

21<sup>st</sup> December 2023

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

Dear Sir,

**Statement of Environmental Effects**  
**Modification of Development Consent DA2022/1000**  
**Demolition works, alterations and additions to existing buildings and**  
**construction of new mixed-use buildings**  
**Royal Far West**  
**19 - 21 South Styene and 22 Wentworth Street, Manly**

**1.0 Introduction**

On 15<sup>th</sup> December 2022 the Sydney North Planning Panel granted approval for the subject development involving demolition works, alterations and additions to existing buildings and the construction of new mixed use buildings across the subject property.

We have been engaged to prepare an application to modify the consent pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (the Act). Specifically, the modifications result from further design development in the preparation of construction documentation which identified a need and desire to enhance buildability and reduce project risk through the maintenance of increased basement level side boundary setbacks, the maintenance of ground level areas upon which plant and materials can be stored during the construction process, a reduction in required dewatering and a reduction in the construction timeframe and associated construction impacts.

The modifications are confined within the approved building form and envelope such that the 3 dimensional form, design quality/ streetscape appearance, stormwater drainage and landscape outcomes as approved are not compromised as consequence of the modifications sought. Importantly, the spatial relationship of the proposal to surrounding development, including the heritage listed Drummond House, are maintained together with the streetscape, heritage conservation and residential amenity outcomes afforded through approval of the original application.

The consent authority can be satisfied that the proposal will continue to display design excellence in accordance with clause 6.13 of Manly Local Environmental Plan 2013 (MLEP) as detailed within the accompanying SEPP 65 Architect Design Verification Statement, dated December 2023, prepared by Murcutt Candalepas. This application is also accompanied by the following amended/updated documentation:

- Amended Architectural plans (Revision A) prepared by Murcutt Candalepas.
- SEPP 65 Architect Design Verification Statement prepared by Murcutt Candalepas
- Geotechnical Desktop Assessment prepared by Douglas Partners.
- Civil engineering package prepared by Northrop.
- Transport Impact Statement prepared by Stantec.
- Access Statement prepared by Morris Goding.
- Building Code of Australia Compliance Capability Statement prepared by City Plan.
- Flood Statement prepared by Northrop.
- Waste Management Plan prepared by Low Impact Development Consulting.

Based on the contents of these documents the consent authority can be satisfied that the modifications involve minimal environmental impact, the development as modified represents substantially the same development as originally approved and will remain generally consistent with the terms of the approval of the Concept Plan, as modified by the Section 75W modification application, pursuant to Clause 3B of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (Transitional Regulations)*.

Accordingly, the application is appropriately dealt with by way of Section 4.55(1A) of the Act.

## **2.0 Detail of Modifications Sought**

The proposed modifications are shown coloured and described on the S4.55 (Revision A) plans prepared by Murcutt Candalepas with the modifications identified as follows:

- Modification of basement level plans including adjustment of setbacks from site boundaries, internal replanning of basement levels and coordination of structural services and lift cores.
- Minor modification to accommodate the retention of an existing fire egress stair within C.C.K building.
- Modifications to the upper level plans to coordinate with replanning of basement egress stairs, lifts cores and car parking exhaust riser locations.
- A 15m<sup>2</sup> reduction in commercial/retail floor space.

- The revised basement design proposes a total supply of 213 car parking spaces, comprising of 50 CCK/ Drummond House spaces (including two van spaces), 89 residential spaces, 5 residential visitor spaces, 69 commercial spaces and no car share space. The total quantum of car spaces will continue to satisfy the requirement of the Concept Approval to provide a minimum of 184 spaces for the total development.

The application also seeks the modification to the following conditions:

Condition 1 - To refer to the modified plans and documentation prepared in support of this application.

Condition 14 - To refer to the amended civil and stormwater plans.

Condition 89 - Modification of condition to read “prior to issue of the relevant ~~of an~~ Occupation Certificate.”

Modification of the description of the approved development to more accurately reference the proposed development and land to which the application relates as detailed below as detailed in red below:

<b>Applicant:</b>	Royal Far West
<b>Land to be developed (Address):</b>	<u>Lot 101, DP 1247422, 14 - 18 Wentworth Street MANLY NSW</u> Lot 100 DP 1276056, 19 - 21 South <del>Steyne</del> MANLY NSW 2095
<b>Proposed Development:</b>	Demolition works, alterations and additions to existing buildings and construction of new <u>mixed use buildings including 2 levels of basement and stratum subdivision</u>

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

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

- (1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*
  - (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
  - (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
  - (c) it has notified the application in accordance with:*
    - (i) the regulations, if the regulations so require, and*
    - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
  - (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*
- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

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

The modifications do however significantly reduce environmental impact through a reduction in bulk earthworks and a general de-risking in terms of excavation through the maintenance of additional setbacks to neighbouring properties. The modifications are both quantitatively and qualitatively of minimal environmental impact.

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

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

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

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

When one undertakes the above analysis in respect of the subject application it is clear that the modifications will not be discernible as viewed from outside the site with the external building form and presentation unaltered as are the heritage conservation and residential amenity outcomes afforded through approval of the original application.

Further, the development, as modified, will remain generally consistent with the terms of the approval of the Concept Plan, as modified by the Section 75W modification application, pursuant to Clause 3B of Schedule 2 of *the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (Transitional Regulations)*.

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

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

- The application remains a proposal involving the construction of a mixed-use development across the site consistent with the Concept Plan as modified by the Section 75W modification application.
- The previously approved building heights, setbacks and above ground footprint are maintained.
- The modifications maintain the previously approved environmental outcomes in terms of residential amenity, heritage conservation and streetscape presentation.
- The overall design quality of the development is not compromised.

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

## **4.0 Manly Local Environmental Plan 2013**

### **Zone and Objectives**

The subject property is zoned B2 Local Centre pursuant to Manly Local Environmental Plan 2013 (MLEP 2013). Notwithstanding the land uses permissible with consent in the zone the Concept Plan approval granted consent to tourist and visitor accommodation, residential, retail/commercial and hospital/medical uses on the subject site. The modifications maintain the previously approved land use mix with the development remaining permissible with consent in the zone and consistent with the zone objectives.

### **Height of Buildings and Floor Space Ratio**

Pursuant to clause 4.3 of MLEP maximum building height is prescribed across the site range from between 10 and 25 metres with clause 4.4 of MLEP prescribing a maximum FSR of 3:1.

Notwithstanding, the building heights approved pursuant to the Concept Plan, as modified, prevail with the modifications not altering the approved height of the development and accordingly remaining consistent with the building heights anticipated pursuant to the Section 75W modification approval.

Further, we confirm that the proposed development has a total GFA of 15,550 square metres representing a compliant MLEP 2013 and Concept Plan approved FSR of 2.43:1 being no more than the prescribed maximum of 3:1.

### **Heritage Conservation**

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

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

The stated objectives of this clause are as follows:

- (a) *to conserve the environmental heritage of Manly,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The development site contains a heritage item being I245 – The Drummond Far West Home, which is listed pursuant to MLEP 2013. Additionally, the site is within the vicinity of a number of other listed heritage items including:

I226 – House at 15-16 South Steyne (also known as The Terraces)  
I242 - Residential flat building at 31 Victoria Parade  
I241 – Residential flat building at 29 Victoria Parade  
I244 – Former School of Arts at 12 Wentworth Street  
I246 – Street Trees – Wentworth Street  
I224 – Public Shelters – South Steyne and North Steyne  
I174 – Beach Reserve – Merret Park North Steyne and South Steyne – North and South Steyne

We confirm that the modifications have no impact on the retained component of Drummond House or also the buildings spatial relationship with surrounding heritage items. Accordingly, the modifications will have a neutral impact on the heritage items and their setting. The conclusions and recommendations contained within the approved Heritage Impact Statement (HIS) and Conservation Management Plan (CMP) for Drummond House prepared by Heritage Architects, URBIS are not compromised.

### **Acid Sulphate Soils**

Pursuant to clause 6.1 MLEP 2013 the site is mapped as Class 4 on the Acid Sulfate Soils (ASS) map and accordingly a preliminary assessment report must be provided given that excavation in excess of 2 metres in depth is proposed.

In this regard, as the application proposes a significant reduction in excavation the findings of the original Geotechnical Desktop Assessment prepared by Douglas Partners prevail which at section 7.2 contains the following commentary:

*The site is mapped in an area where there is a low probability that acid sulphate soils (ASS) are present.*

*Laboratory testing during the CCHL development (to 6 m depth) did not provide positive indications of actual or potential ASS. An ASS Management Plan was not required for the CCHL development.*

*Based on the above and our experience in Manly, potential or actual ASS are not expected for the Stage 4 development and an ASS Management Plan*



*should not be required. Confirmation testing should be carried out during the investigation phase to confirm the absence of ASS*

These provisions remain satisfied.

## **Earthworks**

In response to the clause 6.2 considerations, the application is accompanied by an addendum Geotechnical Desktop Assessment prepared by Douglas Partners which details the acceptability of the modified/ reduced earthworks proposed subject to compliance with a number of recommendations including the preparation of dilapidation surveys on adjoining properties.

This report should be referenced in the modified development consent.

## **Flood Planning**

Pursuant to clause 6.3 of MLEP 2013, the subject property is identified as potentially affected by flooding. In this regard, this modification application is accompanied by a Flood Statement prepared by Northrop with such report containing the following conclusions:

*The Flood Plannings Levels (FPLs) that were approved under the existing development consent are addressed under this Section 4.55. Consequently, there is no impact to the FPLs that were approved under the development consent.*

We also confirm that the modifications do not alter the findings of the approved Coastal Risk Management Report prepared by Royal Haskoning DHV.

In this regard, consent authority can be satisfied that the proposed development, as modified, will not be adversely impacted by flood or coastal hazards.

## **Foreshore Scenic Protection Area**

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

- (a) *impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) *measures to protect and improve scenic qualities of the coastline,*

- (c) *suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) *measures to reduce the potential for conflict between land-based and water-based coastal activities.*

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

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

### **Active Street Frontages**

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

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

### **Essential Services**

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

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

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

## **Design Excellence**

Pursuant to clause 6.13 development consent must not be granted for development on land in Zone B2 Local Centre unless the consent authority considers that the development exhibits design excellence. The consent authority can be satisfied that the proposal will continue to display design excellence in accordance with these provisions as detailed within the accompanying SEPP 65 Architect Design Verification Statement, dated 2<sup>nd</sup> December 2023, prepared by Murcutt Candalepas.

Having regard to the modified developments performance when assessed against the clause 6.13 design excellence provisions we have formed the considered opinion that the development will continue to exhibit design excellence and therefore satisfies the LEP, DCP and Concept Plan provisions.

## **Gross Floor Area in Zone B2**

Pursuant to clause 6.16 development consent must not be granted to the erection of a building on land in Zone B2 Local Centre unless the consent authority is satisfied that at least 25% of the gross floor area of the building will be used as commercial premises.

The objective of this clause is to provide for the viability of Zone B2 Local Centre and encourage the development, expansion and diversity of business activities, that will contribute to economic growth, retention of local services and employment opportunities in local centres

We note that this provision derogates from the concept plan approval and to that extent and not a relevant consideration in relation to the current application.

## **5.0 Manly Development Control Plan 2013**

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

- The siting, scale, form and massing of the development is not altered with the modified proposal maintaining the previously approved building height, compliant FSR, setbacks and spatial relationship with adjoining development.
- The modified proposal does not compromise the residential amenity outcomes afforded to adjoining development in relation to visual and aural privacy and solar access with compliant levels of solar access maintained.
- The modified proposal does not compromise the heritage conservation outcomes afforded through approval of the original application.
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- The proposal maintains a compliant quantum of off-street carparking in accordance with the Concept Approval, as modified.
- The previously approved landscape regime is unaltered.
- The modified development will not give rise to any adverse biodiversity consequences.
- The modified proposal complies with the applicable accessibility legislation is detailed in the accompanying Access Statement prepared by MGAC.
- The modified proposal will remain capable of complying with the provisions of the Building Code of Australia as detailed within the accompanied Compliance Capability Statement prepared by City Plan.
- The previously approved acoustic outcomes are maintained.
- The modifications do not compromise the approved developments performance when assessed against the CPTED considerations.
- Stormwater will continue to be appropriately managed in accordance with the accompanying stormwater plans prepared by Northrop.
- Waste will continue to be appropriately managed in accordance with the accompanied Waste Management Plan prepared by Low Impact Development Consulting.

## **6.0 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development/ Apartment Design Guide**

Given the minor nature of the modifications sought the developments performance when assessed against SEPP 65 and the ADG is not compromised as detailed within the accompanying the accompanying SEPP 65 Architect Design Verification Statement, dated December 2023, prepared by Murcutt Candalepas.

## **7.0 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the residential component of the development and aims to encourage sustainable residential development.

A minor modifications do not change the description of the development as detailed on the original BASIX Certificate and to that extent no update is required.

## 8.0 State Environmental Planning Policy (Resilience and Hazards) 2021

The site is identified on the SEPP map as being within the Coastal Environmental Area Map and Coastal Use Area Map, as shown in Figure 1 below.



**Figure 1** - SEPP Coastal Management map extract

Clause 13 (1) of the SEPP, coastal environmental area, states the following:

- (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.*

Having regard to these provisions, the proposed development, as modified, will have no impact on the natural coastal processes and environment, marine flora and fauna, public access to the beach and is not within the surf zone.

Clause 14 (1) of the SEPP, Coastal Use Area, states the following:

- (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.*

The proposed development, as modified, does not impact on the foreshore processes, access or the amenity of the foreshore area. The development has been demonstrated to be consistent with the desired future character, the Concept Approval and with the scale of development along the foreshore area.

Clause 15 of the SEPP states:

*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.*

The consent authority can be satisfied that the proposed development, as modified, will not give rise to any adverse coastal management consequences.

The SEPP also aims to provide for a State-wide planning approach to the remediation of contaminated land. Clause 4.6 of the SEPP requires Council to consider whether land is contaminated prior to granting consent to carrying out of any development on that land.

In this regard, the original application was accompanied by a Preliminary Site Investigation (PSI) and Remediation Action Plan (RAP) prepared by Douglas Partners which identifies potential contaminants on the site with the conclusion contained within the RAP confirming that following implementation of its recommendations the project site will be made suitable for the intended land uses.

## **8.0 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended**

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

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

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

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

### *Context and Setting*

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

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

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

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

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

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

### *Access, transport and traffic*

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



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

The overall quantum of off-street carparking remains compliant with the Concept Approval.

#### *Public domain*

There are no public domain changes.

#### *Economic impact in the locality*

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

#### *Site design and internal design*

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

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

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

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

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

The proposed development will be capable of complying with the provisions of the Building Code of Australia as detailed within the accompanying Building Code of Australia Compliance Capability Statement prepared by City Plan.

#### *Construction*

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

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

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

#### The suitability of the site for the development.

*Does the proposal fit in the locality?*

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

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

*Are the site attributes conducive to development?*

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

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

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

#### The public interest.

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

## 9.0 Conclusion

The modifications result from further design development in the preparation of construction documentation which identified a need and desire to enhance buildability and reduce project risk through the maintenance of increased basement level side boundary setbacks, the maintenance of ground level areas upon which plant and materials can be stored during the construction process, a reduction in required dewatering and a reduction in the construction timeframe and associated construction impacts.

The modifications are confined within the approved building form and envelope such that the 3 dimensional form, design quality/ streetscape appearance, stormwater drainage and landscape outcomes as approved are not compromised as consequence of the modifications sought. Importantly, the spatial relationship of the proposal to surrounding development, including the heritage listed Drummond House, are maintained together with the streetscape, heritage conservation and residential amenity outcomes afforded through approval of the original application.

The consent authority can be satisfied that the proposal will continue to display design excellence in accordance with clause 6.13 of Manly Local Environmental Plan 2013 (MLEP) as detailed within the accompanying SEPP 65 Architect Design Verification Statement, December 2023, prepared by Murcutt Candalepas.

The consent authority can also be satisfied that the modifications involve minimal environmental impact, the development as modified represents substantially the same development as originally approved and will remain generally consistent with the terms of the approval of the Concept Plan, as modified by the Section 75W modification application, pursuant to Clause 3B of Schedule 2 of *the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (Transitional Regulations)*. Accordingly, the application is appropriately dealt with by way of Section 4.55(1A) of the Act.

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

Yours sincerely

**BOSTON BLYTH FLEMING PTY LTD**



**Greg Boston**

B Urb & Reg Plan (UNE) MPIA

**Director**