2004)

State Environmental Planning Policy (Building Sustainability Index: Basix (BASIX)) does not apply to the proposed development.

7. STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

The subject site is identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is applicable to the proposed development.

The stated Aim of the Policy under Clause 3 is to:

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:

(a) managing development in the coastal zone and protecting the environmental assets of the coast, and

(b) establishing a framework for land use planning to guide decision-making in the coastal zone, and

(c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.

The Coastal Management Act 2016 states within **Clause 3**:

The **objects** set out in **Clause 3** of the Coastal Management Act 2016 are:

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and
- (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and

- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and
- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and
- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and
- (m) to support the objects of the *Marine Estate Management Act 2014*.

It is submitted that the proposed development is consistent with the objects of the SEPP (Coastal Management) 2018, as set out in Clause 3 of the Coastal Management Act 2016.

The matters for consideration are listed in Part 2, Development controls for coastal management areas, of SEPP (Coastal Management) 2018 . The relevant provisions of this Part are addressed as follows:

13 Development on land within the coastal environment area

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—
 - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - (b) coastal environmental values and natural coastal processes,
 - (c) the water quality of the marine estate (within the meaning of the *Marine Estate Management Act 2014*), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (f) Aboriginal cultural heritage, practices and places,
 - (g) the use of the surf zone.
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

Comment: The proposal provides for the north-east extension of existing balconies on Levels 2 and 3. The proposed works will be carried out in accordance with the recommendations of the consulting Structural Engineer, which will ensure that appropriate structural integrity for the site will be maintained. The additions require minimal impact at ground level. Five new masonry columns will be integrated into existing garden masonry walls. Where possible, existing foundations will be utilised. The collected stormwater will be dispersed into the existing stormwater management system which complies with Council's Stormwater Management Policy. Sediment and erosion control measures will be carried out to minimise

the impact of the works on the foreshore cliff along the rear boundary, although there will be minimal excavation..

Division 4 Coastal use area

14 Development on land within the coastal use area

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following—
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that—
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.
- (2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

Comment : The proposal does not impact any existing public access along the foreshore. Shadow diagrams that form part of the application illustrate that the proposal will not result in any overshadowing of the foreshore. The existing development and the proposed additions to the balconies are modest in scale relative to surrounding development and will not result in any loss of views to the foreshore. The site does not contain any heritage items, nor is it within a conservation area

Division 5 General

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment : The proposal provides for the extension of existing elevated balconies. The proposed new works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

16 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment: No coastal management programs have been identified.

17 Other development controls not affected

Subject to clause 7, for the avoidance of doubt, nothing in this Part:

(a) permits the carrying out of development that is prohibited development under another

environmental planning instrument, or

(b) permits the carrying out of development without development consent where another

environmental planning instrument provides that the development may be carried out only with development consent.

Comment: Noted

18 Hierarchy of development controls if overlapping

If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:

- (a) the coastal wetlands and littoral rainforests area,*
- (b) the coastal vulnerability area,*
- (c) the coastal environment area,*
- (d) the coastal use area.*

Comment : Noted

8. RESPONSE TO PLANNING REQUIREMENTS OF MANLY LOCAL ENVIRONMENT PLAN 2013

8.1 AIMS OF THE PLAN (Clause 1.2)

The proposal is consistent with the applicable Aims of Manly LEP in that it

- is appropriate to its context
- is compatible with the desired future character of an area in terms of bulk, scale, density, landscaping and appearance
- does not adversely affect residential amenity in terms of visual and acoustic privacy, solar access and view sharing
- has regard to the principles of environmentally sustainable development

8.2 ZONING (Clauses 2.1 – 2.3 and Land Use Table)

The site is zoned E4 (environmental living). The objectives of the zone are :

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To protect tree canopies and ensure that new development does not dominate the natural scenic qualities of the foreshore.
- To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.
- To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.

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

Comment : It is considered that the proposed additions will be consistent with the desired future character of the surrounding locality for the following reasons :

The proposed extension to the existing elevated balconies respects the context of the site. The addition is minimal in extent and has almost no impact to the existing landscaping on the site. No land clearing is required for the new structures. The existing mature Paper Bark tree (located on the site) is to be carefully protected during the construction – there will be no adverse impact to the trunk or root zone of the tree. It is anticipated that one branch will need to be carefully pruned to accommodate the new work but the integrity of the tree canopy will be preserved. The new structures will bear on five new columns that are to be incorporated into existing garden walls. The height and bulk of the altered development will remain modest relative to surrounding development. The proposed development is set discreetly back from the rear boundary (13.8m) and will not be visible from the foreshore immediately adjacent to the site. The proposal is consistent with the relevant objectives of the zoning.

8.3 PRINCIPAL DEVELOPMENT STANDARDS: MIN LOT SIZE (LEP Clause 4.1)

The minimum lot size is 250m². The site has an area of 660.40m².

8.4 PRINCIPAL DEVELOPMENT STANDARDS: HEIGHT OF BUILDINGS (LEP 4.3)

In terms of Clause 4.3(2), the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. A maximum building height of 8.5m applies to this site in accordance with the Height of Buildings Map. The following definitions in the dictionary of Manly LEP are relevant: *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. The proposed work does not exceed the allowable building height of 8.5m at any point.

8.5 PRINCIPAL DEVELOPMENT STANDARDS: FLOOR SPACE RATIO (LEP 4.4)

According to Manly LEP 4.5 *floor space ratio* is defined as “the ratio of the gross floor area of all buildings within the site to the site area” (where *gross floor area* is “the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor ...”). Part (g) of the definition notes that “car parking to meet any requirements of the consent authority (including access to that car parking)” is excluded from the calculation of gross floor area.

Comment :

The site has an allowable floor space ratio of 0.60 of site area. The site area is 660.40m² and therefore the maximum allowable gross floor area is 396.24m². No change is proposed to the existing floor space ratio as the new work is confined to additions to open balconies. The existing FSR appears to be consistent with development consent granted in 1990 in respect of the existing development.

8.6 ACID SULPHATE SOILS (LEP 6.1)

The site is listed as Class 5 on the Acid Sulphate Soils Map. Subclause (2) notes that work proposed on Class 5 properties requires development consent if

“Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.” However, subclause (6) states that “Despite subclause (2), development consent is not required under this clause to carry out any works if—

- (a) the works involve the disturbance of less than 1 tonne of soil, and
- (b) the works are not likely to lower the watertable.

Comment :

The proposal does not require a disturbance of more than 1 tonne of soil (balconies to be extended are elevated above ground level) and the works will not impact the watertable. The proposed works should be considered minimal risk in terms of acid sulphate soils management.

8.7 EARTHWORKS (LEP 6.2) AND LANDSLIDE RISK (6.8)

The site is not noted on the LEP Landslide Risk Map. There will be minimal excavation associated with the proposed work. The five new columns required at the lowest level (Level 1) are proposed to be integrated with existing masonry garden walls so the expectation is that minimal new foundation work will be required for the columns.

8.8 FLOOD PLANNING (LEP 6.3)

The site is not in a flood risk zone.

8.9 STORMWATER MANAGEMENT (LEP 6.4)

The proposed new work will drain into the existing stormwater management system which is compliant with the council’s policy for Manly Stormwater Management. There is no additional impervious area proposed on the site.

8.10 TERRESTRIAL BIODIVERSITY (LEP 6.5)

The site is noted on the Terrestrial Biodiversity Map and listed as a having an assessment of significance in respect of bandicoots. The objectives of this clause is to maintain terrestrial biodiversity by—

- (a) protecting native fauna and flora, and
- (b) protecting the ecological processes necessary for their continued existence, and
- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.

Comment :

The balconies to be extended are at Level 2 and 3 respectively. Five new columns (approximately 230x230mm in size) will support the extended structures. The columns are located within the zone of existing masonry garden walls. The proposal will therefore not have any new (or adverse) impact on the biodiversity of the environment in which the site is located and in particular will have no adverse impact on bandicoot habitat. Due to no proposed new impact at ground level, relative to bandicoot habitat, it was considered unnecessary to provide a Species Impact Statement or a Biodiversity Management Plan.

8.11 FORESHORE SCENIC PROTECTION AREA (LEP 6.9)

The site is noted on the Foreshore Scenic Protection Area Map. The objective of this clause is to protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore in Manly. Matters for consideration under this clause are :

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,

- (b) measures to protect and improve scenic qualities of the coastline,
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.

Comment :

The proposed extension to the existing elevated balconies respects the context of the site. The addition is minimal in extent. The height and bulk of the altered development will remain modest relative to surrounding development. The proposed development is set discreetly back from the rear boundary and will not be visible from the foreshore immediately adjacent to the site. Shadow projections illustrate that the proposed new work will not cause any overshadowing of the foreshore. There will be no impact to any views of the foreshore from the public domain.

8.12 NUMERIC COMPLIANCE TABLE

	STANDARD	EXISTING	PROPOSED
ZONING	E4	4 dwellings	No change
SITE AREA	Min 250m ²	660.40m ²	No change
HEIGHT OF BUILDING	8.5m	11.80m	Max ht of proposed new work = 8.5m
FLOOR SPACE RATIO	0.60 : 1	0.81 : 1 (existing GFA = 535.14m ²)	No change to existing GFA

9. RESPONSE TO RELEVANT PLANNING REQUIREMENTS OF MANLY DEVELOPMENT CONTROL PLAN 2013

9.1 AIMS AND OBJECTIVES OF MDCP (DCP 1.7)

The proposal meets the aims described in Clause 1.7 of the Manly DCP and the objectives noted in each relevant clause of the DCP. The aims are to:

- (a) Ensure that development contributes to the quality of the natural and built environments
- (b) Encourage development that contributes to the quality of our streetscapes and townscapes.
- (c) Ensure that development is economically, socially and environmentally sustainable and to require the principles of ecologically sustainable development to be taken into consideration when determining DAs.
- (d) Ensure future development has consideration for the needs of all members of the community.
- (e) Ensure development positively responds to the qualities of the site and its context.
- (f) Ensure development positively responds to the heritage and character of the surrounding area.

9.2 GENERAL PRINCIPLES OF DEVELOPMENT : STREETSCAPE (DCP 3.1)

There is no proposed change to the street façade of the development. The proposed work is located at the rear of the existing building.

9.3 GENERAL PRINCIPLES OF DEVELOPMENT : HERITAGE (DCP 3.2)

There are no heritage considerations relevant to this property.

- 9.4 GENERAL PRINCIPLES OF DEVELOPMENT : LANDSCAPING (DCP 3.3)
No change is proposed to the existing established landscaping. The proposed balcony additions are elevated above ground level. The existing mature Paper Bark tree is to be carefully protected during construction. In alignment with the desired landscape character of the area, the proposed additions to the existing balconies maintain a discreet setback from the rear boundary which adjoins the foreshore.
- 9.5 GENERAL PRINCIPLES OF DEVELOPMENT : AMENITY - VIEWS, OVERSHADOWING, PRIVACY, NOISE (DCP 3.4)
The proposal achieves the objectives of this clause. The proposed development will cause no additional overshadowing to private open space or the living spaces of adjacent properties. The proposed balcony extensions will have no new impacts on the adjacent properties in respect of views, privacy, noise or overshadowing.
- 9.6 GENERAL PRINCIPLES OF DEVELOPMENT : SUSTAINABILITY (DCP 3.5)
The proposal achieves the applicable objectives of this clause. Waste is to be minimized in the re-construction of the edges of the balconies. Solar access to the dwellings within the development on the subject site and to the dwellings on surrounding sites will not be significantly impacted by the proposed changes. No changes are proposed to any existing external doors or windows. No internal changes proposed to the building are proposed. No changes are proposed to existing landscaping.
- 9.7 GENERAL PRINCIPLES OF DEVELOPMENT : ACCESSIBILITY (DCP 3.6)
Since the balconies to be extended are located at the rear of each dwelling in the development and in each case the balconies are elevated above ground level by at least one storey, no change will be made to the accessibility of the balconies relative to the entry to the building.
- 9.8 GENERAL PRINCIPLES OF DEVELOPMENT : STORMWATER MANAGEMENT (DCP 3.7)
As noted above, the proposed new work will drain into the existing stormwater management system which is compliant with the council's policy for Manly Stormwater Management. There is no additional impervious area proposed on the site.
- 9.9 GENERAL PRINCIPLES OF DEVELOPMENT : WASTE MANAGEMENT (DCP 3.8)
The proposal is limited to extension of two existing elevated rear balconies. The existing compliant waste management systems in the current development will continue during and after the renovation work is completed.
- 9.10 GENERAL PRINCIPLES OF DEVELOPMENT : MECHANICAL PLANT EQUIPMENT (DCP 3.9)
No change is proposed to the existing mechanical plant and equipment in the current development. No new mechanical plant and equipment is proposed.
- 9.11 GENERAL PRINCIPLES OF DEVELOPMENT : SAFETY AND SECURITY (DCP 3.10)
The proposal was partly initiated to address the dated styling of the balcony balustrades which are not compliant with current fall protection safety requirements. The proposed replacement balustrades are fully compliant in terms of safety.
- 9.12 RESIDENTIAL DEVELOPMENT CONTROLS : FLOOR SPACE RATIO (DCP 4.1.3)
The existing FSR exceeds the current development standard. There is no proposed change to the existing FSR as the described new work is confined to altering the rear

decks on Levels 2 and 3. The proposal achieves the objectives of Clause 4.1.3 of the DCP. The existing and proposed development is relatively modest in comparison to surrounding development. The proposal achieves compliance in terms of solar access both within the development and relative to adjacent development. Once altered as per the proposal, the subject balconies will be consistent with adjacent renovated development – particularly that at 128 and 130 Bower Street.

9.13 RESIDENTIAL DEVELOPMENT CONTROLS : SETBACKS (front, side, rear) (DCP 4.1.4)
The objectives to be met in relation to this part include:

- Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.
- Objective 2) To ensure and enhance local amenity by:
providing privacy;
providing equitable access to light, sunshine and air movement; and
facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.
defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and
facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.
See also objectives at paragraph 3.4 Amenity.
- Objective 3) To promote flexibility in the siting of buildings.
- Objective 4) 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.
- Objective 5) To assist in appropriate bush fire asset protection zones.

Comment : No change is proposed to the street façade, the front setback or the side setbacks as viewed from the public domain. The rear setback is 13.8m which is significantly greater than the minimum requirement of 8m. The proposal is not numerically compliant with the side setback requirements of 4.1.4.2(a) as the proposed additions are to existing balconies that were granted planning consent under different planning instruments. However, despite the numeric non-compliance relative to this control due to constraints of the existing development, the proposal achieves the objectives of this control. There is existing access to the sides of the property for property maintenance – and this access will remain unchanged as a result of the proposed works. 4.1.4.2(b) states that “Projections into the side setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, and the like, if it can demonstrate there will be no adverse impact on adjoining properties including loss of privacy from a deck or balcony.” The new work that exceeds the numeric control of 4.1.4.2(a) is consistent with surrounding development. Prior to commencing the design of the alterations to the balconies, the owners of No.126 consulted with the owners of No.128. The owners of No.128 stated that they would

support the proposal if the extended balconies aligned with the north east edge of the development at No.128 (and No.130 which is attached to No.128). Since views are important in the context of the Cabbage Tree Bay foreshore that adjoins the properties on the north-eastern side of Bower Street along their rear boundaries, there is precedent in the recently renovated development at No.128/130 for retaining oblique vistas of the foreshore (in addition to the direct ocean views over the rear boundaries) by keeping privacy screens on elevated balconies to a minimum. The owners of No.128 requested that the balustrading (both side and rear) to the extended balconies at No.126 should be 1.0m high and be clear frameless glass. This approach is consistent with the balustrading at No.128/130. Precedent has therefore been set at No.128/130 for extended balconies that exceed the numeric requirements of 4.1.4.2(a) [ie setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building]. With respect to the south eastern side setback, the adjacent development at No.122-124 consists of an eight-storey apartment building with garaging beneath the eight levels. That building far exceeds the current height of buildings requirements and has many windows and balconies from many apartments overlooking the subject site. Despite the overbearing height relationship of the development at No.122-124 and the subject site, the adjacent driveway separates the 26.0m high building horizontally from the subject site building by 8.0m. This relationship is maintained in the proposed balcony extensions at No.126. It must be noted that it is impossible to achieve privacy on any balcony at No.126 - or at No.128/130 - due to the overbearing height and number of apartments in the development at No.122-124 as well as the similar scale development at No.132-134. It should also be noted that this overlooking issue is exacerbated by the siting of the developments at No.122-124 and No.132-134 relative to the rear boundary. Both of these developments are located within 6m of the rear boundary adjoining the foreshore. The proposed extension of the balconies together with the replacement of the curved top privacy screens on the existing balconies on Levels 2 and 3 with full height opaque glass privacy screens set between masonry columns will afford a little more privacy to the inhabitants of No.126 from the development at No.122-124.

9.14 RESIDENTIAL DEVELOPMENT CONTROLS : OPEN SPACE AND LANDSCAPING (DCP 4.1.5)

The site is categorized as OS3 for calculation of 'Open Space'. The development control calls for at least 55% of the site area to be 'Open Space' and at least 35% of the minimum area for open space to be 'Landscaped Area'. 40% of Total Open Space can be located 'above ground' (ie more than 1.0m above ground level). Required total open space = 55% of 660.40m² = 363.22m². The existing open space area = 355m². Included in the existing provision is 84.16m² of above ground open space. There is no change to the existing ground level open space but the extended balconies result in total above ground open space of 131.26m². Proposed open space provision therefore increases to 402.22m². The minimum numeric requirement for open space will therefore be achieved. Minimum required landscaped area = 140.70m² (35% of 402.22m²). No change is proposed to the landscaped area provision as there is no proposed change at ground level. The existing landscaped area provision = 144.7m². The proposed balcony extensions will result in the development achieving numeric compliance in respect of provision of 'open space'. The landscaped area will not change but is and will remain numerically compliant.

Comment : In terms of amenity considerations under this clause, it should be noted that open space in the form of extended balconies on levels 2 and 3 of the subject development will be dwarfed by the adjacent multi-storey apartment building at No.122-124 despite the fact that the proposed extensions are elevated one and two

storeys (respectively) above ground level. Similarly, the existing balconies at No.128 and No.130 are of similar size to the proposed extended balconies and are at a slightly more elevated RL than the corresponding balconies on the subject site.

9.15 RESIDENTIAL DEVELOPMENT CONTROLS : PARKING, VEHICULAR ACCESS AND LOADING (DCP 4.1.6)

No change is proposed to the existing basement garage. The existing development has adequate parking provision.

10. MATTERS FOR CONSIDERATION UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THE LIKELY IMPACTS OF THE DEVELOPMENT

These have been addressed above.

THE SUITABILITY OF THE SITE FOR DEVELOPMENT

The site is considered suitable for the proposed development. The existing development on the site is a residential apartment building and the site is considered to be suitable for residential development. The zoning and all planning controls provide for such development as is proposed. All requisite services for residential development are available with existing connections to the site. The site has no history of contamination and there are no known hazards evident on the land.

THE PUBLIC INTEREST

The public interest is served by improving the functionality and aesthetics of the existing development on the site whilst ensuring that the additions do not result in an unreasonable loss of residential amenity to adjoining and nearby properties and public spaces.

11. CONCLUSION

The proposed development represents a reasonable response to the constraints and opportunities of the site and to the relevant planning controls, in accordance with the objectives of the *Environmental Planning and Assessment Act 1979*. The proposal achieves the aims and objectives of all relevant development standards and planning controls. The proposal will improve the amenity of the site with respect to provision of private open space for each dwelling and afford some improvement to privacy in the living areas due to the increased height of the privacy screens and the increased cover over part of the balconies immediately adjacent to the living areas. The design for extending and upgrading of the existing balconies plus associated balustrading and privacy screens results in improved spatial function as well as safety. The proposal will result in improved aesthetic presentation of the existing building as viewed from surrounding developments. The change is achieved with respect for solar access, visual privacy and acoustic privacy to adjacent development. As discussed in 9.3 above, at the outset of the design process the owners of No.126 consulted with the owners of No.128. The proposed changes to the existing balconies will be consistent with respect to scale and to balustrade arrangements of the balconies at corresponding levels at adjacent development at 128 and 130 Bower Street. As per request from adjacent owners at No.128, the proposed balcony extensions align with the north east edge of the development at No.128/130. It is therefore considered that the proposal will increase the amenity for the occupants of this development, elevating the quality of the apartments to align with the current trends in the local area, without adversely impacting surrounding properties and public spaces. The proposed upgrading of the development through the extension of the existing elevated rear balconies on two levels will be consistent with the existing character of the local area.

APPENDIX 1 : PHOTOGRAPHIC RECORD



STREET BOUNDARY (BOWER ST) VIEW OF EXISTING DEVELOPMENT AT 126 BOWER STREET, MANLY
(shows 122-124 Bower Street to the right, 128/130 Bower Street to the left and 132-134 Bower Street
in the top left hand corner)



VIEW OF BOWER STREET DEVELOPMENT TO SOUTH WEST



VIEW OF BOWER STREET DEVELOPMENT TO WEST



VIEW OF SOUTH EAST FAÇADE OF EXISTING DEVELOPMENT AT 126 BOWER STREET, MANLY – VIEWED FROM ENTRANCE TO DRIVEWAY OF No122
(shows 122-124 Bower Street to the right, 126 Bower Street to the left)



VIEW OF BOUNDARY BETWEEN 128 BOWER STREET (LEFT) AND 126 BOWER STREET (RIGHT)



VIEW OF EXISTING REAR BALCONIES (PHOTO TAKEN FROM ADJACENT DEVELOPMENT at No122-124)
 [Note existing balcony curved geometry plus balconies, balustrading and privacy screening at 128/130 Bower Street in top right corner of image]



VIEW OF EXISTING REAR GARDEN ND OCEAN VIEWS FROM EXISTING LEVEL 2 BALCONY



VIEW FROM EXISTING LEVEL 2 BALCONY at 126 BOWER STREET LOOKING TOWARDS No128 & No130
 [Note existing curved top glass privacy screens to subject balcony plus 1.0m high clear glass balustrading to adjacent balconies at 128/130 Bower Street in the middle of the photo. South-east façade of 132-134 Bower Street – red brick – is in the background.]



VIEW FROM BALCONY OF SECOND LEVEL APARTMENT AT No.122-124 BOWER STREET LOOKING TOWARDS SUBJECT SITE.
 [Note No.126 on left, No.128/130 in middle and No.132-134 towards top right]



VIEW OF BEDROOM BALCONIES OF 128 BOWER STREET FROM EAST
[Note arrangement of clear glass balustrading between adjacent balconies and along eastern side]



VIEW FROM LIVING ROOM BALCONY OF 128 BOWER STREET TOWARDS SUBJECT SITE.

[Note existing Level 2 balcony of No.126 on right side of image and multi storey apartment building at No.122-124 at top right and existing Paper Bark tree on left side]

