

9th July 2024

The CEO
Northern Beaches Council
Po Box 882
MONA VALE NSW 1660

Dear Sir,

Amended Statement of Environmental Effects (amendments in red)
Modification of Development Consent DA2022/1164
Demolition and construction of a commercial building
34-35 South Steyne, Manly

1.0 Introduction

On 18th December 2023 the Northern Beaches Local Planning Panel granted approval for the subject development involving demolition works and the construction of a commercial building on the subject property. Works have not commenced on site.

We have been engaged to prepare an application to modify the consent pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (the Act). Specifically, the modifications seek a refinement in the detailing of the building resulting from further design development in the preparation of construction documentation including services coordination. The modifications are generally internalised within the approved building envelope with the external changes limited to the identification of specific rooftop mechanical plant ~~and PV~~ and modifications to the upper-level western façade glazing to comply with energy efficient glazing requirements.

The modifications do not alter the approved ~~roof parapet and lift overrun building~~ heights, setbacks, car parking or waste management arrangements with the reconfiguration of the basement retail tenancy providing back of house facilities for the approved tenancy. This submission demonstrates that the residential amenity outcomes afforded to surrounding residential properties through approval of the original scheme are not compromised in terms of privacy, shadowing and acoustic outcomes. Importantly, the accompanying Visual Impact Assessment prepared by Urbane Design Group demonstrates that the view sharing outcomes achieved to apartment 633 and 733, 25 Wentworth Street, Manly are maintained.

Further, the modifications do not compromise the design quality of the original approval nor its relationship with the adjacent heritage conservation area. This application is also accompanied by the following amended/updated documentation:

- Amended Architectural plans (Revision GH) prepared by Durback Block Jagers.
- Visual Impact Assessment prepared by Urbane Design Group.
- Flood Impact and Risk Management Report Prepared by IGS.
- Noise Impact Statement prepared by E-LAB Consulting.
- BCA Compliance Statement prepared by BM+G.
- Construction and Demolition Waste Management Plan prepared by EP Consulting.
- Operational Waste Management Plan prepared by EP Consulting.

Based on the contents of these documents the consent authority can be satisfied that the modifications involve minimal environmental impact and that the development as modified represents substantially the same development as originally approved. Accordingly, the application is appropriately dealt with by way of Section 4.55(1A) of the Act.

2.0 Detail of Modifications Sought

The proposed modifications are shown coloured and described on the Revision GH Architectural plans prepared by Durback, Block Jagers. Specifically, the modifications include the following:

- Relocation of the commercial bin store from B1 to B2.
- Relocation of EV chargers.
- Relocation bike store from B1 to B2.
- General changes relating to services co-ordination.
- Modification to the basement 1 retail tenancy layout to provide a back of house area.
- Modifications to central stair design and access arrangement from the through site link.
- Modification to the ground floor Rialto Lane façade to accommodate the sprinkler booster assembly.
- The provision of an additional WC to the level 1 and level 2 amenities.
- Modification to the upper-level western façade glazing to comply with energy efficient glazing requirements.
- The identification of specific rooftop mechanical plant and PV.

~~The application also seeks the modification of condition 63 to facilitate the proposed rooftop PV to that extent we request that the condition be modified to read as follows (in red):~~

~~63. Roof areas, Terraces and Roof planting~~

~~The following provisions apply:~~

- ~~i) Rooftop planting at the rear of Level 3 is to be maintained to a height not exceeding 0.3m above the parapet (planter box) edge.~~
- ~~ii) The Level 3 front roof terrace is not to be used for commercial food and beverage purposes.~~
- ~~iii) Solar voltaic cells are to be installed at a maximum angle of 10% relative to the roof to which they are attached.~~
- ~~iv) The main upper roof surface of Level 3 is to minimise reflectivity to overlooking apartments. (White, light grey or similar colours are not to be used for finished roof treatment)~~

~~Reason: To ensure that the development remains consistent with Manly DCP townscape.~~

3.0 Section 4.55(1A) of the Environmental Planning and Assessment Act 1979

Section 4.55(1A) of the Act provides that:

- (1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:
 - (a) it is satisfied that the proposed modification is of minimal environmental impact, and
 - (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
 - (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, and
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*
- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

In answering the above threshold question, we have formed the considered opinion that the modifications sought are of minimal environmental impact given that they are generally contained within the previously approved building envelope with no **significant material** change to building height, setbacks or external appearance. The approved heritage conservation and residential amenity outcomes in terms of solar access, privacy and view sharing are not compromised with the design quality of the development maintained. The modifications are both quantitatively and qualitatively of minimal environmental impact.

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

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

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

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

When one undertakes the above analysis in respect of the subject application it is clear that the majority of the modifications will not be discernible as viewed from outside the site with the external building form and presentation not materially altered nor are the heritage conservation and residential amenity outcomes afforded through approval of the original application.

In this regard, the approved development remains, in its modified state, a development which will continue to relate to its surrounds and adjoining development in the same fashion to that originally approved.

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

- The application remains a proposal involving the construction of a commercial building.
- The previously approved three-dimensional building form is maintained with the rooftop plant and PV maintain a view sharing outcome with surrounding residential development.
- The modifications maintain the previously approved environmental outcomes in terms of residential amenity, heritage conservation and streetscape presentation.
- The overall design quality of the development is not compromised.

On the basis of the above analysis we regard the proposed application as being of minimal environmental impact and “essentially or materially” the same as the approved development such that the application is appropriately categorised as being “substantially the same” and appropriately dealt with by way of Section 4.55(1A) of the Act.

4.0 Manly Local Environmental Plan 2013

Zone and Objectives

The subject property is zoned E1 Local Centre pursuant to Manly Local Environmental Plan 2013 (MLEP 2013). Commercial premises remain permissible with consent in the zone.

Height of Buildings

Pursuant to the Height of Buildings Map of MLEP 2013, the site has a maximum building height limit of 10m fronting South Steyne, increasing to 12m at the rear of the site. The objectives of this control are as follows:

- (a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- (b) *to control the bulk and scale of buildings,*
- (c) *to minimise disruption to the following—*
 - i. views to nearby residential development from public spaces (including the harbour and foreshores),*
 - ii. views from nearby residential development to public spaces (including the harbour and foreshores),*
 - iii. views between public spaces (including the harbour and foreshores),*
- (d) *to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*
- (e) *to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses*

Building height is defined as follows:

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*

We confirm that the modifications maintain the previously approved Level 3 floor and planter box heights, roof height and lift overrun height which were the subject of a clause 4.6 variation request.

The proposed roof top plant does exceed the height of building standard **by an additional 300mm (to RL 19.5m AHD)** however have been strategically located to ensure that the view corridors achieved through approval of the original application from apartment 633 and 733, 25 Wentworth Street, Manly are maintained.

Although the clause 4.6 variation mechanism does not apply to an application made pursuant to section 4.55 of the Act an assessment of the proposed roof top plant against the objectives of the standard is as follows.

- (a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*

Comment: The height of the proposed mechanical plant and modified portions of the development located above the height standard are consistent with that of surrounding development and development within the visual catchment of the site.

The mechanical plant has been located outside the view corridors achieved through approval of the original application from apartment 633 and 733, 25 Wentworth Street, Manly. The rooftop plant will not be readily discernible from the public domain given available view lines and viewing angles. The proposed non-compliant elements of the modified development do not prevent the development from being consistent with this objective.

- (b) *to control the bulk and scale of buildings,*

Comment: The building height breaching mechanical plant will not contribute to the bulk and scale of the approved development to the extent that it will render the development incompatible with the bulk and scale of surrounding development or inappropriate or jarring in a streetscape context. The rooftop plant is limited to that reasonably anticipated for a commercial development within a local centre. Further, overall FSR remains below the maximum permitted floor space ratio, which is the primary development standard to control the bulk and scale of development.

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

This objective is achieved notwithstanding the modifications sought.

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

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

Comment: As demonstrated in the Visual Impact Assessment prepared by Urbaine Design Group the mechanical plant has been located outside the view corridors achieved through approval of the original application from apartment 633 and 733, 25 Wentworth Street, Manly. The view analysis confirms that a view sharing outcome is maintained having regard to the planning principle established in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140. We also confirm that the modifications will not impact views to nearby residential development from public spaces or views between public spaces.

This objective is achieved notwithstanding the modifications sought.

- (d) *to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

Comment: The non-compliant elements of the proposed modifications do not result in any adverse impacts upon the amount of sunlight received by adjoining properties.

This objective is achieved notwithstanding the modifications sought.

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

Comment: Not applicable – the site is located within the E1 Local Centre zone and not within a recreation or environmental protection zone.

The non-compliant development, as it relates to building height, demonstrates consistency with objectives of the zone and the building height development standard objectives. Adopting the first option in *Wehbe*, strict compliance with the height of buildings standard has been demonstrated to be unreasonable and unnecessary in the circumstances of this application.

Floor Space Ratio

Clause 4.4(2) of MLEP 2013 prescribes a maximum floor space ratio of 2.5:1 with respect to the subject site. The objectives of this clause are:

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

However, clause 4.4(2A) of MLEP 2013 prescribes that the floor space ratio of a building on land in the B2 Local Centre zone may exceed the maximum floor space ratio allowed under subclause (2) by up to 0.5:1 if the consent authority is satisfied that at least 50% of the gross floor area of the building will be used for the purpose of commercial premises. In consideration of this clause, the potential maximum floor space ratio for the site is 3.0:1.

The modifications result in a 40.2m² increase in retail GFA within Basement 1 to accommodate back of house facilities resulting in a total GFA of 1772.9m² representing a compliant FSR of 2.56:1. This complies with the maximum 3:1 FSR standard prescribed by subclause (2A).

Heritage Conservation

Pursuant to clause 5.10 MLEP 2013 development consent is required for any of the following:

- (a) *demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (i) *a heritage item,*
 - (ii) *an Aboriginal object,*
 - (iii) *a building, work, relic or tree within a heritage conservation area,*

The stated objectives of this clause are as follows:

- (a) *to conserve the environmental heritage of Manly,*

- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The site is located at the south-eastern most point of the Town Centre Conservation Area and is in the vicinity of a number of sites of local heritage significance.

We confirm that the modifications have no impact on the front façade of the building which was designed to ensure compatibility with development within the adjacent heritage conservation area. Accordingly, the modifications will have a neutral impact on the significance of the conservation area and any heritage items contained therein.

Flood Planning

The site is identified as being prone to medium risk flooding, as identified on Council's Flood Risk Hazard Map of MDCP 2013. The application is supported by a Flood Risk Management Report by IGS which concludes:

IGS has completed a Site-Specific Flood Risk Management Report for the proposed development at 34 – 35 South Steyne, Manly. Based on the available information and flood study, the following summary of recommendations is given below:

- *It is recommended to take refuge within level 1 of the building and await further instruction from SES/relevant authorities.*
- *The flood planning levels mentioned in section 3 of this report and as indicated in the architectural plans by Durback Block Jiggers meet the flood planning requirements as per Manly Development Control Plan 2013 DCP. These levels must be maintained to protect the property from flood waters.*

This flood impact and risk management plan has identified the flood risks associated with the site and outlined flood mitigation and management strategies that address potential risks and hazards to the occupants and structure of the building.

Based on the incorporated flood planning levels and flood impact and risk management plan, we believe this development application meets all flooding and risk management requirements stipulated within the Manly Development Control Plan 2013 and Northern Beaches Council Building in Flood Prone Land Guidelines.

These provisions are satisfied.

Acid Sulfate Soils

The site is located within Class 4 as shown on the Acid Sulfate Soils Map of MLEP 2013. We confirm that no additional excavation is proposed and in any event the Acid Sulphate Soils Assessment prepared by Geosyntec Consultants Pty Ltd submitted in support of the original application indicated that acid sulphate soils do not appear to be present at the site and accordingly an Acid Sulphate Soils Management Plan is not required.

These provisions remain satisfied.

Earthworks

In response to the clause 6.2 considerations, we confirm that no additional excavation is proposed and accordingly we rely on the geotechnical report prepared by Morrow Geotechnics Pty Limited approved pursuant to the original consent.

Foreshore Scenic Protection Area

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

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

Having regard to these provisions we have formed the considered opinion that as the modifications proposed do not materially alter the external appearance of the building these provisions remain satisfied.

Accordingly, the consent authority can be satisfied that the development, as modified, will not give rise to any actual or perceived impact on the Foreshore Scenic Protection Area having regard to the Clause 6.9 considerations.

Active Street Frontages

Pursuant to clause 6.11 the objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre.

We confirm that there is no change to the level of street activation achieved through approval of the original application.

Essential Services

Pursuant to clause 6.12 development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

We confirm that the development, as modified, will remain appropriately serviced.

Design Excellence

Pursuant to clause 6.13 development consent must not be granted for development on land in Zone E1 Local Centre unless the consent authority considers that the development exhibits design excellence. The consent authority can be satisfied that the proposal will continue to display design excellence in accordance with these provisions given that there are no material changes to the street and laneway facing building façades or the overall design quality of the development.

Gross Floor Area in Zone B2

Clause 6.16(3) of MLEP 2013 prescribes that development consent must not be granted to the erection of a building on land in Zone B2 Local Centre unless the consent authority is satisfied that at least 25% of the gross floor area of the building will be used as commercial premises. Council can be satisfied in this regard, noting that 100% of the building is to be used as commercial premises.

Clause 6.16(4) of MLEP 2013 prescribes that development consent must not be granted for development on land to which this clause applies if the gross floor area of any retail premises on the land would exceed 1,000 square metres. The retail component of the building, as modified, is limited to a gross floor area of 524.6m² and therefore compliant with this standard.

Council can be satisfied that the proposed development is consistent with the provisions of clause 6.16 of MLEP 2013.

5.0 Manly Development Control Plan 2013

Having assessed the modified development against the applicable provision of MDCP we note the following:

- The siting, scale, form and massing of the development is not altered with the modified proposal maintaining the previously approved **roof parapet and lift overrun building** height, compliant FSR, setbacks and spatial relationship with adjoining development.
- The modified proposal does not compromise the residential amenity outcomes afforded to adjoining development in relation to visual and aural privacy and solar access with compliant levels of solar access maintained.
- The modified proposal does not compromise the heritage conservation outcomes afforded through approval of the original application.
- The proposal maintains the previously approved quantum of off-street carparking.
- The previously approved landscape regime is unaltered.
- The modified proposal will remain capable of complying with the provisions of the Building Code of Australia as detailed within the accompanying BCA Compliance Statement prepared by BM+G.
- The previously approved acoustic outcomes are maintained as detailed within the accompanying Noise Impact Statement prepared by E-LAB Consulting.
- The modifications do not compromise the approved developments performance when assessed against the CPTED considerations.
- Waste will continue to be appropriately managed in accordance with the accompanying Waste Management Plans prepared by EP Consulting.
- The modifications do not alter the previously approved stormwater management regime.

6.0 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15(1) of the Environmental Planning and Assessment Act 1979(as amended):

The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations.

The developments performance when assessed against the relevant statutory planning regime is not compromised as detailed within this report.

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

Context and Setting

i) *What is the relationship to the region and local context on terms of:*

- *the scenic qualities and features of the landscape?*
- *the character and amenity of the locality and streetscape?*
- *the scale, bulk, height, mass, form, character, density and design of development in the locality?*
- *the previous and existing land uses and activities in the locality?*

The modifications sought are contained within the approved building envelope, or not readily discernible as viewed from outside the site, with the 3 dimensional form, streetscape appearance, heritage conservation and landscape outcomes as approved not compromised as consequence of the modifications sought.

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

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

The approved development will remain, in its modified state, a development which will continue to relate to its surrounds and adjoining development in the same fashion as originally approved in terms of view sharing, height, boundary setbacks, privacy and landscape outcomes.

Access, transport and traffic

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

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

The overall quantum of off-street carparking is unaltered with the development continuing to provide appropriately for off-street car parking.

Public domain

There are no public domain changes.

Economic impact in the locality

The proposed development will provide short term employment opportunities during construction and during the ongoing operational management of the development.

Site design and internal design

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

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

The modifications sought are contained predominantly within the approved building envelope, or not discernible as viewed from outside the site, with the 3 dimensional form, streetscape appearance, heritage conservation and landscape outcomes as approved not compromised as consequence of the modifications sought.

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

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

The proposed development will be capable of complying with the provisions of the Building Code of Australia as detailed within the accompanying BCA Compliance Statement prepared by BM+G.

Construction

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

- *the environmental planning issues listed above?*
- *site safety?*

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

The suitability of the site for the development.

Does the proposal fit in the locality?

- *are the constraints posed by adjacent developments prohibitive?*
- *would development lead to unmanageable transport demands and are there adequate transport facilities in the area?*
- *are utilities and services available to the site adequate for the development?*

The adjacent development does not impose any insurmountable development constraints. The proposal provides for a reduction in excavation and associated construction impacts on surrounding development.

Are the site attributes conducive to development?

The site has no special physical or engineering constraints is suitable for the proposed development.

Any submissions received in accordance with this Act or the regulations.

It is envisaged that any submissions made in relation to the proposed development will be appropriately assessed by Council.

The public interest.

The modifications do not compromise the public benefit achieved through approval of the original application and accordingly approval of the application will be in the public interest.

9.0 Conclusion

The modifications seek a refinement in the detailing of the building resulting from further design development in the preparation of construction documentation including services coordination. The modifications are generally internalised within the approved building envelope with the external changes limited to the identification of specific rooftop mechanical plant and PV and modifications to the upper-level western façade glazing to comply with energy efficient glazing requirements.

The modifications do not alter the approved ~~roof parapet and lift overrun building~~ heights, setbacks, car parking or waste management arrangements with the reconfiguration of the basement retail tenancy providing back of house facilities for the approved tenancy. This submission demonstrates that the residential amenity outcomes afforded to surrounding residential properties through approval of the original scheme are not compromised in terms of privacy, shadowing and acoustic outcomes. Importantly, the accompanying Visual Impact Assessment prepared by Urbane Design Group demonstrates that the view sharing outcomes achieved to apartment 633 and 733, 25 Wentworth Street, Manly are maintained. Further, the modifications do not compromise the design quality of the original approval nor its relationship with the adjacent heritage conservation area.

Accordingly, the consent authority can be satisfied that the modifications involve minimal environmental impact and that the development as modified represents substantially the same development as originally approved. Accordingly, the application is appropriately dealt with by way of s4.55(1A) of the Act.

Having given due consideration to the relevant considerations pursuant to s4.15(1) of the Act it is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

Yours sincerely

BOSTON BLYTH FLEMING PTY LTD



Greg Boston

B Urb & Reg Plan (UNE) MPIA
Director