

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0075
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Responsible Officer:	Penny Wood
Land to be developed (Address):	Lot CP SP 38216, 126 Bower Street MANLY NSW 2095
Proposed Development:	Alterations and additions to a residential flat building
Zoning:	Manly LEP2013 - Land zoned E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Proprietors of Strata Plan 38216
Applicant:	Stewart Design Studio

Application Lodged:	30/01/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	18/02/2020 to 03/03/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 235,068.00
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PROPOSED DEVELOPMENT IN DETAIL

The subject development application proposes to extend the two terraces servicing four apartments in an easterly direction to provide additional private open space for the occupants of the building. New privacy screens are proposed along both the south eastern and north western elevations and new glass balustrades. The works will require pruning of an existing tree located within close proximity to the proposed works. Two (2) retractable louvered awnings are proposed to the second level terraces.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act

1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

SITE DESCRIPTION

Property Description:	Lot CP SP 38216 , 126 Bower Street MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the north eastern side of Bower Street</p> <p>The site is regular in shape with a frontage of 13.715m along Bower Street and has depth of 46.845m along the north western boundary and a depth of 48.11 along the south eastern boundary. The site has a surveyed area of 660.4m². The rear of the site adjoins the foreshore of Cabbage Tree Bay.</p> <p>The site is located within the E4 Environmental Living Zone from MLEP 2013 and accommodates a three/four storey building containing four (4) apartments with basement parking accessed from the centre of the site off Bower Street. .</p> <p>The site has a relatively gentle slope from Bower Street to the rear boundary. Beyond the southern boundary the lands drops significantly to the foreshore and a public walkway. The site enjoys expansive land and water views.</p> <p>The site has been landscaped with no vegetation impacted on by the development.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by a mixture of architectural styles consisting of single residential dwelling and apartment buildings.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- DA No. 0324/2000 - Alterations to amalgamate Units 1 & 2. Approved - 18 October 2000.
- DA No. 0397/2005 - Alterations and additions to existing residential flat building to consolidate Units 1 & 2 into a single unit.

The subject development application was lodged with Council on 30 January 2020.

A submission was received from the owner to the north at 128 Bower Street on 27 February 2020 in relation to the possible view loss and impact on privacy to the second floor master bedroom adjacent to the second floor unit (Unit 3) located along the northern side of the subject building.

Site visits were conducted by Council's Planning Officer and Development Assessment Manager throughout the assessment process to both the subject site (Unit 3) and the objector's property. After visiting both sites, Council recommended that the owners of both unit 3, 126 Bower Street and 128 Bower Street engage in a discussion whereby an agreement could be met that both parties mutually agree to. Amended plans were received by Council on 29 June 2020 from the applicant, reflecting an agreement between the subject site and the owners of 128 Bower Street. The amended plans indicated an amended balustrade arrangement in the north western corner of the balcony of unit 3 to assist in recusing the opportunity for overlooking towards the master bedroom of 128 Bower Street. As a result of the agreement, the owners of 128 Bower Street agreed to formally withdraw their original submission.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><u>Additional Information Comment 8/4/2020</u></p> <p>The Arborist Statement Prepared by Blues Bros Arboriculture is noted. The statement confirms that the proposed works will have an acceptable level of impact on the tree and indicates the extent of pruning required to accommodate the proposed works.</p> <p>No objections are raised to approval subject to conditions as recommended.</p> <p><u>Original Comment</u></p> <p>The proposed works have the potential to impact upon the canopy of the tree adjacent to the terraces. It is recognised that the works should have minimal impact on the roots of the tree, but it is unclear of what the extent of impact on the canopy of the tree will be.</p> <p>The tree is worthy of protection and as such, the applicant should provide an Arborist's Report (AQF Level 5 Consulting Arborist) indicating the impact of the works on the tree, particularly in relation to the amount of canopy that will be required to be removed to accommodate the extended decks and the impact of such removal on the tree's useful life expectancy.</p> <p>The Report should identify which branches are to be removed and the estimated percentage of canopy cover that will be removed. Ideally this should be no more than 15%.</p> <p>The identification of the branches to be pruned can then be included in a consent if the proposal is to be approved.</p> <p>At this stage, the proposal cannot be supported due to lack of information, however, if the above can be addressed no further issues are raised.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following Natural Environment provisions:</p> <ul style="list-style-type: none"> - NSW Biodiversity Conservation Act 2016 - Manly LEP Clause 6.5 (Terrestrial Biodiversity) - Manly DCP Clause 5.4.2 (Threatened Species and Critical Habitat Lands) - SEPP (Coastal Management) - Coastal Environment Area <p>The proposal is generally within the existing building footprint and is therefore considered to be compliant with relevant provisions, subject to conditions.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Manly LEP 2013 and Manly DCP.</p>

Internal Referral Body	Comments
	<p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Jean Stewart and Council accepts the assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Manly LEP 2013 and Manly DCP</p> <p>The subject site is also shown to be as "Manly Foreshores Scenic Protection Area" on Council's Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site.</p> <p>Foreshores Scenic Protection Area Management</p> <p>On internal assessment, the DA satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly</p>

Internal Referral Body	Comments
	<p>DCP 2013.</p> <p>As such, it is considered that the application does comply with the requirements of the Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.

- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The development is contained wholly within the subject site and is not considered likely to negatively impact upon the matters raised in subclause (1).

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The development is located within the boundaries of the subject site with the proposed works

reducing any impact to the surrounding land. The proposed development is not considered to negatively impact upon the matters raised in subclause (1).

14 Development on land within the coastal use area

- (1)
- (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.

Comment:

The proposed development will not impact on existing public access along the foreshore and there will be no additional amenity impacts towards adjoining properties. The site has no heritage significance and will not impact on the visual amenity when viewed from the waterway. The development is considered to be in keeping with the visual character of Bower Street along the foreshore of Manly. The development is therefore not likely to cause an adverse impact on the matters referred to above.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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

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

Comment:

The proposed development will not impact on existing public access along the foreshore and there will be no additional amenity impacts towards adjoining properties. The site has no heritage significance and will not impact on the visual amenity when viewed from the waterway. The development is considered to be in keeping with the visual character of Bower Street and the broader Locality of Manly. The development is therefore not likely to cause an adverse impact on the matters referred to above.

As such, it is considered that the application does comply with the requirements of the

State Environmental Planning Policy (Coastal Management) 2018.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 660.40sqm	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	NW: 6.9m (based on gradient 1:13)	8.5m (top of privacy screen)	18.9%	No
	SE: 6.9m (based on gradient 1:13)	8.4m (top of privacy screen)	17.9%	No
4.1.4.1 Street Front Setbacks	6m	No change	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	NW: 2.83m (based on wall height of 8.5m)	938mm	331%	No
	SE: 2.8m (based on wall height of 8.4m)	900mm	311%	No
4.1.4.4 Rear Setbacks	8m	13.8m	N/A	Yes
4.1.5.1 Minimum Residential	Open space 363.22sqm	61% (402sqm)	N/A	Yes

Total Open Space Requirements Residential Open Space Area: OS3	(55%) of site area			
4.1.5.2 Landscaped Area	Landscaped area 140.7sqm (35%) of open space	144.7sqm 35.9% (No change)	N/A	Yes
4.1.5.3 Private Open Space	12sqm per dwelling	33.8sqm (Unit 1) 33.8sqm (Unit 2) 31.8sqm (Unit 3) 33.7sqm (Unit 4)	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

The development proposes to increase the depth of the four balconies located along the eastern and western elevation of the building at both first and second

The subject balconies at first and second levels of the development are curved with the development proposing to extend the existing balconies in an easterly direction towards the waterway. The development proposes to extend the second floor balconies by 3.0m and the first floor balconies by 3.3m and in doing so removing the curved appearance of the balconies.

A privacy screen is proposed along both the northern and southern elevation of the second floor balconies measuring 2.7m in height and 2.8m in depth (inclusive of the two concrete pillars). During the notification period, concern was raised from the neighbouring property to the north (128 Bower Street) in relation to the potential overlooking towards the bedroom located on the second floor of 128 Bower Street past the location of the privacy screen. Council undertook site visits to both the subject site and the objector's property to assess the potential overlooking issues and advised for both the applicant and the objector to engage in a discussion to come up with an outcome both parties would be satisfied to proceed with.

After discussions took place, a design solution was agreed upon by both parties in which the proposed privacy screen and extension to the second floor balcony was maintained. To ensure the potential for overlooking was significantly reduced, the applicant proposed a splayed glass balustrade at an angle of 142 degrees to be constructed 1.4m past the concrete column in an easterly direction. This amendment to the second floor balcony along the eastern side of the subject building will result in a triangular portion of the balcony being non trafficable to the occupants of the subject unit at 126 Bower Street. As a result of the agreement between both parties, the owners of No. 128 Bower Street formally withdrew their submission.

3.4.3 Maintenance of Views

Merit consideration:

The development is considered against the Objectives of the Control:

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.

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

1. Nature of views affected

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comment to Principle 1:

The occupants of 128 Bowers Street currently enjoy expansive whole land and water views of the Tasman Sea and Shelley Beach. Expansive views towards the north are also provided. A significant amount of the view is unobstructed with extensive views towards the ocean, beaches and land being maintained. It is noted that one submission was received from the occupants of 128 Bower Street in relation to the possible impact on views obtained from the master bedroom located at the second level of the dwelling. However during the assessment process, an agreement was made between the owners of 128 Bower Street and the owner of Unit 3 126 Bower Street (property subject to submission) which retained the proposed privacy screen and proposed a splayed glass balustrade in the north western corner of the balcony to reduce potential overlooking between the two properties.



Photo 1: Views from the balcony of the master bedroom adjacent to the existing balcony of Unit 3, 126 Bower Street.



Photo 2: Views obtained from the eastern side of the master bedroom adjacent to the balcony as show in Photo 1.

2. What part of the affected property are the views obtained

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment to Principle 2:

The occupants of surrounding properties, in particular 128 Bower Street will obtain their views from multiple locations within the property, predominantly from the ground floor living area / dining room and from the balcony off these rooms. Uninterrupted views are also maintained from the second floor of the dwelling being the master bedroom and the balcony off this room. It is assessed that any view loss is minor to negligible given the proposed privacy screen will replace the existing privacy screen with the location of a 300mm wide concrete column located on the eastern side of the new privacy screen. (See above photo). The proposed balustrade for the new balconies is clear glass which will allow for retention of existing views enjoyed from 128 Bower Street. The occupants will maintain views of Shelley Beach with views of the interface of land and water being maintained. It is assessed that the views will be entirely maintained and expansive and uninterrupted.



Photo 3: Extent of views obtained from first floor living area of 128 Bower Street.

3. Extent of Impact

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20 percent if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment to Principle 3:

The proposed works will result in negligible to minimal views being impacted when viewed from 128 Bower Street. The new extended balcony of Unit 3, 126 Bower Street proposes a clear glass balustrade along the north western elevation and north eastern elevation which will ensure views in an south easterly direction towards Shelley Beach are maintained from both the first and second level of 128 Bower Street.

4. Reasonableness of the proposal that is causing the impact

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be

considered acceptable and the view sharing reasonable.

Comment to Principle 4:

The development is recognised as resulting in some built form non-compliances. It is however considered that the proposed works will not greatly alter the existing development in that the proposed privacy screens will be located in a similar location with a new 300mm wide concrete column constructed on the eastern side of the screen. Given the expansive views currently experienced by the occupants at 128 Bower Street, the proposed column will have a minimal to negligible impact on views currently obtained. The development in its current form is non-compliant with the building height and side setback controls, however will have a negligible nearing on any potential view loss. The application is considered to achieve a reasonable level of view sharing.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Description of non-compliance

The development proposes a new privacy screen along both the north western and south eastern elevation at the second floor as a result of the new extended balcony. The development proposes a wall height of 6.9 - 8.4m along the south eastern elevation and a wall height of 7.1m - 8.5m along the north western elevation. This is non-compliant with the 6.9m height control based on a 1.13 gradient determined by the slope of the site.

Merit consideration

With regard to the consideration for a variation, the development is considered against the LEP objectives for Clause 4.3 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,

Comment:

The proposed wall height is not excessive given the topography of the site. The non-compliant portion of the development is limited to the new privacy screen which will provide additional privacy for both the occupants of the subject building and of surrounding buildings. The proposed works maintain compliance with the 8.5m building height control for the Further, the development is consistent with the topographic landscape and prevailing building height.

b) to control the bulk and scale of buildings,

Comment:

The proposed first floor addition is modest in scale and is not of unreasonable bulk or scale.

c) to minimise disruption to the following:

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

Comment:

As discussed in this report, the proposal will not result in any unreasonable view impacts.

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

Comment:

The overshadowing impacts resulting from the development are negligible.

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

Comment:

N/A

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.4 Setbacks (front, side and rear) and Building Separation

Description of non-compliance

Clause 4.1.4.2 of the MDCP 2013 requires the side building line to be no less than one third of the wall height from side boundaries. The south eastern elevation of the proposal has a maximum wall height of 6.5m. Therefore, the setback requirement is at least 2.15m from the eastern side boundary. The north western elevation of the proposal has a maximum wall height of 8.5m falling to 4.3m therefore requiring a 1.4 - 2.83m setback to the north western boundary. The addition is proposed 938mm from the north western side which represents a 33% - 331% variation from the prescribed control. The south eastern elevation of the proposal has a maximum wall height of 8.4m falling to 4.3m therefore requiring a 1.4 - 2.8m setback to the south eastern boundary. The addition is proposed 900mm from the south eastern side which represents a 35.8% - 311% variation from the prescribed control.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The non-compliance is at the rear of the building and does not impact the streetscape. The

development is also not visible from the foreshore of Cabbage Tree Bay.

Objective 2) To ensure and enhance local amenity by:

providing privacy;

providing equitable access to light, sunshine and air movement; and

facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.

defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and

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

Comment:

The proposed decks do not result in a view impact as discussed within the report under Clause 3 4.3 Maintenance of Views. A detailed discussion regarding the retention of the adjoining properties privacy can be found under Clause 3.4.2 Privacy and Security earlier in this report. The proposed privacy screen at both first and second level will replace an existing privacy screen in the same location. The privacy screen will measure 0.4 - 1.2m higher however will not project approximately 0.4m further in depth which will provide additional privacy whilst retaining existing views.

Objective 3) To promote flexibility in the siting of buildings.

Comment:

The extension of the existing four (4) balconies enables indoor/outdoor connectivity whilst not presenting and unreasonable amenity impact.

Objective 4) To enhance and maintain natural features by:

accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;

ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and

ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.

Comment:

Comments from Council's Landscape Officer revealed that the proposed works had the potential to impact upon the canopy of the tree adjacent to the balconies. Whilst it was recognised that the development will have minimal impact on the roots of the tree, it was unclear of what the extent of impact on the canopy tree will be. At the request of Council's Landscape Officer, an Arborist Statement was submitted with the application. The statement confirms that proposed works will have an acceptable level of impact on the tree and indicates the extent of pruning required to accommodate the proposed works.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment:

The site is not identified as bushfire prone land.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the

proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$2,351 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$235,068.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0075 for Alterations and

additions to a residential flat building on land at Lot CP SP 38216, 126 Bower Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
1902/ DA03 Rev/02 - Site Plan	29 June 2020	Stewart Design Studio
1902/ DA04 - Level 1 Floor Plan	29 June 2020	Stewart Design Studio
1902/ DA05 - Level 2 Floor Plan	29 January 2020	Stewart Design Studio
1902/ DA06 Rev 2- Level 3 Floor Plan	29 June 2020	Stewart Design Studio
1902/ DA07- Level 4 Floor Plan	29 January 2020	Stewart Design Studio
1902/ DA08 - Section	29 January 2020	Stewart Design Studio
1902/ DA09 Rev 2 - North East and South West Elevations	29 June 2020	Stewart Design Studio
1902/ DA10 Rev 2 - South East Elevation	29 June 2020	Stewart Design Studio
1902/ DA11 Rev 2 - North West Elevation	29 June 2020	Stewart Design Studio
1902/ DA12 Rev 2 - North East Elevation Including Existing Tree	29 June 2020	Stewart Design Studio
1902/ DA17 - Erosion and Sediment Control Plan	29 January 2020	Stewart Design Studio

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arborist Statement	31 March 2020	Blues Bros Abroriculture

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Northern Beaches Waste Management Plan	24 January 2020	Jean Stewart

In the event of any inconsistency between conditions of this consent and the

drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention

to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no

hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner

that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,350.68 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$235,068.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

5. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. **Access Spaces – Bandicoot Habitat**

Any new gates or fences are to be designed to include gaps appropriate to maintain bandicoot access through and within the site. Gaps are to be at least 150mm high and 300mm wide. This condition does not apply to pool fencing.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

7. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

8. **Tree protection and pruning**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with the Arborist Statement prepared by Blues Bros Arboriculture dated 31 March 2020 and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to

commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. **Pre-clearance Survey Required – Bandicoot Habitat**

A pre-clearance survey for Long-nosed Bandicoot activity and presence is required prior to the removal of any vegetation, material or debris stockpiles. Clearing may only proceed if the survey concludes that no Long-nosed Bandicoots are present within the area to be cleared. A record of each inspection is to be made in the daily inspection register log-book. The log-book is to be made available to the Principal Certifying Authority.

Reason: To avoid injury or death of Long-nosed Bandicoots which may be utilising stockpiles of vegetation, materials or debris.

10. **Report Dead or Injured Bandicoots – Bandicoot Habitat**

Any injured or dead Long-nosed Bandicoots found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

Reason: To prevent impacts to Long-nosed Bandicoots in accordance with the Biodiversity Conservation Act 2016.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

11. **Maintain Fauna Access and Landscaping Provisions – Manly LEP Clause 6.5**

All fauna access/movement and landscaping provisions specified in these conditions of consent are to be implemented and maintained for the life of the development.

Reason: To maintain fauna access to existing and proposed habitat within and surrounding the site.

12. **Dead or Injured Wildlife – Manly LEP Clause 6.5**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Penny Wood, Planner

The application is determined on 08/07/2020, under the delegated authority of:



Anna Williams, Manager Development Assessments