

20th January 2025

The General Manager
Northern Beaches Council
Po Box 882
MONA VALE NSW 1660

Attention: Claire Ryan – Principal Planner

Dear Ms Ryan,

Application Mod2024/0419
Development Application DA2022/1164
Further Issues response/ Supplementary Statement of Environmental
Effects
Demolition and construction of a commercial building
34-35 South Steyne, Manly

Reference is made to Councils issues letter of 17th October 2024 and subsequent email of 19th December 2024 in relation to the above application. This Supplementary Statement of Environmental Effects details the considered response to the issues raised and is to be read in conjunction with the following amended/ updated documentation:

- Architectural plans Revision K, dated 18th December 2024, prepared by Durbach Block Jaggers, and
- Updated visual impact assessment, dated 16th December 2024, prepared by Urbaine Design Group.

In response to the concerns raised by Councils heritage officer the architectural plans have been amended to provide an addition 2 metre setback between the Level 3 floor plate and the south-western boundary of the property including Rialto Lane. In relation to the view impact of the modified level 3 floor plate on Unit 535/25 Wentworth Street we rely on the following additional analysis to demonstrate that although the complete loss of water views is unfortunate that such outcome is acceptable given the particular circumstances of this application.

We note that an objective of clause 4.3 – Height of buildings MLEP 2013 is as follows:

(c) *to minimise disruption to the following:*

.....

- (ii) *views from nearby residential development to public spaces (including the harbour and foreshores),*

In this regard, we rely on the detailed assessment contained within the submitted SoEE to demonstrate that this objective is achieved notwithstanding the loss of views to apartment 535/25 Wentworth Street and the building height breach proposed. That is, a balance has been achieved between the orderly and economic use and development of the land and view sharing with all residential apartments within 25 Wentworth Street in circumstances where the clause 4.4(2A) MLEP 2013 bonus floor space provisions seek to achieve the objectives of the E1 Local Centre zone and the objectives of the FSR standard being to provide for the viability of the zone 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.

In this context, whilst it is acknowledged that the modifications to the Level 3 floorplate will obstruct the ocean views currently available from apartment 535/25 Wentworth Street it is considered that a view sharing outcome is maintained when view impacts from this adjoining residential apartment building are considered as a whole rather than from individual units.

That is, view impacts have been minimised to the residential apartments at 25 Wentworth Street through the appropriate distribution of height and floor space to the extent that only one apartment is impacted with view impacts to the balance of the apartments appropriately described as negligible. Such approach is consistent with the findings of the Land and Environment Court in the matters of *Arnott v City of Sydney Council* [2015] NSWLEC 1052 and *Gerrale Group Investments Pty Ltd v Sutherland Shire Council* [2020] NSWLEC 1042 where at paragraph 165 of the latter judgment Morish AC states:

165 *In regard to view loss, I accept that the current planning regime will result in some level of view loss and, apart from the controversial bedroom section in the south-eastern corner of the building, the view impact is across a side boundary. Therefore, in accordance with the principles in Tenacity Consulting v Warringah (2004) 134 LGERA 23; [2004] NSWLEC 140 some view loss is likely. It is appropriate given the location of the site and the number of units that are in proximity to the site to consider the impact of the proposal as a whole rather than to individual units. Accordingly, there will be some level of view loss. This is consistent with the view taken by O'Neill C in Arnott v City of Sydney Council [2015] NSWLEC 1052 where at [72] she states:*

...."It is partly for this reason that the Tenacity planning principle is less helpfully applied to impacts on views from individual apartments within residential apartment buildings, as there are generally more limited opportunities to rearrange massing to preserve what is often a singular orientation to a view. For this reason, it is also appropriate to consider the residential apartment building as a whole in assessing view impacts."

The proposed roof top plant and level 3 floor plate extensions exceed the height of building standard however have been strategically located to ensure that the view corridors achieved through approval of the original application from apartments 632, 633, 732 and 733, 25 Wentworth Street, Manly are maintained. This is demonstrated in the Visual Impact Assessment prepared by Urbane Design Group.

Clause 3.4.3 of Manly DCP also requires an assessment of view impact with such provisions adopting the view sharing principles established by the Land and Environment Court in *Tenacity Consulting v Warringah (2004) 134 LGERA 23; [2004] NSWLEC 140*. Again, we rely on the findings of the Land and Environment Court in the matters of *Arnott v City of Sydney Council [2015] NSWLEC 1052* and *Gerrale Group Investments Pty Ltd v Sutherland Shire Council [2020] NSWLEC 1042* including the following site/ development specific circumstances:

- Existing views from apartment 535, 25 Wentworth Street are across a narrow laneway and over development located to the north and east of the site.
- Notwithstanding the view loss this apartment will continue to obtain exceptional levels of amenity in terms of outlook towards the heritage buildings located on the northern side of the Corso including the Steyne Hotel and the Norfolk Island Pines located along the Manly Beach promenade, well in excess of 2 hours of solar access between 9am and 12 noon on 21 June and natural cross ventilation. The site is located in the heart of Manly CBD within immediate proximity of Manly Beach and public bus and ferry services.
- No objection has been received from the owner of apartment 535, 25 Wentworth Street with the current and contractually obligated future owner aware of the associated view loss.
- A balance has been achieved between the orderly and economic use and development of the land and view sharing with the residential apartments within 25 Wentworth Street in circumstances where the clause 4.4(2A) MLEP 2013 bonus floor space provisions seek to achieve the objectives of the E1 Local Centre zone and the objectives of the FSR standard being to provide for the viability of the zone 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.
- View impacts have been minimised to the residential apartments at 25 Wentworth Street through the appropriate distribution of height and floor space to the extent that only one apartment is impacted with view impacts to the balance of the apartments appropriately described as minor or negligible. Such approach is consistent with the findings of the Land and Environment Court in the matters of *Arnott v City of Sydney Council [2015] NSWLEC 1052* and *Gerrale Group Investments Pty Ltd v Sutherland Shire Council [2020] NSWLEC 1042* where it was considered appropriate to

consider the residential apartment building as a whole in assessing the acceptability of view impacts.

- In this context, the view impact on the residential apartments at 25 Wentworth Street is considered to be acceptable with approval of the modification sought providing for the orderly and economic use and development of the land as previously outlined.

We trust that this submission demonstrates that there are no matters preventing the favourable assessment and determination of the application. Please do not hesitate to contact me to discuss any aspect of this correspondence.

Yours sincerely

BOSTON BLYTH FLEMING PTY LIMITED

A handwritten signature in black ink, appearing to read 'Greg Boston', with a stylized flourish at the end.

Greg Boston

B Urb & Reg Plan (UNE) MPIA

B Env Hlth (UWS)

Director