

4<sup>th</sup> March 2020

The General Manager  
Northern Beaches Council  
P.O. Box 882  
MONA VALE NSW 1660

Dear Sir,

**STATEMENT OF ENVIRONMENTAL EFFECTS  
CHANGE OF USE OF THE EXISTING PRINCIPAL DWELLING STUDIO  
TO A SECONDARY DWELLING  
NO. 13 OGILVY ROAD, CLONTarf**

**1.0 INTRODUCTION**

On 21<sup>st</sup> April 2016 Manly Council granted development consent DA277/2015 for alterations and additions to an existing dwelling house including first floor addition, demolition of an existing carport and out-building and the construction of a new double carport and 2 storey studio. The works associated with this consent have been completed.

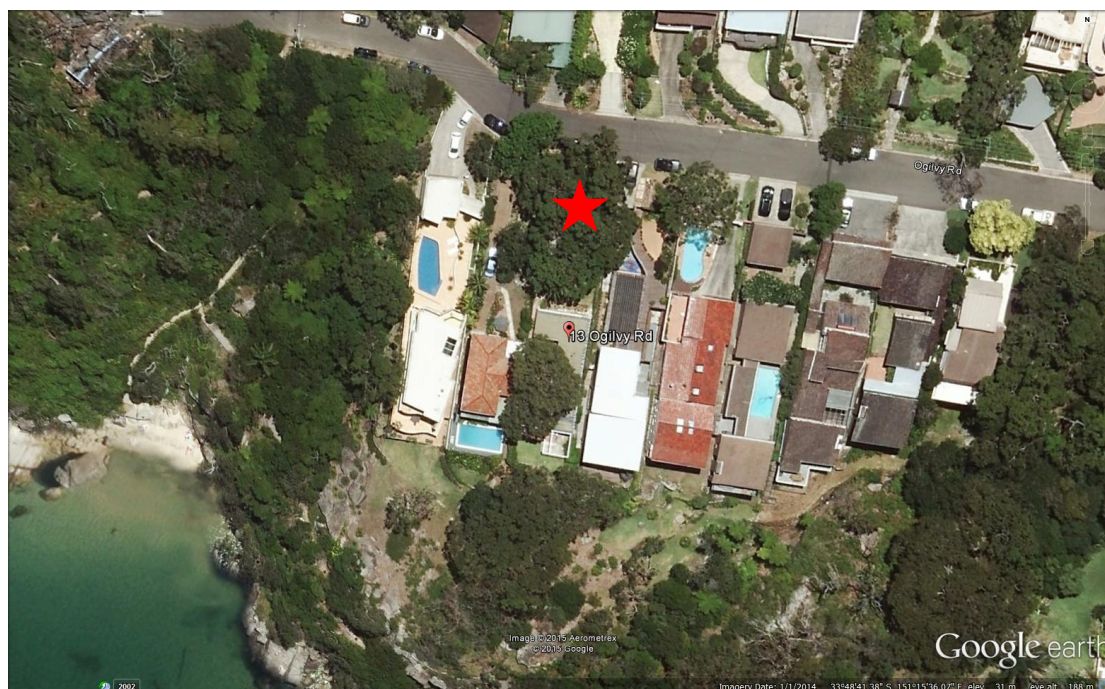
The subject application seeks to change the use of the recently constructed 2 storey ancillary principal dwelling studio to a secondary dwelling pursuant to Manly Local Environmental Plan 2013 (MLEP 2013). The proposed change of use does not require any physical works to the building other than the installation of kitchen and laundry facilities.

That said, we note that the plans include reference to a number of building design changes undertaken since occupation of the studio with such works regularised pursuant to Building Certificate BC2019/0280.

The proposed use is permissible with consent in the zone and satisfies the clause 5.4(9) MLEP 2013 provisions considerations. The application succeeds when assessed against the Heads of Consideration pursuant to s4.15(1) of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

## 2.0 SITE DESCRIPTION AND LOCATION

The site known as Lot 5, Section J, DP 2610, No. 13 Ogilvy Road, Clontarf is rectangular in shape having frontage and depth of 10.67m and 44.195m respectively and a site area of 471.5 square metres. The site is located on the southern low side of Ogilvy Road and falls approximately 3m across its surface in a southerly direction.



Source: Google Earth

**Figure 1 – Aerial Location and Context Photograph**

The site is occupied by a 1 and 2 storey dwelling with detached carport and 2 storey studio located adjacent to the frontage of the property. The property enjoys significant views in a southerly direction over Middle Harbour towards Balmoral Beach, Balmoral Bathers Pavilion, Balmoral Escarpment and the city skyline beyond.

Both adjoining properties are 2 storey in built form character and have integrated garage accommodation accessed via driveways of variable grade. These properties are orientated towards the same views as that of the subject site.

## 2.0 PROPOSED DEVELOPMENT

The subject application seeks to change the use of the recently constructed 2 storey studio to a secondary dwelling pursuant to Manly Local Environmental Plan 2013 (MLEP 2013). The proposed change of use does not require any physical works to the building other than the installation of kitchen and laundry facilities as depicted on plans DA00(F) to DA06 (F) prepared by Watershed Design.

We confirm that the established building form, landscaping and drainage regimes are not altered nor the built form relationship of the existing habitable structure to adjoining residential properties.

### **3.0 STATUTORY PLANNING FRAMEWORK**

#### **3.1 Manly Local Environmental Plan 2013**

##### **3.1.1 Zone and Zone Objectives**

The subject site is zoned E3 Environmental Management pursuant to the provisions of Manly Local Environmental Plan 2013 ("MLEP"). Secondary dwellings are permissible in the zone with the consent of Council. The stated objectives of the E3 Environmental Management zone are as follows:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To protect tree canopies and provide for low impact residential uses that 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.*

The proposed change of use for a studio to a secondary dwelling is permissible and consistent with the stated objectives of the zone in that it will have no adverse environmental impacts with no physical works proposed other than the installation of kitchen and laundry facilities.

Accordingly, there are no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

### **3.1.2 Height of Buildings**

Pursuant to Clause 4.3 of MLEP 2013 the height of a building on the subject land is not to exceed 8.5 metres in height. We confirm that the existing building height is not altered as a consequence of the change of use proposed.

### **3.1.3 Floor Space Ratio**

Pursuant to Clause 4.4 MLEP 2013 the maximum FSR for development on the site is 0.4:1 representing a gross floor area of 188.60 square metres. We confirm that the established GFA/ FSR is not altered as a consequence of the change of use proposed.

### **3.1.4 Controls Relating to Miscellaneous Permissible Uses**

Pursuant to clause 5.4(9) If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

(a) 60 square metres,

(b) 30% of the total floor area of the principal dwelling.

We confirm that the proposed secondary dwelling has a gross floor area of 36 square metre which is well below the maximum 60 square metre standard. As such there is no statutory impediment to the granting of consent.

### **3.1.5 Development for the purposes of secondary dwellings in certain residential and environment protection zones**

Pursuant to Clause 6.22(4) of MLEP 2013:

*‘Despite any other provision of this Plan, development consent must not be granted for development for the purposes of a secondary dwelling on land in Zone E3 Environmental Management or Zone E4 Environmental Living unless the consent authority is satisfied that the secondary dwelling will be located entirely within an existing principal dwelling on a site that contains no other secondary dwelling.’*

We confirm that the approved outbuilding (studio) comprising the rumpus, bathroom and study is an ancillary component of the existing principal dwelling with the proposed secondary dwelling located entirely within the existing principle dwelling.

These provisions are satisfied.

### **3.1.5 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 these provisions.

As previously outlined no physical works are proposed other than the installation of kitchen and laundry facilities. There will be no adverse scenic protection consequences.

## **3.2 Manly Development Control Plan**

This DCP contains development controls for the design and construction of buildings in Manly. The proposed development has been assessed against the relevant provisions of the DCP with the following conclusions reached:

- The established building form, landscaping and drainage regimes are not altered nor the built form relationship of the existing habitable structure to adjoining residential properties.
- The application does not propose any car parking for the secondary dwelling consistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 which do not require car parking for such use. These provisions seek to promote the delivery of affordable housing in accordance with objective 1.3(d) of the Act.

In this regard, we note that there are variation provisions within MDCP to enable a single car space for a dwelling house such that the 2 existing on-site parking spaces could be shared between the existing dwelling and proposed secondary dwelling uses. The limited size of the secondary dwelling would justify such proposition.

Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of controls/ standards for dealing with that aspect of the development. The variation also promotes the delivery of affordable housing in accordance with objective 1.3(d) of the Act.

## **5.0 CONCLUSION**

The proposed change of use for an ancillary principal dwelling studio to a secondary dwelling is permissible and consistent with the stated objectives of the zone in that it will have no adverse environmental impacts with no physical works proposed other than the installation of kitchen and laundry facilities.

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Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of controls/ standards for dealing with that aspect of the development. The variation also promotes the delivery of affordable housing in accordance with objective 1.3(d) of the Act.

The application succeeds when assessed against the Heads of Consideration pursuant to s4.15(1) of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.



**Greg Boston**  
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