

**STATEMENT  
OF  
ENVIRONMENTAL  
EFFECTS  
TO**

AUTHORISE THE CONSTRUCTION OF WALLS  
AND ASSOCIATED STRUCTURAL COMPONENTS  
THAT WERE TO BE RETAINED, HAVE BEEN  
DEMOLISHED AND HAVE NOT YET BEEN REBUILT;  
AND AUTHORISE THE USE OF WALLS AND  
ASSOCIATED STRUCTURAL COMPONENTS THAT  
WERE TO BE RETAINED, HAVE BEEN DEMOLISHED  
AND HAVE BEEN REBUILT TO  
APPROVED ALTERATIONS AND ADDITIONS  
TO EXISTING DUAL OCCUPANCY AT 82-84 BOWER  
ST MANLY  
AS APPROVED UNDER DEVELOPMENT CONSENTS  
168/2017, MOD 2018/0547, DA 2019/0126

**LANCE DOYLE B.AppSc (UWS), MPlan (UTS),MPIA**

Email: [lance@doyleconsulting.com.au](mailto:lance@doyleconsulting.com.au)

Mobile: 0414747395

## **CONTENTS**

1. INTRODUCTION	3
2. SITE AND LOCALITY	7
3. THE PROPOSAL	8
4. PLANNING INSTRUMENTS	9
<b>4.1 State Environmental Planning Policy (Coastal Management) 2018</b>	<b>9</b>
<b>4.2 Manly Local Environmental Plan 2013</b>	<b>11</b>
<b>4.3 Manly Development Control Plan 2013</b>	<b>29</b>
5. SECTION 4.15 EVALUATION	68
6. CONCLUSION	73

## 1. INTRODUCTION

This Statement of Environmental Effects has been prepared in support of a Development Application to (1) authorise the construction of walls and associated structural components that were to be retained, have been demolished and have not yet been rebuilt; and (2) authorise the use of walls and associated structural components that were to be retained, have been demolished and have been rebuilt as a component of the approved alterations and additions to existing dual occupancy at 82-84 Bower St Manly as approved under Development Consents 168/2017 and DA 2019/0126 and modification MOD 2018/0547.

The Development Application is being submitted to Northern Beaches Council as a consequence of firstly, the service of an initial Stop Works Order on 21st November 2019 on the building contractor carrying out works on the subject site. This Stop Works Order was identified as incorrect in that it encompassed works (Alterations and Additions - Demolition works and construction of two garages) that were not affected by the works in question and secondly, a subsequent Stop Works Order (the Stop Works Order) that was issued by Northern Beaches Council on 19th December 2019 following revocation of the first Stop Works Order.

The Stop Works Order contains the following statement by representatives of Northern Beaches Council –

*An inspection undertaken by Council Officer on 18 November 2019 revealed the following observations:*

*Demolition works had exceeded beyond relevant development consents DA0168/2017, MOD2018/0547, DA2019/0125 & DA2019/0126.*

*Existing external walls to the 'Ground Level' & 'Lower Floor Level' not approved for demolition within any of the development consents, had been demolished.*

*A section approximately 2m in length at the southern end of the party wall at 'lower ground level' and the extension of party wall from 'ground level' into the prior existing roof space or the proposed 'level 1' was no longer in place.*

*New unauthorised walls have been constructed in the following locations generally described as; the eastern external walls on the 'Basement' & 'Lower Floor Level' to Page 4 of 6 unit 84, the northern external wall at 'Basement' level & eastern wall adjacent to 'dining' & 'kitchen' at 'ground level' to unit 82, approximately 2m in length of party wall on the 'Lower Floor Level'*

*Walls that had been reconstructed appear to be the same location as walls demolished.*

*Existing floors at 'Ground Level' not approved for demolition within any of the development consents, had been removed and reconstructed, in part with beams from the existing floor.*

With regard to the above statement, it is important to note that Council's officers following their viewing of the subject works concluded that "walls that had been reconstructed appear to be the same location as walls demolished". This is a salient point in that the proposal seeks to reinstate walls and associated structures in the locations prior to the demolition or in the approved location following their reconstruction.

Subsequent to the service of the initial Order referred to in the preceding paragraphs, advice was sought from an accredited Land and Environment Court legal practitioner who advised that in their opinion, the works carried out to preserve the structural integrity of the building, although outside the scope of the works indicated on the architectural drawings, did not render any or all of the above development consents inoperable and that the above development consents remained active.

This was confirmed by legal advice from Senior Counsel which, in summary, advises that the works in question have not and will not render the consents invalid as the advice states -

*Those consents remaining valid, there is nothing to prevent those consents from being relied upon. Those consents authorised the carrying out of works and ultimately the use of those works when completed.*

It should also be noted that the works to be carried out in accordance with DA 2019/0125 for *alterations and additions – demolition works and construction of two garages* were revisited by Council and works on this component of the subject site are still being undertaken.

The subject Development Application seeks development consent to (1) authorise the construction of walls and associated structural components that were to be retained, have been demolished and have not yet been rebuilt; and (2) authorise the use of walls and associated structural components that were to be retained, have been demolished and have been rebuilt.

Further, in relation to those portions of walls and associated components that have already been rebuilt, an application for a Building Information Certificate is submitted.

The works, the subject of this accompanying development application both constructed works and works to be constructed will not result in a built form that is different to the approved built form under the relevant consents in terms of its setbacks to boundaries, length, breadth, width and height, excavated area, external appearance or associated components such as landscaping with the result that the approved works will be given effect in a manner in a manner that does not deviate from Council's consents or Construction Certificates issued for the works on the subject site.

The legal advice from Senior Counsel is clear and leaves no doubt that Northern Beaches Council is able to legally consider, and ultimately approve, the Development Application and Building Information Certificate documentation the subject of this Statement of Environmental Effects.

In the preparation of this Statement of Environmental Effects, consideration has been given to the following documents:

- Plans of the proposed and constructed works prepared by Smith and Tzannes Architects with subject works (both proposed and constructed) identified.
  - a. DA4-A-010 SITE PLAN
  - b. DA4-A-100 BASEMENT AND LOWER GROUND
  - c. DA4-A-101 GROUND AND LEVEL 1
  - d. DA4-A-102 ROOF
  - e. DA4-A-200 ELEVATIONS
  - f. DA4-A-201 SECTIONS
- Development Consents *DA0168/2017, MOD2018/0547, DA2019/0125 & DA2019/0126*.
- Manly Local Environmental Plan 2013 (MLEP)
- Manly Development Control Plan 2013 (MDCP)
- Planning Principles of the NSW Land and Environment Court.
- State Environmental Planning Policy (Coastal Management) 2018

- Written advice from Ian Hemmings Senior Counsel.
- Survey prepared by Bee & Lethbridge
  - a. No.82 Bower Street drawing reference – 21320skB, dated 15<sup>th</sup> Dec 2019
  - b. No.84 Bower Street drawing reference – 21320skA, dated 15<sup>th</sup> Dec 2019
- Engineering certification by Simon Myers of Partridge Partners.

During the preparation of this Statement of Environmental Effects, I have attended the subject site, undertaken a pre-lodgement meeting with Senior Council staff, reviewed the approved plans, plans of the subject works, current survey of works and supporting engineers certification.

This Statement of Effects also forms the basis of a request to Council for a Building Information Certificate to approve the retention of constructed works identified within the submitted architectural plans and accompanied by engineering certification and a survey by a registered surveyor to confirm that there are no changes to the location of any components only their replacement with structurally sound works.

## 2. SITE AND LOCALITY



The subject site is known as 82-84 Bower Street, Manly and its legal description is Lot 5 DP 8075 and encompasses a total area of 698.4m<sup>2</sup>. Currently the subject site contains demolished garages being reconstructed on the front boundary in accordance with DA 2019/0125 whilst the remainder of the site is comprised of scaffolding surrounding building works being undertaken until ceased with the service of the Stop Works Order, stockpiles, demolished materials and some sediment and erosion control devices.

The subject site is subject to a number of controls, particularly the detailed provisions of the Manly Local Environmental Plan 2013 and Manly Development Control Plan 2013. The subject site is zoned E3 Environmental Management under the provisions of the Manly Local Environmental Plan 2013.

The partially demolished structures on the subject site comprising dual occupancies, enjoy the benefit of acknowledged existing use rights and current Development Consents DA0168/2017, MOD2018/0547, DA2019/0125 & DA2019/0126.



### 3. THE PROPOSAL

The proposal seeks consent to (1) authorise the construction of walls and associated structural components that were to be retained, have been demolished and have not yet been rebuilt; and (2) authorise the use of walls and associated structural components that were to be retained, have been demolished and have been rebuilt as a component of the approved alterations and additions to existing dual occupancy at 82-84 Bower St Manly as approved under Development Consents 168/2017 and DA 2019/0126 and modification MOD 2018/0547.

Details of the works undertaken and the works proposed are provided within detailed plans Plans of the proposed development prepared by Smith and Tzannes Architects with subject works (both proposed and constructed) identified. Supporting document including structural engineers certification and survey documentation is included within the development application documentation submitted.

No works are proposed nor have any works been carried out that seek to modify the dimensions of any components of the approved plans under the relevant development consents pertaining to the alterations and additions to the existing attached dwellings on the subject site.



## 4. PLANNING INSTRUMENTS

### 4.1 State Environmental Planning Policy (Coastal Management) 2018



### 3 Aim of Policy

*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 four coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the [Coastal Management Act 2016](#).*

### **RESPONSE**

The proposal, being identical with the approved development, has been considered by Council as being consistent with the objectives of the Coastal SEPP.

#### **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.*

#### **RESPONSE**

Consideration of the relevant development consents by Northern Beaches Council has taken into account the above objectives and concluded that the proposal when completed will be consistent with the above objectives.

Given that the proposed works do not seek to alter the approved built form, the subject works remain consistent with these objectives.

***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.*

**RESPONSE**

The subject works have been overseen by qualified and experienced structural engineers to ensure that the proposal is consistent with the approved geotechnical engineers report considered as part of the parent development consents.

***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.*

**RESPONSE**

At the time of writing, no coastal management program had been endorsed for the subject locality.

**4.2 Manly Local Environmental Plan 2013**

The subject site is zoned E3 Environmental Management under the Manly LEP 2013

**1.2 Aims of Plan**

- (1) This Plan aims to make local environmental planning provisions for land in Manly in accordance with the relevant standard environmental planning instrument under section 33A of the Act.*
- (2) The particular aims of this Plan are as follows:*
  - (a) in relation to all land in Manly:*
    - (i) to promote a high standard of urban design that responds to the existing or desired future character of areas, and*
    - (ii) to foster economic, environmental and social welfare so that Manly continues to develop as an accessible, sustainable, prosperous, and safe place to live, work or visit, and*
    - (iii) to ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increase in demand, and*
    - (iv) to ensure all development appropriately responds to environmental constraints and does not adversely affect the character, amenity or heritage of Manly or its existing permanent residential population,*
  - (b) in relation to residential development:*
    - (i) to provide and maintain a diverse range of housing opportunities and choices that encourages affordable housing to cater for an ageing population, changing demographics and all socio-economic groups, and*
    - (ii) to ensure high quality landscaped areas in the residential environment, and*
    - (iii) to encourage higher density residential development to be located close to major transport nodes, services and employment opportunities, and*
    - (iv) to maintain active retail, business and other non-residential uses at street level while allowing for shop top housing in centres and offices at upper floors in local centres,*
  - (c) in relation to business and the economy:*
    - (i) to encourage, provide and consolidate business opportunities for a range of uses in appropriate locations that support local employment, community services and economic growth in business centres and light industry zones, and*

- (ii) *to recognise that tourism is a major industry and employer in Manly and to encourage its growth and continuing viability while protecting the needs of the local community,*
- (d) *in relation to transport, infrastructure and amenities:*
  - (i) *to reduce private car dependency, increase the viability of various public transport modes, minimise conflict between pedestrians and vehicular movement systems and encourage walking and cycling while concentrating intensive land uses and trip generating activities in locations most accessible to public transport and centres, and*
  - (ii) *to provide for a range of recreational and community service opportunities to meet the needs of residents and visitors to Manly and promote the efficient and equitable provisions of public services, infrastructure and amenities,*
- (e) *in relation to heritage—to identify, protect, sustain, manage and conserve all heritage, including archaeological relics, sites and resources, places of Aboriginal heritage significance, heritage items (and their curtilages), heritage conservation areas and the cultural (natural and built) environmental heritage of Manly,*
- (f) *in relation to the natural environment:*
  - (i) *to conserve and enhance terrestrial, aquatic and riparian habitats, biodiversity, wildlife habitat corridors, remnant indigenous vegetation, geodiversity and natural watercourses, and*
  - (ii) *to promote energy conservation, water cycle management (incorporating water conservation, water reuse, catchment management, stormwater pollution control and flood risk management) and water sensitive urban design, and*
  - (iii) *to protect, enhance and manage environmentally sensitive land with special aesthetic, ecological, scientific, cultural or conservation values for the benefit of present and future generations, and*
  - (iv) *to protect existing landforms and natural drainage systems and minimise the risk to the community in areas subject to environmental hazards, particularly flooding, bush fires, acid sulfate soils, sea level rise, tsunami and landslip, and*

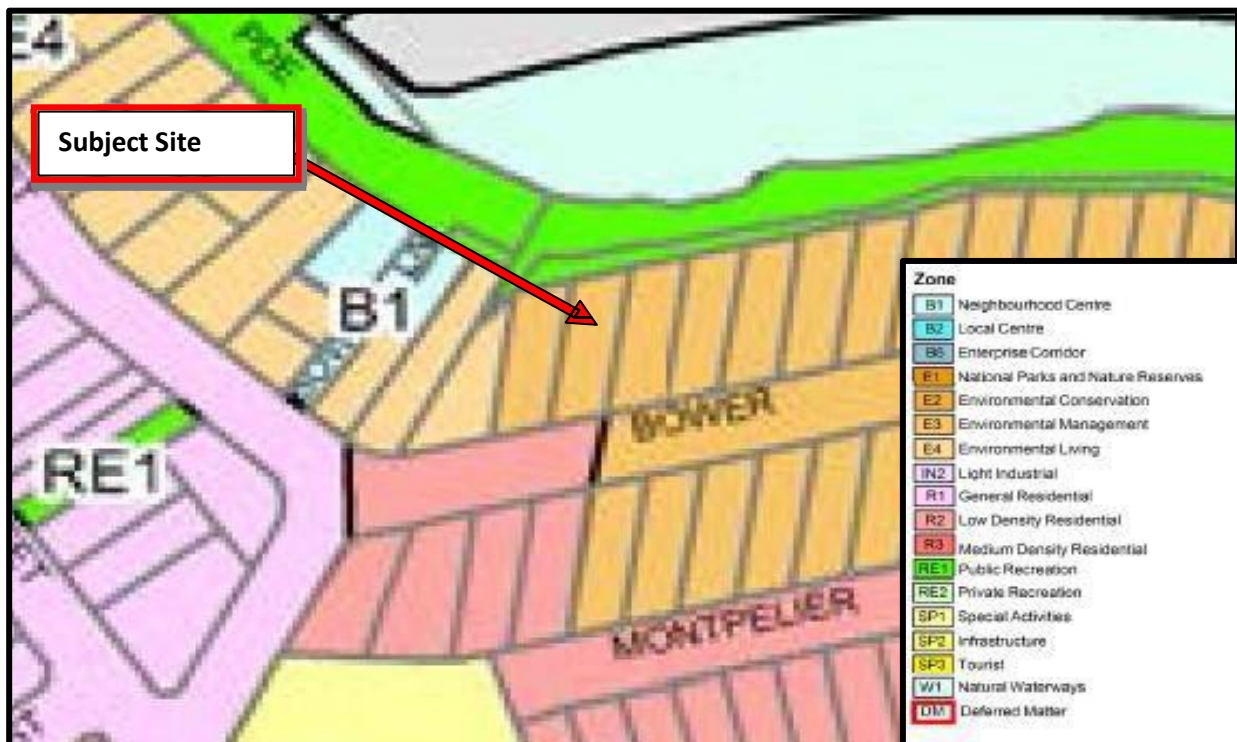
- (v) to provide a framework that facilitates and encourages measures to assist the adaptation of the local environment to mitigate the impacts of climate change, and*
- (vi) to give priority to retaining bushland for its own intrinsic value and as a recreational, educational and scientific resource,*
- (g) in relation to Manly's unique harbour, coastal lagoon and ocean beach setting:*
  - (i) to preserve and enhance the amenity of public places and areas visible from navigable water around Manly, and*
  - (ii) to retain open space, make more foreshore land available for public access and protect, restore and enhance riparian land along watercourses and foreshore bushland.*

## **RESPONSE**

Consideration of the relevant development consents by Northern Beaches Council has taken into account the above objectives and concluded that the proposal when completed will be consistent with the above objectives.

Given that the proposed works do not seek to alter the approved built form, the subject works remain consistent with these objectives.

## Zone E3 Environmental Management



### 2 Permitted without consent

*Home-based child care; Home occupations*

### 3 Permitted with consent

*Bed and breakfast accommodation; Dwelling houses; Environmental protection works; Flood mitigation works; Health consulting rooms; Home businesses; Roads; Secondary dwellings; Water supply systems*

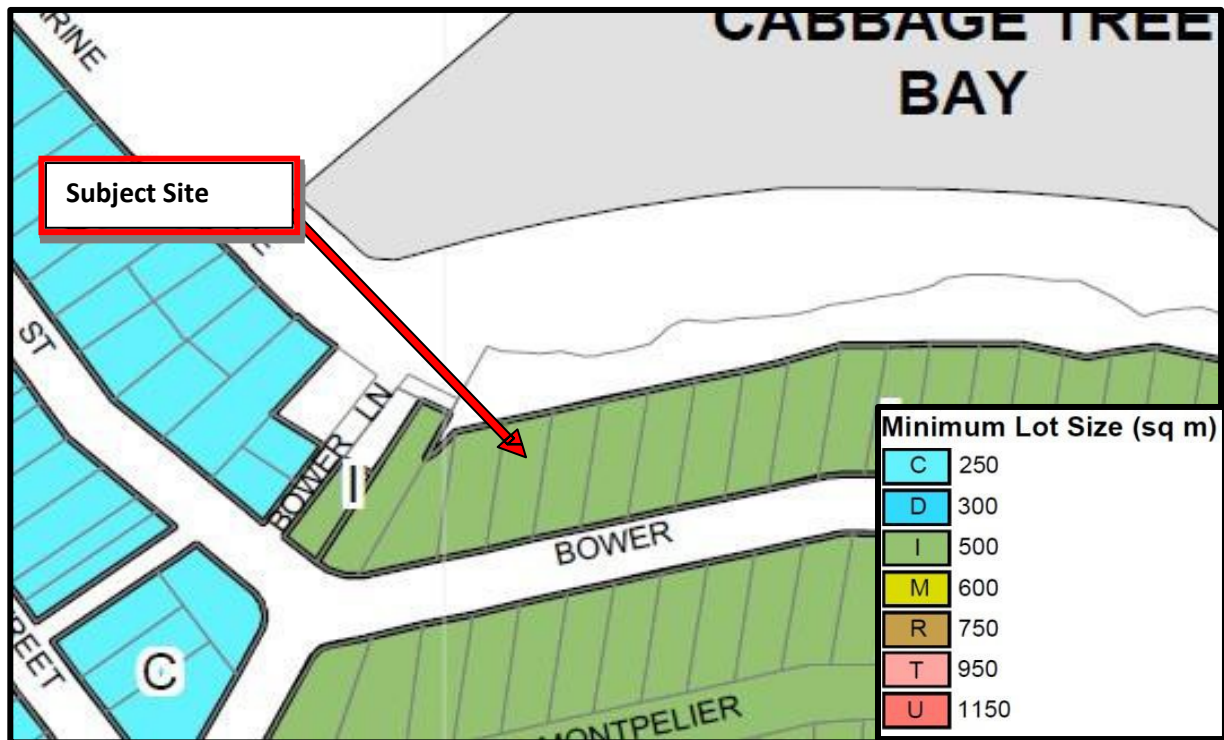
### 4 Prohibited

*Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3*

## **RESPONSE**

The proposal is not a permitted use within the E3 Zone. The subject proposal relies upon recognised existing use rights.





#### 4.1 Minimum subdivision lot size

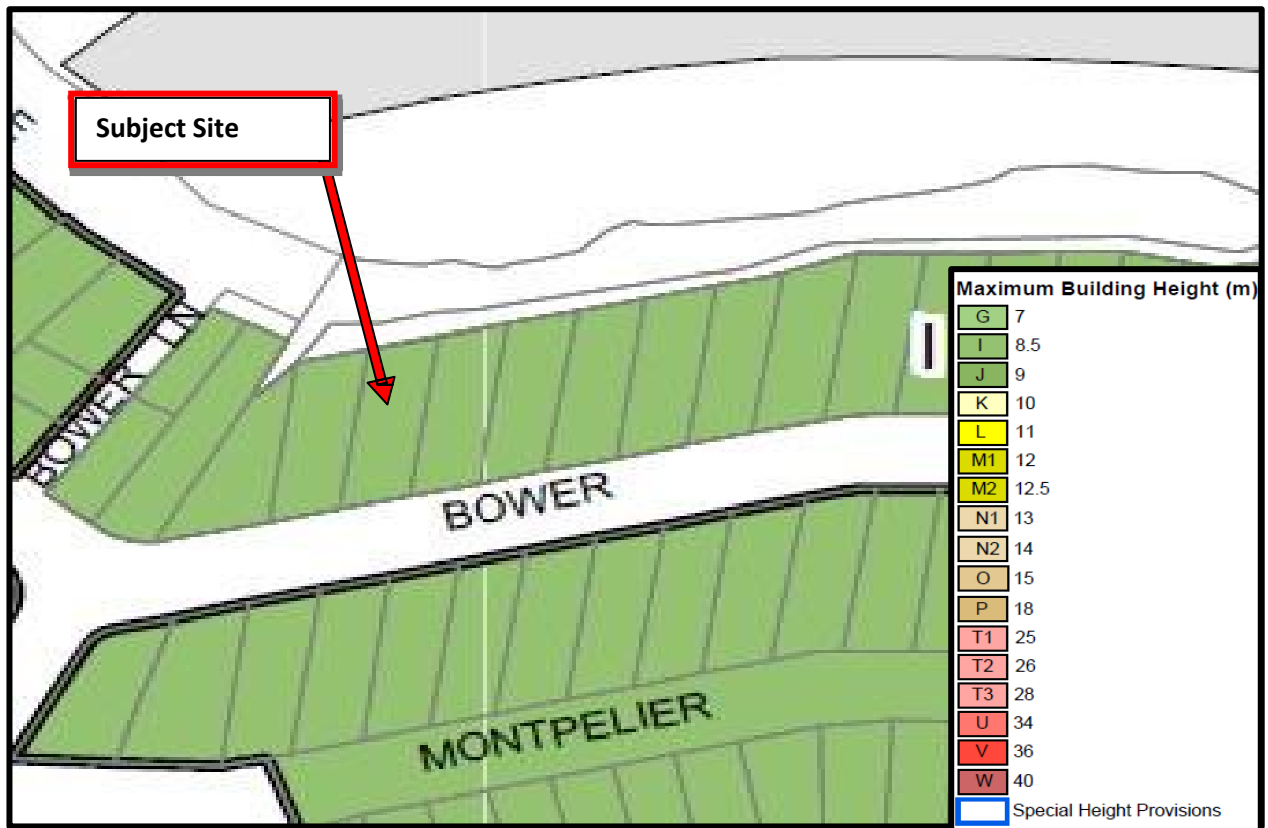
(1) The objectives of this clause are as follows:

- (a) to retain the existing pattern of subdivision in residential zones and regulate the density of lots in specific locations to ensure lots have a minimum size that would be sufficient to provide a useable area for building and landscaping,
- (b) to maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns,
- (c) to require larger lots where existing vegetation, topography, public views and natural features of land, including the foreshore, limit its subdivision potential,
- (d) to ensure that the location of smaller lots maximises the use of existing infrastructure, public transport and pedestrian access to local facilities and services.

#### **RESPONSE**

Although no subdivision is yet proposed, the existing lot size of 698m<sup>2</sup> satisfies the above control.

## Height of buildings



(1) The objectives of this clause are as follows:

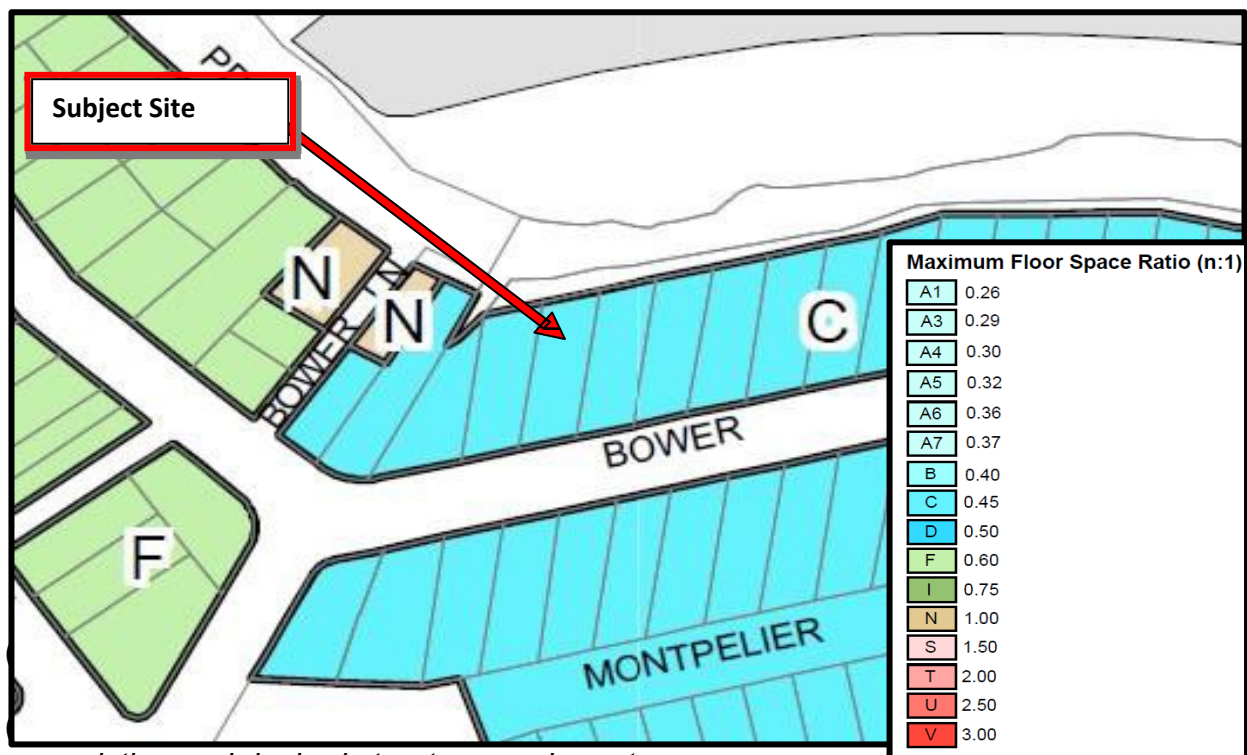
- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,
- (b) to control the bulk and scale of buildings,
- (c) to minimise disruption to the following:
  - (i) views 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.*
- (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](#).*

## **RESPONSE**

The subject works do not seek to, nor will result in, any variation to the approved building height which was assessed by Council under the above clause and an associated clause 4.6 request and consent was granted as the proposal as approved does not offend any of the above objectives.

### ***Floor space ratio***



*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.*
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).*
- (2A) Despite subclause (2), the floor space ratio for a building on land in Zone B2 Local Centre may exceed the maximum floor space ratio allowed under that subclause 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.*

## **RESPONSE**

Consideration of the relevant development consents by Northern Beaches Council has taken into account the above objectives and concluded that the proposal when completed will be consistent with the above objectives.

Given that the proposed works do not seek to alter the approved built form, the subject works remain consistent with these objectives and will not alter the approved gross floor area.

### **4.6        *Exceptions to development standards***

- (1) The objectives of this clause are as follows:*
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

## **RESPONSE**

Northern Beaches Council has previously given consideration to applications under clause 4.6 of the Local Environmental Plan and following detailed assessment, consent was granted. The subject works do not seek to vary the approved gross floor area and subsequent approved Floor Space Ratio.

## **5.5        *Development within the coastal zone***

*(1) The objectives of this clause are as follows:*

- (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,*
- (b) to implement the principles in the NSW Coastal Policy, and in particular to:*
  - (i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and*
  - (ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and*
  - (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and*
  - (iv) recognise and accommodate coastal processes and climate change, and*
  - (v) protect amenity and scenic quality, and*
  - (vi) protect and preserve rock platforms, beach environments and beach amenity, and*
  - (vii) protect and preserve native coastal vegetation, and*
  - (viii) protect and preserve the marine environment, and*
  - (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
  - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and*
  - (xi) protect Aboriginal cultural places, values and customs, and*
  - (xii) protect and preserve items of heritage, archaeological or historical significance.*

- (2) *Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:*
  - (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
    - (i) *maintaining existing public access and, where possible, improving that access, and*
    - (ii) *identifying opportunities for new public access, and*
  - (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
    - (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
    - (ii) *the location, and*
    - (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*
  - (c) *the impact of the proposed development on the amenity of the coastal foreshore including:*
    - (i) *any significant overshadowing of the coastal foreshore, and*
    - (ii) *any loss of views from a public place to the coastal foreshore, and*
  - (d) *how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*
  - (e) *how biodiversity and ecosystems, including:*
    - (i) *native coastal vegetation and existing wildlife corridors, and*
    - (ii) *rock platforms, and*
    - (iii) *water quality of coastal waterbodies, and*
    - (iv) *native fauna and native flora, and their habitats, can be conserved, and*

- (f) the cumulative impacts of the proposed development and other development on the coastal catchment.*
- (3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*
  - (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*
  - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*
  - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*
  - (d) the proposed development will not:*
    - (i) be significantly affected by coastal hazards, or*
    - (ii) have a significant impact on coastal hazards, or*
    - (iii) increase the risk of coastal hazards in relation to any other land.*

## **RESPONSE**

The above objectives, where relevant, have been addressed and endorsed by the proposal which will retain public access along the ocean frontage.

### ***Preservation of trees or vegetation***

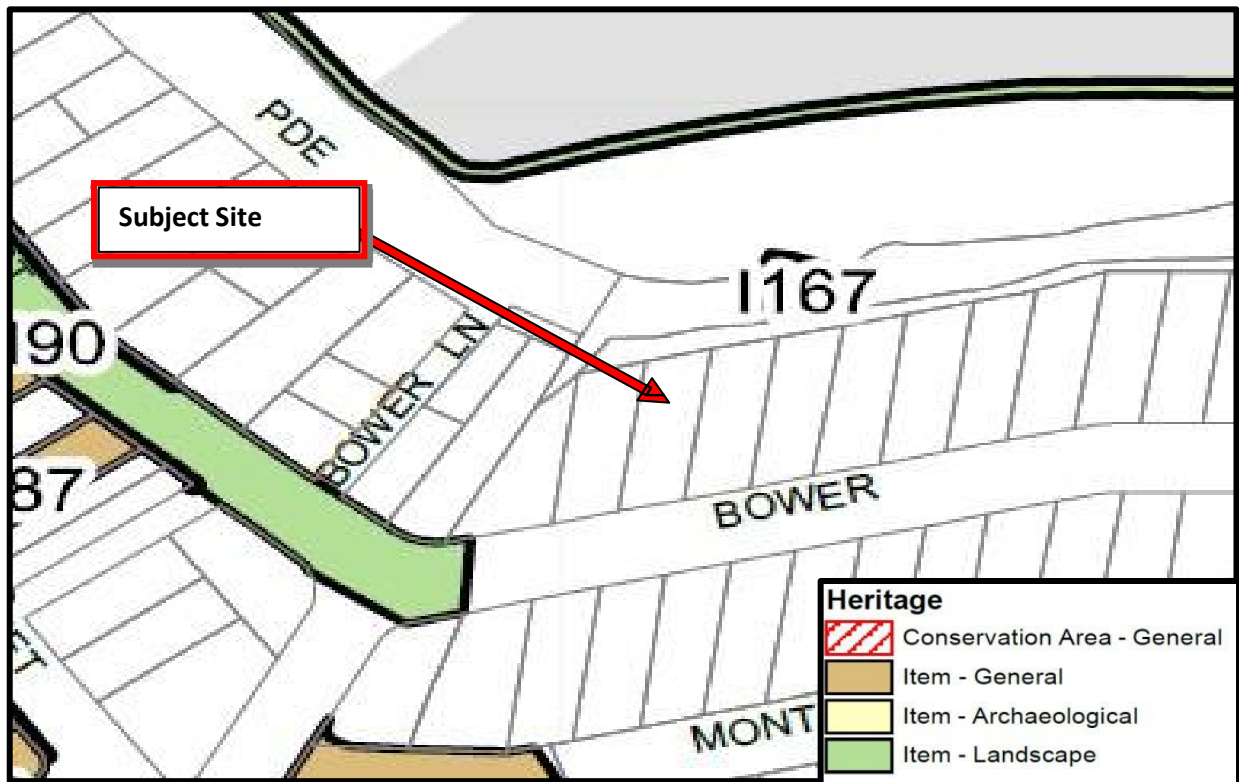
- (1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.*

## **RESPONSE**

No trees are proposed for removal.



## Heritage conservation



### (1) Objectives

*The 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.*

### **RESPONSE**

Northern Beaches Council has previously considered potential impacts of the built form on heritage items identified Within the Local Environmental Plan and granted consent. The proposal with the completed built form being identical to the approved built form has been deemed satisfactory by Council being identical to the approved

The subject locality for an area of 50 metres from the subject site has been subject to an electronic search of the Office of Environment and Heritage to ascertain the likelihood of Aboriginal Cultural relics being discovered within the search area.

The result (negative) is shown on the following page.



Office of  
Environment  
& Heritage

**AHIMS Web Services (AWS)**  
Search Result

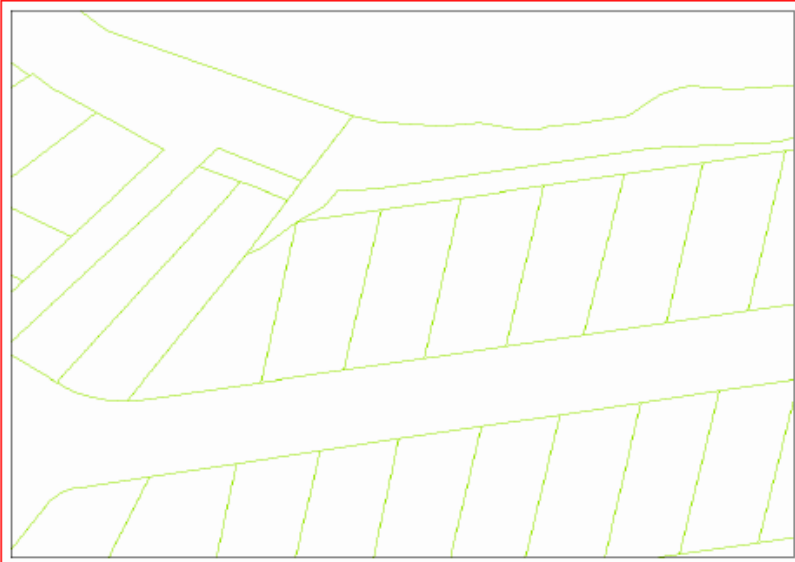
Purchase Order/Reference : BOWER ST MANLY  
Client Service ID : 397777

Lance Doyle  
3A Kendall Road  
Castle Cove New South Wales 2069  
Attention: Lance Doyle  
Email: lance@doyleconsulting.com.au  
Date: 09 February 2019

Dear Sir or Madam:

**AHIMS Web Service search for the following area at Lot : 5, DP:DP8075 with a Buffer of 50 meters, conducted by Lance Doyle on 09 February 2019.**

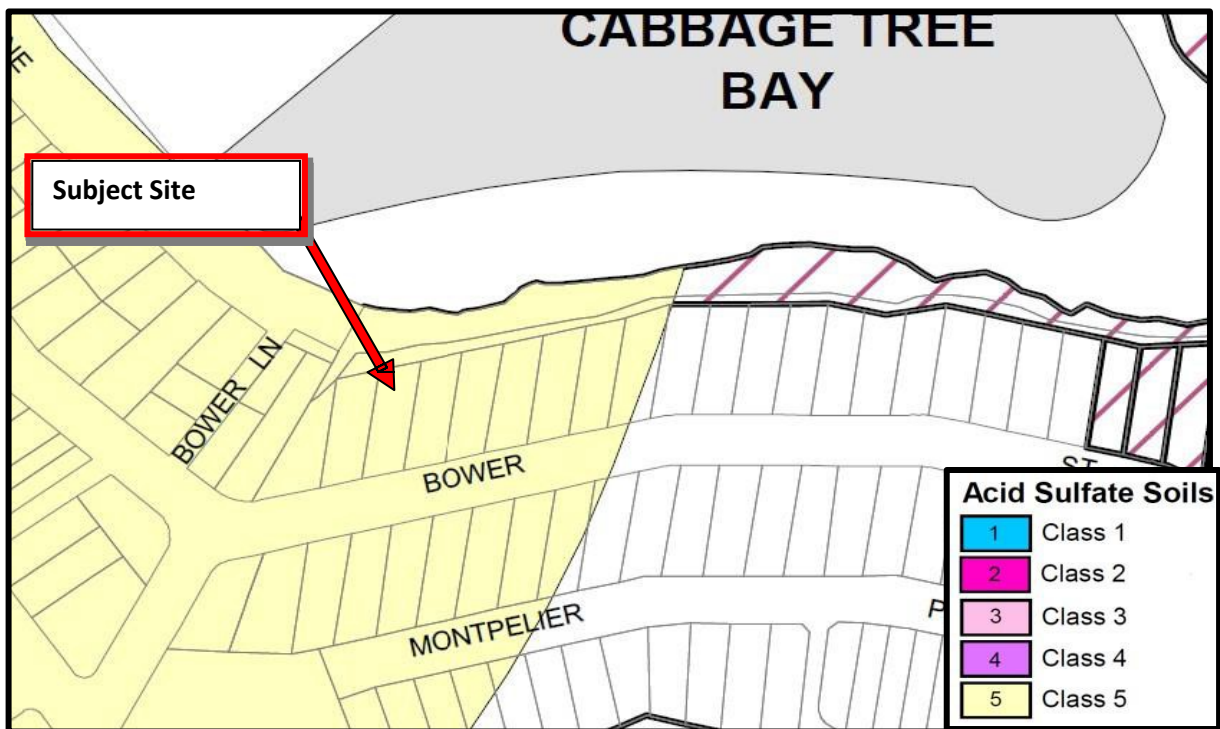
The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

### **Acid sulfate soils**



- (1) *The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*

### **RESPONSE**

The subject site is identified as “Class 5” under the above Clause. The proposal is however, unlikely to result in any lowering of the watertable and as such is not required to address the above Clause by way of an acid sulphate soils management plan.

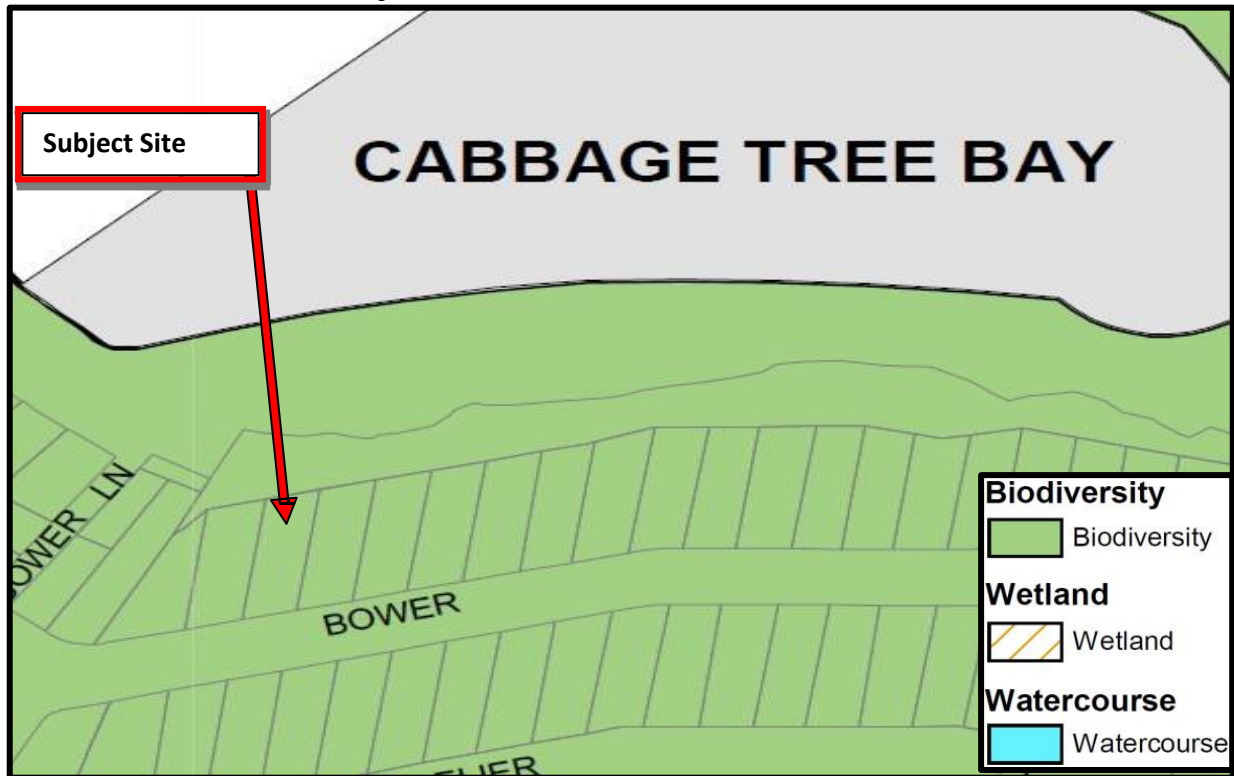
### **Earthworks**

- (1) *The objectives of this clause are as follows:*
- (a) *to ensure that earthworks and associated groundwater dewatering for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
  - (b) *to allow earthworks of a minor nature without requiring a separate development consent.*

## **RESPONSE**

Excavation of the subject both proposed and performed will remain consistent with earthworks approved under the relevant development consents.

### **6.5 Terrestrial biodiversity**



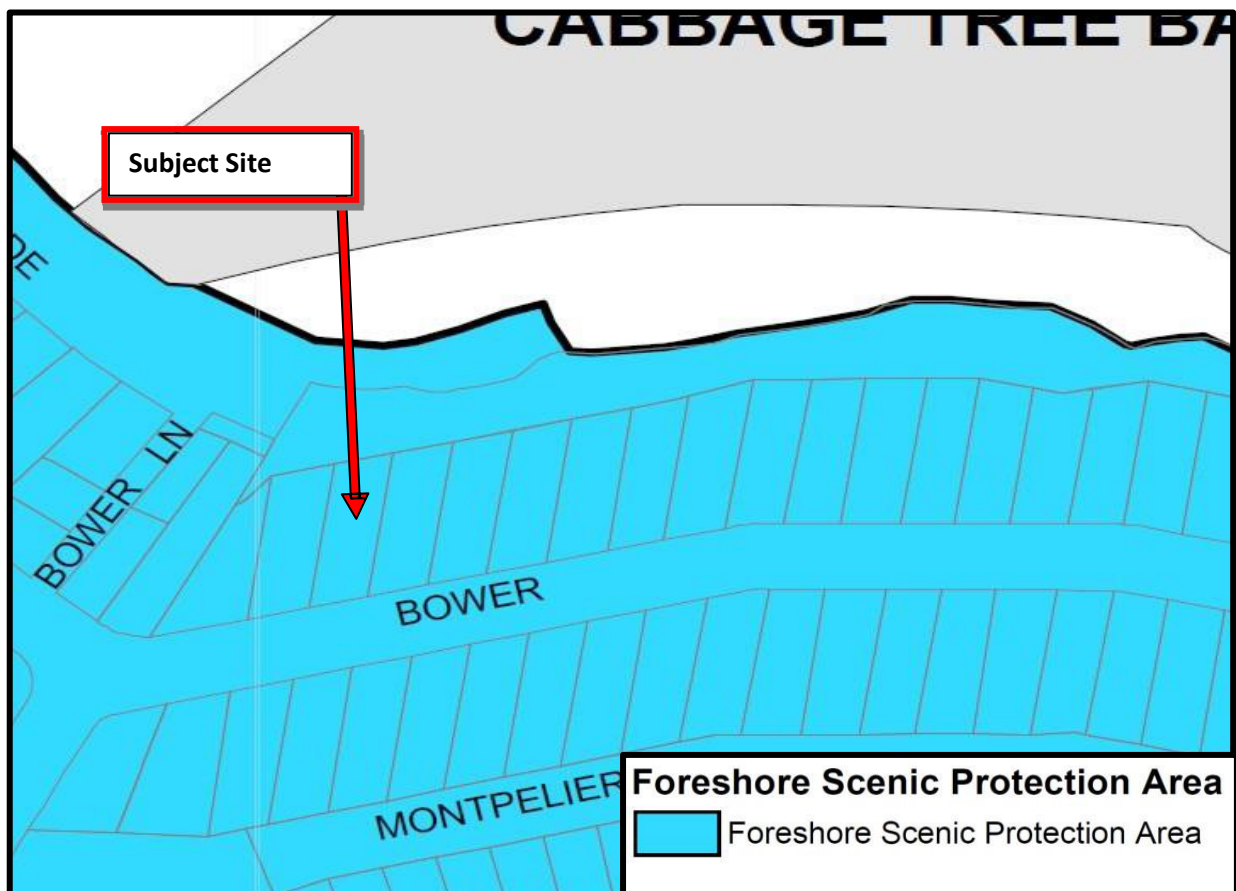
- (1) *The objective of this clause is to maintain terrestrial biodiversity by:*
  - (a) *protecting native fauna and flora, and*
  - (b) *protecting the ecological processes necessary for their continued existence, and*
  - (c) *encouraging the conservation and recovery of native fauna and flora and their habitats.*
- (2) *This clause applies to land identified as “Biodiversity” on the [Terrestrial Biodiversity Map](#).*
- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider:*

- (a) *whether the development is likely to have:*
  - (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
  - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
  - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
  - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*
- (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
- (4) *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 any significant adverse environmental impact, or*
  - (b) *if that impact cannot be reasonably avoided by adopting feasible alternatives—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.*

## **RESPONSE**

No tree removal or disturbance of any areas of biodiversity value is proposed.

## 6.9 Foreshore scenic protection area



- (1) *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.*
- (2) *This clause applies to land that is shown as “Foreshore Scenic Protection Area” on the [Foreshore Scenic Protection Area Map](#).*
- (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.*

## **RESPONSE**

The preservation of the amenity of the locality in terms of visual presence, privacy, solar access and views have been considered by Northern Beaches Council during the assessment of the relevant development consents and, due to the fact that the proposal does not proposed any modifications to the approved built form, the subject works remain consistent with the above objectives.

### **4.3 Manly Development Control Plan 2013**

The *Manly Development Control Plan 2013* (DCP) applies to all forms of development within the Manly locality.

#### ***1.7 Aims and Objectives of this Plan***

*The general aims of this plan 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 development applications.*
- 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.*

## **RESPONSE**



Aims and objectives of the DCP, where relevant, have been considered by Council during the assessment of the relevant development consents and the proposal, being consistent with the approval remains consistent with the above objectives.

### ***Streetscapes and Townscapes***

*Relevant DCP objectives to be met include the following:*

#### ***Streetscape***

*Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.*

*Objective 2) To ensure development generally viewed from the street complements the identified streetscape.*

*Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.*

#### ***Townscape***

*Objective 4) To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape.*

*Objective 5) To assist in maintaining the character of the locality. Objective 6) To recognise the importance of pedestrian movements and townscape design in the strengthening and promotion of retail centres.*

*Objective 7) To minimise negative visual impact, in particular at the arterial road entry point into the Municipality, so as to promote the townscape qualities of Manly.*

### **Comment**

The proposal, being identical to the approved plans will remain consistent with the established streetscape on this side of Bower Street.

### ***Streetscape (Residential areas)***

#### ***Complementary Design and Visual Improvement***

*a) Development in the streetscape (including buildings, fences and landscaping) should be designed to:*

- i) complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality;*
- ii) ensure the bulk and design of development does not detract from the scenic amenity of the area (see also paragraph 3.4 Amenity) when viewed from surrounding public and private land;*
- iii) maintain building heights at a compatible scale with adjacent development particularly at the street frontage and building alignment, whilst also having regard to the LEP height standard and the controls of this plan concerning wall and roof height and the number of storeys;*
- iv) avoid elevated structures constructed on extended columns that dominate adjoining sites such as elevated open space terraces, pools, driveways and the like. See also paragraph 4.1.8 Development on Sloping Sites and paragraph 4.1.9 Swimming Pools, Spas and Water Features;*
- v) address and compliment the built form and style any heritage property in the vicinity to preserve the integrity of the item and its setting. See also paragraph 3.2 Heritage Considerations;*
- vi) visually improve existing streetscapes through innovative design solutions; and*
- vii) incorporate building materials and finishes complementing those dominant in the locality. The use of plantation and/or recycled timbers in construction and finishes is encouraged. See also paragraph 3.5.7 Building Construction and Design.*

#### *Setback Principles in Low Density Areas*

- b) In lower density areas including LEP Zones R2, E3 & E4, setbacks should be maximised to enable open space to dominate buildings, especially on the foreshore.*

### **RESPONSE**

Assessment of the approved proposal against the objectives above has previously been performed by Council and found to be consistent with these objectives.

### **Front Fences and Gates**

- a) Notwithstanding maximum height provisions for fencing at paragraph 4.1.10; the siting, height and form of boundary fences and walls should reflect the fencing characteristic of the locality, particularly those of adjacent properties. All fencing and wall materials must be compatible with the overall landscape character and the general appearance of the building and the streetscape.*
- b) Boundary fences or walls must not be erected where they would conflict with the local character.*
- c) Front fences and gates must be constructed in materials that complement the architectural style and period of the dwelling and improve the streetscape. In particular, fencing adjacent to a public road or place must not be constructed in metal cladding, powder coated or otherwise.*
- d) Gates must not encroach on public land when opening or closing.*

### **RESPONSE**

Front fencing of the subject site will comprise a gate only, one to both No. 82 and 84 Bower Street located on the eastern boundary of each property, as approved under the parent development consents.

### **Roofs and Dormer Windows**

- a) Roof forms should complement, but not necessarily replicate the predominant form in the locality and in particular those of adjacent buildings.*
- b) Roofs should be designed to avoid or minimise view loss and reflectivity.*
- c) Dormer windows and windows in the roof must be designed and placed to compliment the roof structure and reflect the character of the building. In particular, such windows are not permitted on the street frontage of the building where there is no precedent in the streetscape, especially on adjoining dwellings.*

### **RESPONSE**

The roof form and its potential impacts has been subject to a detailed assessment by council under earlier development consents and, given that

there are no changes are proposed to the approved roofline the proposal remains consistent with these objectives.

### ***Garages, Carports and Hardstand Areas***

- a) Garages, carports and hardstand areas must be designed and sited in a manner that does not to dominate the street frontage by:*
  - i) its roof form, material choice and detailing by being subservient to the associated dwelling; and*
  - ii) being compatible with the streetscape and the location in relation to front setback criteria.*
- b) Exceptions to setback criteria referred to in this paragraph may be considered where parking structures are a positive element of the streetscape.*

### **RESPONSE**

Not applicable.

### ***Garbage Areas***

*Buildings with more than 1 dwelling require garbage storage enclosures which are:*

- a) not visible off site;*
- b) integrated into the building design;*
- c) unobtrusive and blend in with the design of front fences and walls when forward of the building; and*
- d) located and designed with consideration given to the amenity of adjoining properties.*

### **RESPONSE**

Not applicable as garbage bin storage is provided within the proposed garages.

## **Landscaping Design**

*Relevant DCP objectives to satisfy in relation to this part include the following:*

*Objective 1) To encourage appropriate tree planting and maintenance of existing vegetation.*

*Objective 2) To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.*

### **Landscape Character**

*a) The design, quantity and quality of open space should respond to the character of the area. In particular:*

*i) In low density areas (including LEP Zones R2 Low Density, E3 Environmental Management and E4 Environmental Living); open space should dominate the site. Setbacks of buildings from open space should also be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshore.*

*ii) In higher density areas the provision of adequate private open space and landscaped areas are to maximise residential amenity. Site works must be minimised to protect natural features.*

*iii) In areas adjacent to native vegetation, the design of development should be sympathetic to the natural environment in order to protect and enhance the area as habitat for native fauna.*

*iv) In areas of habitat for the long-nosed bandicoot (see paragraph 5.4.2), landscape design must include native plant species to provide new and/or improved low dense clumping habitat to provide for potential foraging and nesting. The planting schedule should comprise species such as Lomandra sp., Dianella sp., Banksia spinulosa, Caustis sp., Xanthorrhoea sp., Isolepis sp., Juncus sp., Adiantum sp., Calochlaena sp., Callistemon sp., Grevillea juniperina, Gleichenia sp., Grevillea 'Robyn Gordon' and tussocky native grasses (eg. Kangaroo Grass)*

*b) Planting criteria including Native Plant Species and Amenity*

*i) Landscaped Areas must be capable of supporting new native tree species that are typically expected to reach a mature height of 10m notwithstanding the minimum dimension requirements at paragraph 4.1.5.2 of this plan.*

- ii) The use of locally occurring native plant species is preferred to assist in providing habitat for local fauna; and preserve threatened native plants.*
- iii) Trees should not be positioned in locations that may significantly affect neighbouring properties in terms of:*

*Blocking winter sunlight to either living rooms, private open space or solar collectors; or where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views*

#### *Undercroft areas*

- c) Undercroft areas must be presented as a positive space and integrated into the design of the building by use of appropriate landscaping and/or the retention of natural features and vegetation where possible, having regard to the volume of the space and its orientation. In relation to sloping sites (see also paragraph*

*4.1.8) and in lower density areas, any supporting undercroft structures must be minimised.*

### **RESPONSE**

The proposal does not seek to modify the approved landscape plans as the footprint and ancillary structures remain consistent with the approved footprint and ancillary structures such as paths etc.

#### ***Landscape/Tree Preservation***

*Relevant DCP objectives to be met in relation to this part include:*

*Objective 1) To ensure that development protects and conserves the natural environment.*

*Objective 2) To protect and preserve urban bushland areas in recognition of their:*

- Value as part of the natural heritage*
- Aesthetic value; and*
- Value as recreational, educational and scientific resource.*

*Objective 3) To protect and prevent clearing of remnant and or rehabilitated riparian land value as a recreational, educational and scientific resource.*

- a) Developments must maximise the retention and protection of natural landscape features including significant rock outcrops and vegetation*

*including canopy trees and under-storey vegetation, which would require a tree permit under this plan.*

*b) The siting of buildings and landscaping must protect local waterways, drainage lines and riparian land by:*

*i) protecting existing riparian native vegetation and/or rehabilitating riparian land;*

*ii) retaining natural ground levels; and*

*iii) providing a buffer of native planting to existing vegetation, particularly when adjoining land in LEP Zones RE1, RE2, E1 & E2 as further detailed in paragraph 4.1.4.6 of this plan.*

*c) In relation to conservation and energy efficiency, plant species should be retained, selected and planted to achieve:*

*i) shaded buildings in summer;*

*ii) reduced glare from hard surfaces;*

*iii) sunlight access into living rooms in cooler months;*

*iv) cooling air currents channelled into the dwelling in summer;*

*v) windbreaks where desirable; and*

*vi) landscape construction taking advantage of, and using existing site materials, recycled materials and materials that have a low embodied energy.*

## **RESPONSE**

No trees will be impacted upon by the proposed works as works are consistent with the submitted arborist report under earlier consents.

### ***Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)***

*Relevant DCP objectives to be met in relation to these paragraphs include the following:*

*Objective 1) To protect the amenity of existing and future residents and minimise the impact of new development, including alterations and*



*additions, on privacy, views, solar access and general amenity of adjoining and nearby properties including noise and vibration impacts.*

*Objective 2) To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.*

#### *Designing for Amenity*

*a) Careful design consideration should be given to minimise loss of sunlight, privacy, views, noise and vibration impacts and other nuisance (odour, fumes etc) for neighbouring properties and/or other occupants of the development property. This is especially relevant in higher density areas*

*and in relation to development adjacent to smaller developments.*

*b) Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private viewpoints.*

*c) The use of material and finishes is to protect amenity for neighbours in terms of reflectivity. The reflectivity of roofs and glass used on external walls will be minimal in accordance with industry standards. See also paragraph*

*2.1.6 regards DA lodgement requirements for material and finishes.*

#### **RESPONSE**

The proposal will not result in any impact upon views, overshadowing, overlooking, privacy or noise over and above the impacts contemplated during Councils assessment of the development consents under which the proposed works are being performed.

#### ***Overshadowing Adjoining Open Space***

*In relation to sunlight to private open space of adjacent properties:*

*a) New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June) ; or*

*b) Where there is no winter sunlight available to open space of adjacent properties from 9am to 3pm, the calculations for the purposes of sunlight will relate to the equinox in March and September from 9am to 3pm.*

## **RESPONSE**

Solar access to adjoining properties will be consistent with the solar access is provided under the approved works has no changes are proposed to footprint, height or setbacks to boundaries.

### ***Maintaining Solar Access into Living Rooms of Adjacent Properties***

*In relation to sunlight to the windows or glazed doors to living rooms of adjacent properties:*

- a) for adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9am to 3pm on the winter solstice (21 June);*
- b) for adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 4 hours from 9am to 3pm on the winter solstice (21 June);*
- c) for all adjacent buildings (with either orientation) no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours specified above.*

## **RESPONSE**

Solar access to living rooms of adjacent sites will remain consistent with impacts assessed by Council under consideration of the match the approved built form.

### ***Overshadowing Solar Systems***

*In relation to solar access to hot water systems and solar collectors new/proposed development must:*

- a) not overshadow any existing adjacent solar collectors or hot water heaters between 9am and 3pm at any time of the year; or where there is no existing hot water systems and solar collectors,*
- b) maintain solar access to the north facing roofs of existing dwellings (generally within 45 degrees west to 45 degrees east) to a fixed minimum roof area of 10sqm capable of accommodating solar collectors or hot water*

*heaters that will not be overshadowed by the proposed development between 9am and 3pm at any time of the year.*

## **RESPONSE**

No solar systems or collectors will be overshadowed.

### ***Overshadowing Clothes Drying Areas***

*In relation to solar access for clothes drying, an area of the rear yard of minimum dimensions 7.5m by 2m for clothes drying should be free of shade between 10am and 2pm all year.*

## **RESPONSE**

Adjacent clothes drying areas will maintain current levels of solar access.

### ***Excessive Glare or Reflectivity Nuisance***

*See also paragraph 2.1.6 in relation to the lodgement of appropriate details of building material and finishes.*

*All external material and finishes incorporated into the development must consider and mitigate any excessive glare or reflectivity nuisance.*

## **RESPONSE**

See the submitted Schedule of Finishes contained within the relevant development consents.

### ***Privacy and Security***

*Relevant DCP objectives to satisfy in relation to this part include the following:  
Objective 1) To minimise loss of privacy to adjacent and nearby development by:*

*Appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings;*

*Mitigating direct viewing between windows and/or outdoor living areas of closely spaced building and adjacent buildings.*

*Objective 2) To encourage awareness of neighbourhood security.*

## **RESPONSE**

The proposal will not result in any impact upon views, overshadowing, overlooking, privacy or noise over and above the impacts contemplated during Councils assessment of the development consents under which the proposed works are being performed.

### ***Window Design and Orientation***

- a) Use narrow, translucent or obscured glass windows to maximise privacy where necessary.*
- b) When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy.*

### **RESPONSE**

The proposal does not include any modifications to the approved elevations.

### ***Balconies and Terraces***

*Architectural or landscape screens must be provided to balconies and terraces to limit overlooking nearby properties.*

### **Comment**

No balconies or terraces are proposed under the subject development application that are different to the approved balconies and terraces considered and approved by Council under the parent development consents.

### ***Casual Surveillance***

*In order to provide for the casual surveillance of the street and to provide a sense of security:*

- a) some rooms should be oriented to the street;*
- b) sight lines to the street frontage from a window of at least one habitable room should not be obscured by trees or any other object;*
- c) fences, walls and landscaping should minimise opportunities for concealment and encourage social interaction; and*

- d) in areas of high street noise, double glazing on windows is preferred, rather than the construction of high fences or walls as a sound attenuation measure.*

## **RESPONSE**

Although no surveillance is possible to Bower Street, the Marine Parade frontage is able to be viewed from terraces facing this frontage .

### ***Acoustical Privacy (Noise Nuisance)***

- a) Consideration must be given to the protection of acoustical privacy in the design and management of development.*
- b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.*

## **RESPONSE**

acoustic privacy impacts from the proposed plant room will be protected by the provision of this equipment in acoustically treated enclosures, consistent with the approved development.

### ***Maintenance of Views***

*Relevant DCP objectives to be satisfied in relation to this paragraph include the following:*

*Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.*

*Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths). Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.*

- a) *The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.*
- b) *Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.*
- c) *Templates may be required to indicate the height, bulk and positioning of the proposed development and to assist Council in determining that view sharing is maximised and loss of views is minimised. The templates are to remain in place until the application is determined. A registered surveyor will certify the height and positioning of the templates.*

## **RESPONSE**

The proposal will have no impact upon views to any further extent than the approved height and configuration of the roof.

### ***Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)***

*Relevant objectives in relation to this part include the following:*

*Objective 1) To ensure the principles of ecologically sustainable development are taken into consideration within a consistent and integrated planning framework that achieves environmental, economic and social sustainability in the short, medium and long term.*

*Objective 2) To encourage the retention and adaptation of existing dwellings including a preference for adaptive reuse of buildings rather than total demolition. Where retention and adaption is not possible, Council encourages the use of building materials and techniques that are energy efficient, non- harmful and environmentally sustainable.*

*Objective 3) To minimise waste generated by development and embodied in the building materials and processes through demolition.*

*Objective 4) To encourage the use of recycled materials in landscape construction works.*

*Objective 5) To encourage the establishment of vegetable gardens and the planting of fruit trees.*

*Objective 6) To encourage energy efficient building design, construction and practices, that reduce energy consumption (primarily for heating and cooling), reduce the use of non-renewable fossil fuels, minimise air pollution, greenhouse gas emissions and reduce energy bills.*

*Objective 7) To require that residential site planning and building design optimise solar access to land and buildings.*

*Objective 8) To site and design development to optimise energy conservation and sustainability in accordance with BASIX legislation and encourage development to exceed requirement particularly to ensure energy efficient use of energy for internal heating and cooling.*

*See also paragraph 2.1.7 Lodgement Requirements.*

*Objective 9) To site and design development to optimise energy conservation (in accordance with the energy hierarchy) and sustainability to which BASIX does not apply.*

*Objective 10) To ensure non-residential development involving a gross total floor area of greater than 500 sqm set and meet criteria for energy efficiency/conservation through an Energy Performance Report.*

*Objective 11) To ensure non-residential development complies with the Building Code of Australia energy efficiency provisions.*

## **RESPONSE**

The proposal is reliant upon the approved BASIX certificate containing recommendations to be incorporated within the proposal.

### **Solar Access**

#### **Building Form, Design and Orientation**

- a) Maximise the length of the north facing walls of living areas where site constraints allow. Where site constraints do not allow, aim to implement solar assisted techniques to compensate for inflexible building forms.*
- b) In achieving passive solar energy efficiency in building, the 'form' of the building can be a significant factor. In an ideal situation, buildings would be proportioned to ensure maximum solar access, with north facing walls up to 50 percent longer than east and west facing walls. However, the constraints provided by Manly's existing urban environment, means that*

*the ideal situation does not always occur. Invariably, on individual sites, orientation to the street, lot size and shape, and adjacent buildings will significantly influence the proportions and form of a building.*

- c) *Windows should be rated under the Window Energy Rating Scheme ([www.wers.net](http://www.wers.net)) and the Building Code of Australia Section J - Part 2 Glazing.*

## **RESPONSE**

Solar access to adjacent sites will be unaffected by the proposal as no changes to the approved location, shape, height or length of the built form are proposed.

### ***Solar Shading Devices***

*Whilst the design of buildings should take advantage of winter sun, there is an equal need to provide protection from the severity of summer sun. There is a need to control summer sun penetration and prevent the overheating of the building. This can be achieved using appropriate solar shading devices. The most effective way of controlling overheating of a dwelling is to prevent summer sun from reaching glazed areas.*

- a) *The design of buildings may reduce summer sun penetration to north, east and west facing walls of buildings incorporated by the use of external solar shading devices, such as; awnings, external venetians, balconies, pergolas, eaves, overhangs, sails and the like.*
- b) *The minimum projection width for north facing overhangs, or shading devices, should be a width equivalent to at least 45 percent of the height of the shaded opening, measured from the bottom of the glass, to be shaded.*

## **RESPONSE**

Solar shading devices have not been incorporated into the approved design.

### ***Building Design and Orientation to prevailing wind***

- a) *Buildings are to be orientated to benefit from cooling summer breezes (generally easterly/north easterly in Manly) where possible.*
- b) *Buildings are to provide for cross ventilation by locating windows and openings in line with both each other and the prevailing breezes.*



## **RESPONSE**

The approved orientation of the building facing the cooling summer breezes will be retained.

### ***Location and area of openings***

- a) The aggregate opening or openable size of greater than 5 percent of the floor area is required for any occupied room to ensure minimum requirement for ventilation in this plan.*
- b) Locate windows and openings in line with each other, and with the prevailing breezes to assist ventilation so that air can pass through a building from one side to the other, replacing warm inside air with cooler outside air.*
- c) Consider the use of solar or naturally activated exhaust fans to ventilate external walls. This also keeps living areas cool in summer and dry in winter;*
- d) Rooms in residential flat buildings which access exposed balconies are to include a separate opening window as well as a door.*

## **RESPONSE**

The proposal satisfies the provisions of the Building Code of Australia.

### ***Mechanical Systems***

- a) If air-conditioning is required, ensure it has sufficient controls so it is used only when required, including on/off programming schedules, after hours and holiday scheduling, and cooling and heating based on occupancy;*
- b) Ensure any air-conditioning system is well insulated, particularly those located in roof space.*
- c) Consider directing air-conditioning only to areas where it is needed, and relying on natural ventilation for the remaining part of the building;*
- d) Use a combination of passive methods, such as direct solar access, window shading, appropriate insulation and sealing, and natural ventilation to reduce the overall use of mechanised systems;*

- e) *Ensure cooking exhaust systems are not oversized in respect of their proposed use, and fit time controls to exhaust fans so that they switch off after a few minutes, or sensors to activate them during cooking;*
- f) *In industrial units and warehouses, locate goods doors away from areas that may require mechanised heating or cooling;*
- g) *Depending on the amount of movement, consider rapidly closing doors, plastic strip curtains or pneumatic seals for commercial and industrial buildings;*
- h) *Cool small office buildings by reverse cycle air-conditioning units that can be controlled individually and operated independently of the rest of the building if needed out-of-hours; Hotels should use a card system so air-conditioning and lighting in each guest room is switched off when the room is vacated;*
- i) *Install appropriately sized cooling and heat plant and equipment; and*
- j) *Investigate the use of cooling and heating energy efficiency opportunities including economy cycles, night purging, variable speed drives, humidity controls and electronic expansion valves.*

## **RESPONSE**

Not applicable.

## ***Building Construction and Design Environmentally Sound Building Materials***

- a) *Where possible, reuse existing site materials and materials that have a low embodied energy. That is, materials that have the least impact on the environment in production.*
- b) *Building materials should be selected to increase the energy efficiency of the building, and to minimise damage to the environment. In particular, the use of plantation and recycled timber is encouraged and no rainforest timbers or timbers cut from old growth forests are to be used in Manly. Building Specification for timber should specify plantation or regrowth timbers, or timbers grown on Australian farms or State Forest plantations, or recycled timbers. Recommended building timbers are located at Schedule 8 of this plan.*

- c) *Material choice should also take account of environmental considerations, namely:*
- i) *abundant or renewable resources;*
  - ii) *energy efficient materials, with low embodied energy;*
  - iii) *recycled materials;*
  - iv) *non-polluting materials;*
  - v) *environmentally acceptable production methods;*
  - vi) *durable materials, with low maintenance; and*
  - vii) *recyclable and reusable materials.*
- d) *Wood certified by the Forest Stewardship Council known as ‘Good Wood’ must be utilised where possible.*

## **RESPONSE**

Where practical and possible, the proposal will endorse the above.

### ***Thermal mass***

- a) *For the construction of buildings, use materials that have a good thermal mass, such as bricks, concrete and stone. These materials should be used where they can benefit the thermal comfort and energy efficiency of a dwelling. To be effective, materials with thermal mass should be located:*
- i) *inside the insulated fabric of the house;*
  - ii) *in north facing rooms, where they can benefit from winter heat gain.*
- b) *Manly’s temperate climate means that the storage of heat through thermal mass is an important factor in achieving ‘thermal comfort’ in the home.*
- c) *Achieving thermal mass in the building envelope as illustrated in Figure 18 is important for both:*
- i) *heat gain in winter. Internal walls with thermal mass can soak up heat from the sun through north-facing windows. During the night, this heat is released back into the rooms;*

*ii) heat release in summer. The thermal mass soaks up excess heat in the building. During the night this heat is slowly released.*

## **RESPONSE**

The provision of thermal mass is achievable with the masonry walls and concrete floors constructed and proposed.

### ***Glazing***

*a) Clerestory windows and skylights:*

*Where sun penetration is required to the southern parts of the house, glass roofs, skylights, or clerestory windows can be used. However, they must be shaded in summer to reduce excessive heat gain.*

*b) Orientation of living spaces:*

*Where a dwelling's living spaces are orientated northwards, aim to achieve a glazed area of up to 30 percent of the dwelling's floor area in this direction.*

## **RESPONSE**

Not applicable.

### ***Insulation***

*The use of insulation in walls and roofs can alter the rate at which a house can lose or gain heat. Insulation is not a heat store - it just makes it harder for heat to pass through a wall, roof or floor.*

## **RESPONSE**

The proposal will achieve the stipulated BASIX standards contained within the approved BASIX certificate.

### ***3.5.8 Water Sensitive Urban Design***

*Relevant DCP objectives to be met in relation to this part include: Objective*

*1) To ensure Water Sensitive Urban Design by:*

*water conservation;*

*portable;*

*wastewater minimisation*

*stormwater management*

### **3.5.8.1 Principles of Water Sensitive Urban Design**

*Under LEP clause 6.4 Stormwater Management, the principles of Water Sensitive Urban Design to be considered in granting development consent for any development in residential, business and industrial zones are summarised as follows:*

- a) protection and enhancement of natural water systems (including creeks, rivers, lakes, wetlands, estuaries, lagoons, groundwater systems) and riparian land;*
- b) protection and enhancement of water quality, by improving the quality of stormwater runoff from urban catchments;*
- c) minimisation of harmful impacts of urban development by mimicking natural water runoff regimes where possible and appropriate;*
- d) integration of vegetated stormwater treatment and harvesting systems into the landscape in a manner that maximise visual and recreational amenity of urban development and also provides water quality benefits;*
- e) reduction in potable water demand through water efficiency and rainwater and stormwater harvesting; and*
- f) location of water quality and stormwater treatment measures outside riparian land.*

### **RESPONSE**

No additional stormwater load will be resulting from the proposal and therefore, the approved Stormwater Management Plan under Development Consent 168/2017 will remain in force.

### **Stormwater Management**

*Relevant objectives to satisfy relation to this part include the following:*  
*Objective 1) To manage urban stormwater within its natural catchments and within the development site without degrading water quality of the catchments or cause erosion and sedimentation.*

*Objective 2) To manage construction sites to prevent environmental impacts from stormwater and protect*

*downstream properties from flooding and stormwater inundation.*

*Objective 3) To promote ground infiltration of stormwater where there will be no negative (environmental) impacts and to encourage on-site stormwater detention, collection and recycling.*

*Objective 4) To make adequate arrangements for the ongoing maintenance of stormwater facilities.*

## **RESPONSE**

No additional stormwater load will be resulting from the proposal and therefore, the approved Stormwater Management Plan under Development Consent 168/2017 will remain in force.

### ***Waste Management***

*Relevant objectives to satisfy in relation to this paragraph include the following:*

*Objective 1) Minimise overall environmental impacts of waste in accordance with regional waste plans and Federal and State Government waste minimisation targets.*

*Objective 2) Encourage environmentally protective waste management practices on construction and demolition sites which include:*

*Sorting of waste into appropriate receptors (source separation, reuse and recycling) and ensure appropriate storage and collection of waste and to promote quality design of waste facilities;*

*on and provision of design standards that complement waste collection management services offered by Council and private service providers;*

*Building designs and demolition and construction management techniques which maximises avoidance, reuse and recycling of building materials and which will minimise disposal of waste to landfill; and*

*Appropriately designed waste and recycling receptors are located so as to avoid impact upon surrounding and adjoining neighbours and enclosed in a screened off area.*

*Objective 3) Encourage the ongoing minimisation and management of waste handling in the future use of premises.*

*Objective 4) Provide advice to intending applicants on:*

*Matters to be considered when assessing the waste implications of Das;*

*Sound waste management practices and requirements for the preparation of waste management plans; and phase.*

## **RESPONSE**

The proposed demolition of the existing structure will allow and promote recycling of existing building materials.

The approved Waste Management Plan prepared by Smith and Tzannes provides details on the proposed waste handling procedures to be implemented.

### ***Mechanical Plant Equipment Plant Rooms***

- a) Plant rooms are generally required to accommodate mechanical plant systems for commercial buildings or major residential development and used exclusively for that purpose. The design and size of these rooms will vary depending on the technical specifications of the systems and other factors such as access and ventilation.*
- b) The provision of plant equipment in low density residential development rarely demands exclusive rooms for the occupation of plant i.e. a 'plant room', but where an exclusive plant room is proposed, the floor area must be no larger than the actual area which the plant and/or machinery occupies plus the equivalent of a 0.5m access/maintenance area surrounding the plant/machinery item for access and ventilation\*. Plant rooms are not to be used for other purposes such as for storage and laundry and the overall size of the plant room should generally be less than a size of habitable rooms and must not add to building bulk or result in excessive excavation. In considering the location of mechanical plant equipment in dwelling houses, the use of an otherwise non-habitable location/ space or under storey that is well ventilated and which minimise noise impacts are preferred.*

## **RESPONSE**

Proposed mechanical equipment will be minimal and will be accommodated as prescribed under the above control.

### ***Roof-top Plant, Lift Towers etc.***

*Roof-top plant and lift towers must be inconspicuous and / or designed as an integral part of the building in such a way as to appear as an appropriate part of the overall townscape. Plant equipment is to be appropriately located and designed such that it is not apparent from the street level view or from other active pedestrian areas and must not compromise street character, landscaping or pedestrian amenity or conflict with townscape objectives of this plan. See paragraph 3.1 Streetscapes and Townscapes. Not applicable as the lift tower will not protrude above the ridge of the roof.*

### **Noise from Mechanical Plant**

*External mechanical plant systems (for pools, air conditioning and the like) must be acoustically enclosed and located centrally and away from neighbours living areas of neighbouring properties and side and rear boundaries.*

## **RESPONSE**

Plant and equipment will be located internally in the proposed plant room as can be evidenced by the plant room and associated service corridors under construction.

### **4.1 Residential Development Controls**

*Relevant DCP objectives to be met in relation to residential development include the following:*

*Objective 1) To delineate by means of development control the nature and intended future of the residential areas of Manly.*

*Objective 2) To provide for a variety of housing types and densities while maintaining the existing character of residential areas of Manly.*

*Objective 3) To ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residences, the existing environmental quality of the environment or the aesthetic quality of Manly.*

*Objective 4) To improve the quality of the residential areas by encouraging landscaping and greater flexibility of design in both new development and renovations.*

*Objective 5) To enable population growth without having adverse effects on the character, amenity and natural environment of the residential areas.*



*Objective 6) To enable other land uses that are compatible with the character and amenity of the locality.*

*Objective 7) To ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increased demand.*

### **Comment**

The proposal seeks to endorse the above objectives by ensuring that the proposal will be imperceptible from public spaces and adjacent sites.

#### **4.1.1 Dwelling Density and Subdivision**

*4.1, the density controls in conjunction with other controls in this plan are also important means of prescribing the nature and intended future of the residential areas of Manly.*

*Relevant DCP objectives to be satisfied in relation to this part include:*

*Objective 1) To promote a variety of dwelling types and residential environments in Manly.*

*Objective 2) To limit the impact of residential development on existing vegetation, waterways, riparian land and the topography.*

*Objective 3) To promote a variety of allotment sizes, residential environments and housing diversity.*

*Objective 4) To maintain the character of the locality and streetscape.*

*Objective 5) To maximise the use of existing infrastructure.*

### **RESPONSE**

The proposal seeks to maintain the character of the locality, a visual lot configuration that promotes objective 3 and maintaining the existing character of the streetscape to respect objective 4 above. This was endorsed by Council in its approval of the development consents relied upon.

#### **4.1.1.1 Residential Density**

*This section contains maximum permissible residential density controls which generally apply to land identified on the LEP Lot Size Map and determine the maximum number of dwellings that may be achieved on any one parcel of land.*

- a) *The maximum permissible residential density control at Figure 24 - Minimum Residential Density applies to land identified in Residential Density Areas on the Minimum Residential Density Map at Schedule 1 - Map A in this plan.*

*Figure 24 - Minimum Residential Density determines the maximum number of dwellings that may be achieved on any one development site. This figure indicates the minimum site area required for every dwelling contained on a site. For example, if a density control of 300sqm per dwelling applies to a site with a site area of 600sqm the density control would allow for a maximum of 2 dwellings.*

- b) *For the purposes of calculating the residential density control for battle-axe lots, the area of the access handle is excluded from the site area, consistent with the provisions for minimum subdivision lot size in LEP clause 4.1(3A).*

## **RESPONSE**

No changes are proposed to the existing Residential Density established by the existing use of the subject site.

### **4.1.2 Height of Buildings**

*(Incorporating Wall Height, Number of Storeys & Roof Height).*

- a) *LEP Zones where numeric height controls in this DCP apply Height controls under paragraph 4.1.2 of this plan apply to development in LEP Zones R1, R2, R3, E3 and E4. This part of the DCP does not apply to development of other lands subject to the LEP Height of Building standard identified on the LEP Height of Building Map. See also paragraph 4.2 of this plan in relation to height controls and considerations in the LEP Business Zones.*
- b) *Exceptions to Height Where an existing building exceeds the maximum height controls in this plan or the height of building standards in the LEP, any alterations and/or additions to the building must not increase the overall height of the existing building.*

### **Wall Height**

- a) *Within the LEP Height of Buildings development standard, the maximum external wall height is calculated based on the slope of the land under the proposed wall. Figures 26, 27 and 28 provide guidelines for determining*

*the maximum height of external walls based on the particular slope of the land along the length of these proposed walls. The maximum wall height control will also vary from one building, elevation or part elevation to another depending on the slope of land on which the wall is sited. Within the range of maximum wall heights at Figures 26 and 28, the permitted wall height increases as the slope of the land increases up to a gradient of 1 in 4, at which point the permitted maximum wall height is capped according to Figure 26.*

- b) For the purpose of determining maximum wall height, the slope of the land is calculated at natural ground level along the full length of the proposed wall expressed as a ratio that is applied in Figure 27 - Interpretation of Wall Height based on Slope. The slope of land on which the wall is sited will differ from one building to another and from one elevation of that building to another elevation and will be used in Figure 28 below to determine the maximum wall height in each case.*

## **RESPONSE**

In accordance with the provisions of Figure 27 of the MDCP, the approved Wall Height does not exceed the maximum under the above provisions.

### ***Number of Storeys***

- a) Buildings must not exceed 2 storeys, except on land in areas 'L' and 'N1' on the LEP Height of Building Map and notwithstanding the wall and roof height controls in this plan.*
- b) Buildings on land in areas 'L' and 'N1' on the LEP Height of Building Map Buildings must not exceed 3 storeys notwithstanding the wall and roof height controls in this plan.*
- c) Variation to the maximum number of storeys may be considered:*
- i) where specific physical site constraints warrant an exception to this requirement. In these circumstances the development must still fully comply with other numeric height controls and development standards; and*
- ii) to allow an additional understorey where that storey satisfies the meaning of basements in the LEP.*

## **RESPONSE**

The existing number of storeys will not change for the principle dwellings.

### **Roof Height**

- a) *Pitched roof structures must be no higher than 2.5m above the actual wall height \*, calculated in accordance with Figure 29.*
- b) *Roof parapets may extend up to 0.6m above the actual wall height where Council considers that a parapet is considered to be appropriate to the design of the development and satisfies the objectives of this DCP and the LEP. For example, a parapet roof should not result in the appearance of lift structures and the like that protrude above the roof.*

### **RESPONSE**

No changes are proposed to the approved roof height.

### **Floor Space Ratio (FSR)**

*In particular, Objectives in this plan support the purposes of the LEP in relation to maintaining appropriate visual relationships between new development and the existing character and landscape of an area as follows:*

*Objective 1) To ensure the scale of development does not obscure important landscape features.*

*Objective 2) To minimise disruption to views to adjacent and nearby development.*

*Objective 3) To allow adequate sunlight to penetrate both the private open spaces within the development site and private open spaces and windows to the living spaces of adjacent residential development.*

### **RESPONSE**

The proposal, although exceeding the FSR development standard of 0.45:1 has been approved by Northern Beaches Council as Council is satisfied that the objectives set out above are satisfied.

### **Exceptions to FSR for Plant Rooms**

*In calculating the gross floor area under the LEP dictionary meaning for the purpose of calculating FSR, consideration must be given to paragraph 3.9 Plant Equipment of this plan with regard to the design and maximum area of plant equipment and plant rooms.*

## **RESPONSE**

The gross floor area of the proposal has been calculated in accordance with the provisions of the MLEP, deleting the plant room from the calculations.

### ***Exceptions to FSR for Open Balconies***

*Objective 1) To maintain open balconies which contribute to the articulation of building facades without adding to the building bulk and provide an amenity of open space for occupants.*

*In calculating the Gross Floor Area under the LEP dictionary meaning for the purpose of calculating FSR, balconies that are enclosed will not be excluded from the LEP definition of Gross Floor Area i.e. will be included in FSR when the balcony is:*

- i) enclosed to the extent that it is part of the building envelope as defined by the Building Code of Australia; and*
- ii) considered by Council to have the character of a habitable room.*

## **RESPONSE**

The FSR for the proposal has been calculated in accordance with the provisions of the MLEP. The proposal does not incorporate any changes to the approved gross floor area and subsequent FSR.

### ***Setbacks (front, side and rear)***

*Relevant DCP objectives to be met in relation to this part include: Objective 1) To maintain and enhance the existing streetscape. 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.*

*Facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

*Objective 3) To promote flexibility in the siting of buildings. Objective 4) To enhance and maintain natural features by:*

*Accommodating planting, including 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.*

## **RESPONSE**

Approved setbacks to both side boundaries remain unaltered by the proposal.

### **4.1.4.1 Front setbacks**

*See also paragraph 3.2.4 in relation to Heritage and paragraph 4.2 in relation to controls in LEP Business Zones.*

- a) Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.*
- b) Where the front building line of neighbouring properties is variable and there is no prevailing building line in the immediate vicinity i.e. where building lines are neither consistent nor established, a minimum 6m front setback applies.*
- c) Projections into the front setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, chimneys, meter boxes and the like, where no adverse impact on the streetscape or adjoining properties is demonstrated to Council's satisfaction.*

## **RESPONSE**

No changes are proposed to the front setback.

***Variations to Side Setback in Residential Density Areas D3 to D9 (see paragraph 4.1.1 of this plan)***

- a) Council may consider an exception to the side setback control to enable windows at 90 degrees to the boundary to provide some flexibility in the siting and design of buildings which assist in satisfying setback objectives relating to privacy subject to the following:*
  - i) The average distance to the boundary over the length of the wall is to be no less than the required setback control. In relation to the average distance to boundary, the area of building protruding into the minimum setback must be no greater than the area of land at the side boundary that is setback more than what is required by the minimum setback line.*
  - ii) The wall protruding into the minimum setback must not provide windows facing the side boundary.*
  - iii) The subject side elevation must provide a window(s) at some 90 degrees to the boundary.*
- b) Walls located within 0.9m of any one of the side boundaries may be considered but must:*
  - i) contain no windows; \**
  - ii) be constructed to one side boundary only;*
  - iii) limit height to 3m; \**
  - iv) limit length to 35 percent of the adjoining site boundary; \*\**
  - v) submit a standard of finish and materials for external surfaces which complement the external architectural finishes of adjacent properties and/or the townscape character;*
  - vi) obtain a right-of-way to provide access for maintenance; and*
  - vii) satisfy the objectives for setback in this plan and the applicant can demonstrate no disadvantage to the adjacent allotment through increased overshadowing, or loss of view and no impediment to property maintenance.*

**RESPONSE**

Not applicable

## **Rear Setbacks**

- a) *The distance between any part of a building and the rear boundary must not be less than 8m.*
- b) *Rear setbacks must allow space for planting of vegetation, including trees, other landscape works and private and/or common open space. See also paragraph 3.3 Landscaping.*

## **Comment**

The proposal, on a site with two street frontages does not have a “rear” setback however the proposal does not incorporate any change to the Marine Parade setback.

### **4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2**

- a) *Buildings, swimming pools and garden sheds on sites with a common boundary to land zoned in the LEP as Zones RE1 Public Recreation, RE2 Private Recreation, E1 National Parks and E2 Environmental Conservation must be set back at least 6m from this common boundary and in the case of rear setbacks, the minimum 8m setback prevails (see paragraph 4.1.4.4 of this plan). However, gazebos, barbeques, child play equipment and the like may be permitted within this setback provided they are designed to complement the natural or landscape character of the adjacent LEP Zones.*
- b) *Remnant native vegetation must be protected on land particularly within the minimum required setback area adjacent to land zoned in the LEP as Public or Private Recreation (Zones RE1 & RE2), National Parks (Zone E1) and Environmental Conservation (Zone E2). The design of development generally adjacent to native vegetation should be sympathetic to the natural environment in order to protect and enhance areas as habitat for native fauna.*

## **Comment**

Not applicable.

### **4.1.5 Open Space and Landscaping**

*Relevant DCP objectives to be met in relation to these paragraphs include the following:*



*Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.*

*Objective 2) To maximise soft landscaped areas, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.*

*Objective 3) To enhance the amenity of the site, streetscape and surrounding area.*

*Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.*

*Objective 5) To minimise the spread of weeds and the degradation of private and public open space.*

*Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.*

## **RESPONSE**

The proposal will not result in any loss of private open space over the amount approved under mod 0547/2018 (337.99 sq metres being 48.42%).

### **4.1.5.3 Private Open Space**

#### *Principal private open space*

*a) Principal private open space is to be provided in accordance with the following minimum specifications:*

*i) Minimum area of principal private open space for a dwelling house is 18sqm; and*

*ii) Minimum area of principal private open space for residential accommodation with more than 1 dwelling on the site is 12sqm for each dwelling.*

#### *Private open space for Boarding Houses*

*b) Private open space for Boarding Houses is to be provided in accordance with the following minimum specifications:*

*i) Minimum area of Private Open Space for a boarding house is 20sqm with a minimum dimension of 3m for the use of the lodgers.*

- ii) if accommodation is provided on site for a boarding house manager – 1 area of at least 8sqm with a minimum dimension of 2.5m is to be provided adjacent to that accommodation.*
- iii) the area prescribed in paragraph i) above is to receive a minimum of 3 hours direct sunlight between 9am and 3pm in midwinter.*

## **RESPONSE**

No change is proposed to the approved amount of private open space, 223.9 square metres.

### **4.1.6 Parking, Vehicular Access and Loading**

*(Including Bicycle Facilities)*

*Relevant DCP objectives to be met in relation to these paragraphs include:*

- Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).*
- Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.*
- Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.*
- Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.*
- Objective 5) To ensure the width and number of footpath crossings is minimised.*
- Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.*
- Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and*

*by encouraging bicycle use to limit traffic congestion and promote clean air.*

## **RESPONSE**

Not applicable under this proposal as the provision of car parking accommodation enjoys the benefit of a separate development consent namely DA 2019/0125 for garages to the Bower Street frontage of the subject site.

### ***4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas***

- a) The design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality.*
- b) Garage and carport structures forward of the building line must be designed and sited so as not to dominate the street frontage. In particular:*
  - i) garages and carports adjacent to the front property boundary may not be permitted if there is a reasonably alternative onsite location;*
  - ii) carports must be open on both sides and at the front; and*
- c) the maximum width of any garage, carport or hardstand area is not to exceed a width equal to 50 percent of the frontage, up to a maximum width of 6.2m.*
- d) In relation to the provision of parking for dwelling houses, Council may consider the provision of only 1 space where adherence to the requirement for 2 spaces would adversely impact on the streetscape or on any heritage significance identified on the land or in the vicinity.*

## **RESPONSE**

Not applicable under this proposal as the provision of car parking accommodation enjoys the benefit of a separate development consent namely DA 2019/0125 for garages to the Bower Street frontage of the subject site.

### ***Vehicular Access***

- a) All vehicles should enter and leave the site in a forward direction.*

- b) Vehicular access and parking for buildings with more than 1 dwelling is to be consolidated within one location, unless an alternative layout/design would better reflect the streetscape or the building form.*
- c) Vision of vehicles entering and leaving the site must not be impaired by structures or landscaping.*
- d) Particular attention should be given to separating pedestrian entries and vehicular crossings for safety.*
- e) Vehicular access will not be permitted from pedestrianised areas in Manly Town Centre.*

### **RESPONSE**

Not applicable.

### ***Driveways and Crossings***

- a) Driveway crossovers/ gutter crossings should be minimised and spaced to maximise kerb-side car parking spaces. An appropriate means of minimising impacts in this regard may involve relocation of garages or carports away from the front property boundary if there is a reasonable alternative location.*
- b) Particular attention should be given to separating pedestrian entries and vehicular crossings.*
- c) The use of porous pavements and retention of existing vegetation is strongly encouraged in the design of driveways in order to maximise stormwater infiltration.*

### **RESPONSE**

Not applicable.

### ***First Floor and Roof Additions First Floor Additions***

- a) First floor additions must complement the architectural style of the ground floor and where possible retain existing roof forms. Notwithstanding setback provisions, the addition may follow the existing ground floor wall setbacks providing adjoining properties are not adversely impacted by overshadowing, view loss or privacy issues.*

- b) The dwelling and the form of alterations and additions must retain the existing scale and character of the street and should not degrade the amenity of surrounding residences or the aesthetic quality of Manly. In this regard, it may be preferable that the addition be confined to the rear of the premises or be contained within the roof structure.*

## **RESPONSE**

No first floor or roof addition is proposed as the subject proposal is entirely consistent with the approved development on the subject site.

### ***Habitable Rooms in the Roof Structure***

*Habitable rooms will be permitted in a roof structure subject to compliance with all other controls in this plan and the LEP including height and FSR in the LEP. However alterations and additions to a building which existed prior to 2007 may involve habitable rooms within an existing roof structure that is above the*

*maximum wall and roof height; (see paragraph 4.1.2 of this plan) subject to the rooms not detracting from the character or integrity of the roof structure and not adversely impacting on the amenity of adjacent and nearby properties and the streetscape. Similarly, alterations and additions which exceed the maximum height must not increase the overall height of the building.*

*Consideration may be given in this paragraph to the application of LEP clause 4.6 in considering exceptions to the LEP Building Height standard.*

## **RESPONSE**

No habitable room in a roof structure is proposed.

### ***4.1.8 Development on Sloping Sites***

- a) The design of development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.*
- b) Developments on sloping sites must be designed to:*
- i) generally step with the topography of the site; and*
  - ii) avoid large undercroft spaces and minimise supporting undercroft structures by integrating the building into the slope whether to the foreshore or a street.*

### *Driveways on sloping sites*

- c) On steep sites, driveways must be designed so they do not dominate the street frontage, by:*
  - i) limiting their height above existing ground level to avoid the need for elevated ramps and similar structures to access car parking areas, especially those which may encroach on public land;*
  - ii) limiting their width;*
  - iii) using materials that do not visually detract from the natural surroundings; and*
  - iv) retaining significant trees.*

### **RESPONSE**

The proposal supports the above objectives by locating the works below ground level and avoiding any undercroft as is evidenced in the approved development application plans.

## **5.4 Environmentally Sensitive Lands**

### **5.4.1 Foreshore Scenic Protection Area**

#### **5.4.1.1 Additional matters for consideration**

*LEP clause 6.9(3)(a) to (d) lists certain matters to be taken into account in relation to all development within the Foreshore Scenic Protection Area.*

- a) Further to matters prescribed in the LEP, the development in the Foreshore Scenic Protection Area must also:*
  - i) minimise the contrast between the built environment and the natural environment;*
  - ii) maintain the visual dominance of the natural environment;*
  - iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;*
  - iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;*
  - v) locate rooflines below the tree canopy;*

- vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and*
- vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality.*
- b) Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly.*

## **RESPONSE**

As the subject site is located within the Foreshore Scenic Protection Area, the preceding matters were given strong consideration during the design process with Council being satisfied that the approved proposal satisfies the above objectives.

## 5. SECTION 4.15 EVALUATION

### 7.6 Matters for consideration—general

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

*(i) any environmental planning instrument, and*

*(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

#### **RESPONSE**

The relevant provisions of the MLEP and Coastal Management SEPP have been addressed in the body of this Statement.

*(iii) any development control plan,*

#### **RESPONSE**

The relevant provisions of the Manly DCP have been addressed in the body of this Statement.

*and*

*(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4,*

#### **RESPONSE**

No planning agreements apply to the proposal

*and*

*(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*



## **RESPONSE**

The relevant regulations have been given due regard in the construction of this Statement.

*and*

*(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

## **RESPONSE**

The body of this Statement describes the potential impacts upon the natural and built environments and the mechanisms to be incorporated to reduce or prevent these impacts. It should be noted however that the proposal will have no further impact(s) than the impacts assessed under the approved DA's for the subject site.

*(c) the suitability of the site for the development,*

## **RESPONSE**

The subject site, by virtue of its orientation, topography and locality is suitable for the proposal.

*(d) any submissions made in accordance with this Act or the regulations,*

## **RESPONSE**

Any submissions received in response to Councils notification of the proposal will be considered as part of Councils assessment of the proposal.

*(e) the public interest.*

## **RESPONSE**

The proposal endorses the public interest by enabling a standard of construction that meets the structural standards of the BCA and allows for the provision of a built form that is structurally sound is required under the relevant conditions of the approved development on the subject site.

***(2) Compliance with non-discretionary development standards—development other than complying development***

*If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:*

*(a) is not entitled to take those standards into further consideration in determining the development application, and*

*(b) must not refuse the application on the ground that the development does not comply with those standards, and*

*© must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.*

*(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:*

*(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and*

*(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard. Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).*

### **(3A) Development control plans**

*If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:*

*(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*

*(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow*

*reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*

*© may consider those provisions only in connection with the assessment of that development application. In this subsection, standards include performance criteria.*

**(4) Consent where an accreditation is in force**

*A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.*

*(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).*

**(6) Definitions**

*In this section: (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and (b) non-discretionary development standards means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.*

**Environmental Planning Instruments**

The proposal is a permissible use in the E3 Environmental Management zone whilst the departure from the Development standard for Floor Space Ratio has been addressed as reasonable during Councils assessment of the development applications for the subject site.

**Development Control Plans**

This is addressed in the body of this SEE.

**Impact on the Natural Environment.**

The proposal is unlikely to unreasonably impact upon flora and fauna, soil or water quality, air quality or the conservation of natural resources due to the fact that the completed proposal will be identical to the approved proposal.

Impact on the Built Environment.

**Scenic qualities** – the proposal as approved is consistent with the current and future character of the locality as expressed within the provisions of the relevant Manly Council policies.

**Compatibility with adjacent land uses** – The approved proposal is for a residential use, compatible with surrounding residential uses.

Impact on the Social and Economic Environment.

The proposal is unlikely to result in any negative social or economic impacts in fact the provision of a building of a higher structural standard than would have been the case if substandard structural components had been retained as social and economic benefits.

Suitability of the Site.

The subject site, by virtue of its approved development, topography and locality is suitable for the proposal.

## **6. CONCLUSION**

As outlined and described within the preceding body of this statement, the Development Application seeks consent to (1) authorise the construction of walls and associated structural components that were to be retained, have been demolished and have not yet been rebuilt; and (2) authorise the use of walls and associated structural components that were to be retained, have been demolished and have been rebuilt as a component of the approved alterations and additions to existing dual occupancy At 82-84 Bower St Manly as approved under Development Consents 168/2017 and DA 2019/0126 and modification MOD 2018/0547.

This Statement of Effects also forms the basis of a request to Council for a Building Information Certificate to approve the retention of constructed works identified within the submitted architectural plans and accompanied by engineering certification and a survey by a registered surveyor to confirm that there are no changes to the location of any components only their replacement with structurally sound works.

The works proposed under cover of this Statement were necessitated by the fact that several components identified to be retained were, once demolition of surrounding elements had taken place, seen to be structurally substandard and therefore did not permit the achievement of satisfying the provisions of the Building Code of Australia. It was therefore critical that the demolished works were replaced with structurally sound elements that gave effect to the relevant conditions of consent requiring structural soundness and, although departing from the approved plan of retained elements proposed no increase in height, width, site cover, reduce setbacks or loss of landscaped open space and as such, by virtue of the fact that they are identical to the approved built form are worthy of conditional consent.

**LANCE DOYLE**

**M.Plan (UTS), B.App Sc. (UWS) MPIA**

**March 2020**