

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1184
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 1 DP 1233907, 102 Bower Street MANLY NSW 2095
Proposed Development:	Strata Subdivision
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:	Cam NO 2 Pty Ltd
Applicant:	Cam NO 2 Pty Ltd

Application lodged:	10/07/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	13/07/2018 to 31/07/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval

Estimated Cost of Works:	\$ 0.00
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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 Local Environmental Plan 2013 - 4.1 Minimum subdivision lot size

SITE DESCRIPTION

Property Description:	Lot 1 DP 1233907 , 102 Bower Street MANLY NSW 2095
Detailed Site Description:	<p>The subject property is known as 102 Bower Street, Manly and legally known as Lot 1 DP 1233907. The site is located on the low side of Bower Street. The property is an irregular in shape and has a frontage of 21.49m to Bower Street and an average depth of 32m and an overall total site area of 1189.7m². The property currently is being developed.</p> <p>The surrounding area includes residential flat building developments to either side and a mixture of dwelling houses and residential flat buildings in landscaped settings along the street.</p> <p>The area is characterised by residential development in landscaped settings including older flat buildings and heritage dwellings to the high side of Bower Street (heritage character to this part of the street, not the low side in direct vicinity of development sites).</p>

Map:



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:

- DA297/2012- Demolition of the existing buildings, construction of a five (5) storey Residential Flat Building containing six (6) units with a two (2) level car park, decks and landscaping- Refused MIAP 19/12/2012.
- DA297/2012- Part 2- Demolition of the existing buildings, construction of a five (5) storey Residential Flat Building containing six (6) units with a two (2) level car park, decks and landscaping- Appeal Upheld by Court 11/12/2014.
- DA297/2012- Part 3- Demolition of the existing buildings, construction of a five (5) storey Residential Flat Building containing six (6) units with a two (2) level car park, decks and landscaping- Approved 29/06/2016.
- MOD2018/0135 Modification of Development Consent DA297/2012 granted for demolition of the existing buildings construction of a Residential Flat Building- Approved 22/06/2018.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for strata subdivision of the six approved residential flat building units with the following distributions (and the remaining area to be common property):

- Pt 1 with 177sqm, 2 spaces, 20sqm of outdoor open space and 7sqm of storage
- Pt 2 with 158sqm, 2 spaces, 19m of outdoor open space and 7sqm of storage
- Pt 3 with 329sqm, 3 spaces, 162m of outdoor open space and 11sqm of storage
- Pt 4 with 292sqm, 2 spaces, 33sqm of outdoor open space and 10sqm of storage
- Pt 5 with 282sqm, 3 paces, 33sqm of outdoor open space and 10sqm of storage
- Pt 6 with 237sqm, 3spaces, 47sqm of outdoor open space and 11sqm of storage
- 2 visitor car parking spaces

It is noted that the proposed strata plans are consistent with the approved plans for the Residential Flat Building.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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	None applicable.
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	None applicable.

Section 4.15 Matters for Consideration'	Comments
planning agreement	
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)</p>	<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>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</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 clause is not relevant to this application.</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 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 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>
<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>	<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</p>

Section 4.15 Matters for Consideration'	Comments
	economic impact on the locality considering the nature of the existing and proposed land use.
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.

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.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No Objections to proposed Strata Subdivision application subject to standard conditions.
NECC (Development Engineering)	Development Engineer does not comment on strata subdivision. It shall be sent to Building Control team for assessment. <u>Assessing officer comment</u> There is no addition of lots and subdivision plans are consistent with proposed plans. As such, further referral is not required.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.

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 (Affordable Rental Housing) 2009

SEPP ARH does not apply to this development, particularly with regard to Part 3 Retention of existing affordable rental housing.

It is prudent to establish if the subject unit classifies as a low-rental dwelling and whether its subdivision will therefore reduce the available affordable rental housing.

A low-rental dwelling is defined as:

"Low-rental dwelling means a dwelling that (at any time in the 24 month period prior to the lodgment of a development application to which this Part applies) was let at a rental not exceeding the median rental level for that time (as specified in the Rent and Sales Report) in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area."

The Residential Flat building is currently under construction and does not currently have an occupation certificate for any dwelling. As such, no dwelling was let at a rental that would be considered affordable housing as a 'low rental dwelling'.

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

There are no physical works proposed and minimum lot size does not apply for strata subdivision.

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
4.1 Minimum subdivision lot size	Yes
6.12 Essential services	Yes

Detailed Assessment

4.1 Minimum subdivision lot size

This clause does not apply for strata subdivision.

Manly Development Control Plan

Built Form Controls

There are no physical works proposed as part of this application (strata subdivision only).

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

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 DA2018/1184 for Strata Subdivision on land at Lot 1 DP 1233907, 102 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
Sheet 1 of 6. Reference: 5737.	09/07/2018	Stuart John Hildebrand
Sheet 2 of 6. Reference: 5737.	09/07/2018	Stuart John Hildebrand
Sheet 3 of 6. Reference: 5737.	09/07/2018	Stuart John Hildebrand
Sheet 4 of 6. Reference: 5737.	09/07/2018	Stuart John Hildebrand
Sheet 5 of 6. Reference: 5737.	09/07/2018	Stuart John Hildebrand
Sheet 6 of 6. Reference: 5737.	09/07/2018	Stuart John Hildebrand

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

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. (DACPLB01)

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 (DACPLB09)

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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.

(j) 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.

(k) 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 sewerred areas or managed on-site in unsewerred 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. (DACPLB10)

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

Signed



Thomas Prosser, Planner

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




Rodney Piggott, Manager Development Assessments
















ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

Notification Document	Title	Date
 2018/447374	Notification Map	13/07/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/445831	Plans - Master Set	10/07/2018
 2018/445829	Strata Plan Administration Sheets	10/07/2018
 2018/445830	Report - Statement of Environmental Effects	10/07/2018
 DA2018/1184	102 Bower Street MANLY NSW 2095 - Development Application - Subdivision	10/07/2018
 2018/440104	DA Acknowledgement Letter - Cam NO 2 Pty Ltd	10/07/2018
 2018/445826	Development Application Form	12/07/2018
 2018/445827	Applicant Details	12/07/2018
 2018/445828	Owners Consent	12/07/2018
 2018/447353	ARP Notification Map	13/07/2018
 2018/447365	DA Acknowledgement Letter (not integrated) - Cam NO 2 Pty Ltd	13/07/2018
 2018/447374	Notification Map	13/07/2018
 2018/447380	Notification Letter - 42	13/07/2018
 2018/529314	Engineering Referral Response	20/08/2018
 2018/562239	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/1184 - 102 Bower Street MANLY NSW 2095	29/08/2018
 2018/585637	Building Assessment Referral Response	10/09/2018