

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

Proposed Residential  
Flat Building

5 Lauderdale Avenue,  
Fairlight

Suite 1, 9 Narabang Way Belrose NSW 2085

Phone: (02) 9986 2535 | Web: [www.bbfplanners.com.au](http://www.bbfplanners.com.au)

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# Statement of Environmental Effects



## **Proposed Residential Flat Building**

**5 Lauderdale Avenue, Fairlight**

### **Greg Boston**

B Urb & Reg Plan (UNE) MPIA  
Boston Blyth Fleming Pty Ltd  
(ACN 121 577 768)

Suite 1/9 Narabang Way  
Belrose NSW 2085

Tel: (02) 99862535

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## 1 Introduction

This Statement of Environmental Effects (SoEE) has been prepared in support of a development application proposing the demolition of the existing structures and the construction of a residential flat building comprising 5 residential apartments and carparking for 11 vehicles. The application also proposes the Strata Subdivision of the completed development and the implementation of an integrated site landscape regime and all associated infrastructure.

Platform Architects have responded to the client brief to design a contextually responsive building of exceptional quality with high levels of amenity for future occupants. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of this site having regard to the topography, height, scale, proximity, use and orientation of surrounding development.

In addition to this SoEE, the application is also accompanied by the following:

- Architectural Plans
- Survey
- Draft plan of Strata Subdivision
- Landscape Plans
- Terrestrial Biodiversity Assessment Report
- Traffic and Parking Assessment Report
- Accessibility Report
- BCA Compliance Report
- Stormwater Management Plans
- Arboricultural Impact Assessment Report
- Geotechnical Report
- Visual Impact Assessment
- Waste Management Plan
- QS Report
- Architect Design Verification Statement
- ADG Compliance Table
- BASIX and NatHERS Certificates

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act 1979 (**EP&A Act**),
- Manly Local Environmental Plan 2013 (**MLEP 2013**),
- Manly Development Control Plan 2013 (**MDCP 2013**),
- State Environmental Planning Policy (Sustainable Buildings) 2022,
- State Environmental Planning Policy (Biodiversity and Conservation) 2021,
- State Environmental Planning Policy (Resilience and Hazards) 2021,
- State Environmental Planning Policy (Housing) 2021 (SEPP Housing), and
- The Apartment Design Guide (**ADG**).

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the EP&A Act. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The accompanying plans depict a high quality and contextually appropriate built form outcome that responds to adjacent and nearby development and the built form characteristics established by waterfront development within the street block between Fairlight Crescent/ Arlington Drive to the west and Margaret Street to the east. The proposed development is a suitable design response to the zoning of the site and the topography of the land.
- The proposed building height and residential density is compatible with the balance of waterfront development within the street block. Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191, we have formed the opinion that most observers would not find the apparent size of the proposed development offensive, jarring or unsympathetic in the streetscape context. The proposal will coexist in harmony with surrounding development.
- Whilst the proposal requires the consent authority to give favourable consideration to building height and floor space ratio variations, strict compliance has been found to be unreasonable and unnecessary in this instance given the ability to achieve the objectives of the height and FSR standard and the virtual abandonment of the building height and FSR standards by the consent authority in its approval of waterfront development within this particular street block (it is not suggested for the purposes of this DA that the controls have been abandoned outside of this street block, and the variations sought rely upon the site specific context as it relates to the subject site only). Sufficient environmental planning grounds exist to support the variation on this site with the accompanying clause 4.6 variation requests well founded.

- The non-compliances with the dwelling density, storey, side boundary setback, rear setback and wall height controls prescribed by MDCP 2013 have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15(3A)(b) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.
- The proposal will provide a notable increase to the supply of premium housing on a site ideally suited to increased residential densities and which satisfies the design principles for residential apartment development at Schedule 9 of SEPP Housing and the applicable objectives of the ADG.
- Having given due consideration to the matters pursuant to Section 4.15(1) of the Act it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance.

## 2 Site Analysis

### 2.1 Site Description and location

#### 2.1.1 The Site

The subject property is legally described as Lot A, DP 24923, No. 5 Lauderdale Avenue, Fairlight. The property is highlighted in the aerial images below and over page.



**Figure 1: Aerial photograph of subject property and its immediate built form context**  
**Source: Six Maps**





**Figure 2: Aerial photograph of subject property and its immediate built form context**  
**Source: Domain Real Estate**

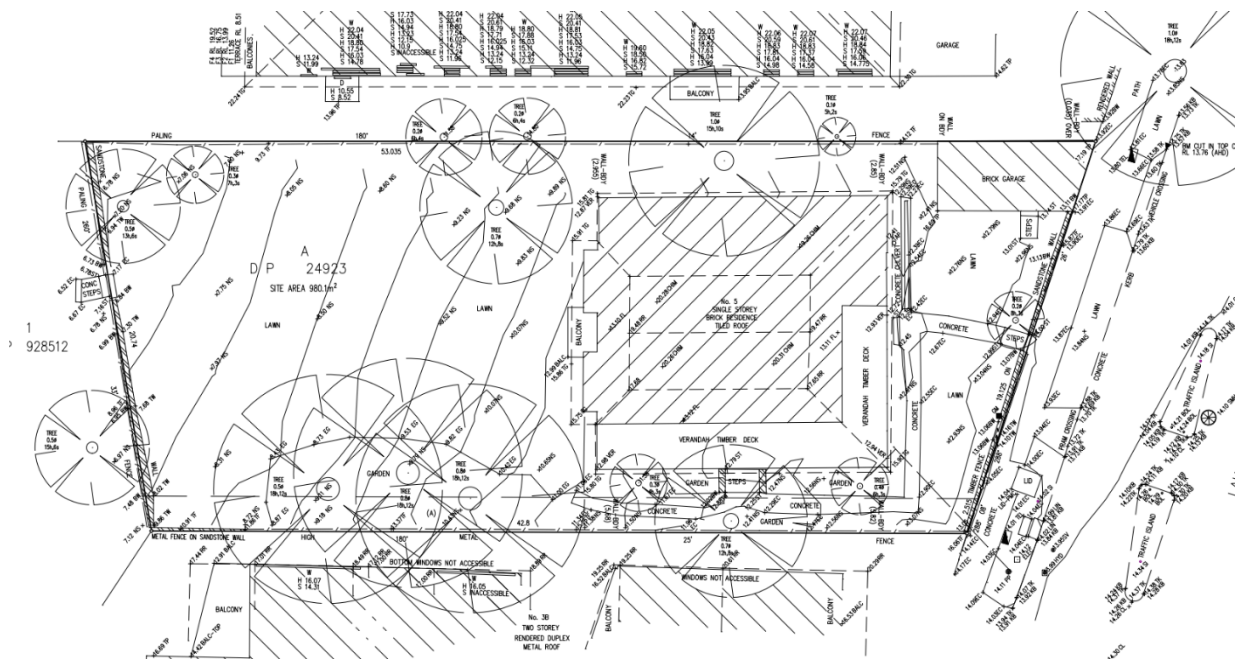
The subject property is trapezoid in shape and has an area of 980.1sqm. The subject site has a front boundary to Lauderdale Avenue of 21.64m, an eastern side boundary of 42.8m, a western side boundary of 53.035m, and a rear southern boundary to Fairlight Walk and Fairlight Beach of 20.74m. The principal form is set approximately 0.8m below the footpath, adjacent to the subject site. The dwelling is set approximately 6.6m above the Fairlight Walk, adjacent to the subject site.

The property is occupied by a single storey face brick dwelling set above a sandstone subfloor. The principal roof is a hipped and gabled low-pitched roof clad in terracotta roof tiles. The gable ends, to the north and south, have wall hung shingles and a timber ventilator. There are four roughcast rendered chimneys with terracotta chimney pots across the roof. The eaves feature exposed rafter tails with timber battens above. The dwelling described below is located towards the front of the site, providing for a smaller front garden and a larger rear yard. The principal form is set closer to the western side boundary than it is to the eastern side boundary.

The front boundary is defined by a single car garage and a high, brightly painted timber paling fence and gate at the eastern end. The fence sits above a sandstone retaining wall, not visible from Lauderdale Avenue. The front gate opens onto a simple concrete stair which has a simple timber handrail. A concrete path extends from the bottom of the stair to the edge of the north facing verandah. A second concrete path extends in an east west direction, adjacent to the verandah. The front garden has lawn and perimeter planting. The path extends through the eastern side set back and provides access to a sandstone stair thence the eastern verandah and front door.

There are garden beds on either side of the path. The path slopes toward the rear yard. The steeply sloping rear yard comprises lawn and several mature trees and shrubs. The western side set back is overgrown with shrubs and is not accessible. The eastern side boundary is defined by a horizontal battened metal fence. The rear boundary is defined by a timber paling fence. There is a gate toward the western end of the rear boundary. The western side boundary is defined by a timber paling fence.

The site contains a number of trees as detailed within the accompanying arborist report the majority of which are located either within or immediately adjacent to an easement for drainage located along the western edge of the property. The established built form and landscape characteristics of the site are depicted in the survey extract below.



**Figure 3: Site survey extract**



**Figure 4: Subject property with yellow front fence and red brick garage as viewed from Lauderdale Avenue**



**Figure 5: Subject property as viewed from the Harbour**

The rear southern boundary of the subject site adjoins the publicly accessible Fairlight Walk, which is part of the 10km Manly Scenic Walkway (also known as the Spit Bridge to Manly Walk). The walkway starts in the east, at Manly Warf, and follows the coastline to the Spit Bridge. Fairlight Beach adjoins the southern boundary of the Fairlight Walk, adjacent to the subject site. Within Fairlight Beach, and opposite the subject site, is the c.1922 Council approved Fairlight Beach Rockpool.

### 2.1.2 The Locality

The site is zoned C4 Environmental Living pursuant to MLEP 2013 as depicted in the zoning extract below.



**Figure 6: Zoning Map extract**

The land to the north of the site is zoned R1 General Residential with the public reserve to the south zoned RE1 Public Recreation. The surrounding area comprises residential development of varying scale, density, age and architectural style as depicted in Figures 1, 2, 5 and the following additional images.



**Figure 7: Looking west from the site towards development along Lauderdale Avenue**



**Figure 8: Looking east from the site towards development along Lauderdale Avenue**

The properties located immediately to the east of the subject property known as 3A and 3B Lauderdale Avenue are occupied by 2/ 3 storey semi-detached dwelling houses with double garages accessed from the Lauderdale Avenue frontage whilst the property immediately to the west at 7 Lauderdale Avenue is occupied by a 5 storey residential flat building with single storey garage accommodation accessed from the street frontage.

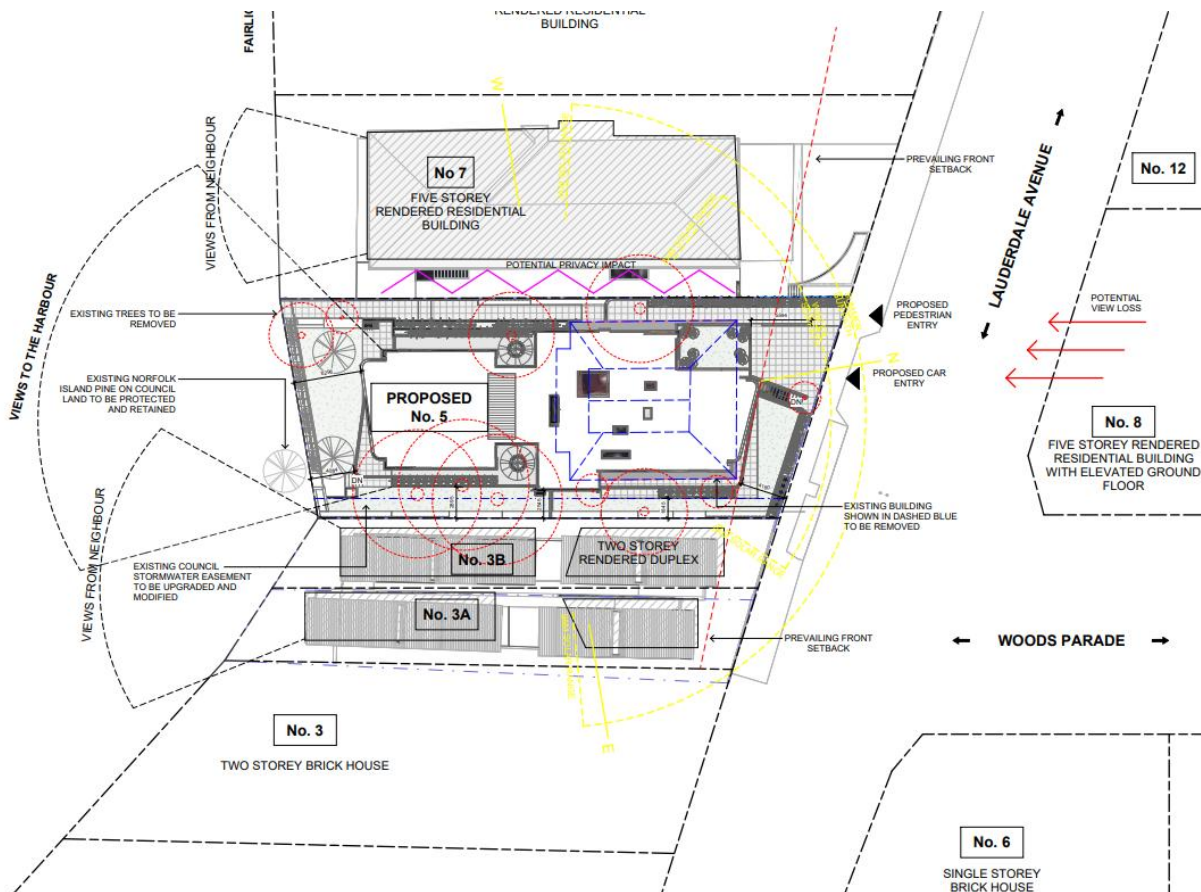
Development located directly opposite the site on the high side of Lauderdale Avenue comprises 4 and 5 storey residential flat development as depicted in the image below.



**Figure 9: View towards 4 and 5 storey residential flat development located opposite the subject site No's 8 and 12 Lauderdale Avenue**

### 2.1.3 Site Analysis

Detailed site analysis has been undertaken by Platform Architects to form the basis of the proposal now before Council. A Site Analysis Plan is included in the architectural drawings set accompanying this application, an extract of which is provided below.

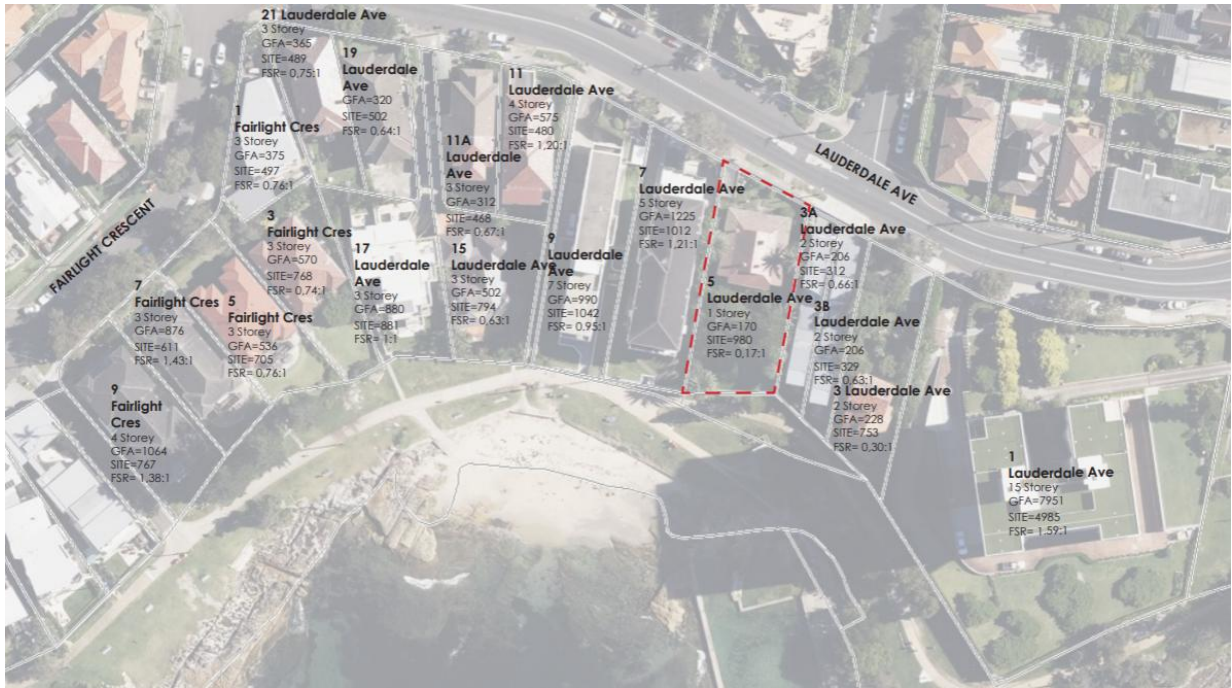


**Figure 10: Site Analysis Plan by Platform Architects**

Such analysis has included the identification of public and private view lines across the site with such analysis informing the view sharing outcome achieved as detailed within the accompanying Visual and View Impact Assessment prepared by Bonus + Associates.

The detailed site analysis also included analysis of the GFA/FSR of development within the street block between Fairlight Crescent/ Arlington Drive to the west and Margaret Street to the east. Such analysis is detailed on Architectural plan A5700(I) with medium density development within the street block having FSR's of between 0.74:1 to 2.02:1 as depicted on the plan extract over page.





**Figure 11: Contextual GFA/ FSR analysis plan extract**

## 3 Description of Proposed Development

### 3.1 Details of the proposed development

The proposed development is depicted in the architectural plans set prepared by Platform Architects. This application provides for the following built form and land use outcomes:

- Demolition of the existing site structures,
- Tree removal,
- Construction of a 4 storey residential flat building, comprising:
  - 5 x 3 bedroom apartments.
  - carparking for 11 vehicles, comprising 10 residential and 1 visitor spaces, accessed via a car lift to Lauderdale Avenue,
- Internal lift and stair access,
- Landscaping,
- Stormwater infrastructure, and
- Strata Subdivision

The proposed development presents as a 2 storey structure to Lauderdale Avenue with a four storey presentation as viewed from the harbour and its immediate environs. The massing of the development as viewed from downslope is appropriately relieved by the use of façade articulation and varied use of framed and offset balcony elements, articulated roof forms and appropriately located landscaping.

The majority of apartments have been designed to take advantage of harbour views to the south, with access to sunlight maximised through skilful design encompassing clerestory windows and strategically placed courtyards.

The proposal features a refined and contextually responsive materials palette, as shown in the External Finishes Schedule by Platform Architects.

Consideration of the Design Principles at Schedule 9 of SEPP Housing with an assessment of the proposal's performance against the relevant criteria of the ADG provided with the accompanying Design Verification Statement and ADG Compliance Table prepared by Platform Architects.

The application is supported by a detailed Visual and View Impact Assessment prepared by Bonus + Associates that confirms that the proposal has been designed and sited to minimise impacts upon both public and private views.

The consent authority can be satisfied that the proposal will not give rise to any adverse terrestrial biodiversity impacts as detailed within the accompanying report prepared by GIS Environmental.

Impact upon existing trees is addressed in the Arboricultural Impact Assessment prepared by Jacksons Nature Works with the proposed tree removal appropriately compensated for through the implementation of the proposed integrated site landscape regime as depicted on the accompanying Landscape Plans prepared by Paul Scrivener. The proposed landscaping incorporates a combination of perimeter deep soil landscaping and integrated on-slab landscape treatments at each level of the development to ensure that the proposal is appropriately landscaped.

The acceptability of the proposed excavation is addressed in detail within the accompanying geotechnical report prepared by Crozier Geotechnical Consultants. The acceptability of the access, car parking and servicing arrangements are detailed within the accompanying Traffic and Parking Assessment Report prepared by PDC Consultants with the proposal's acceptability in relation to accessibility addressed in the accompanying Access Assessment prepared by Credwell Consulting.

The proposals' ability to comply with the relevant provisions of the BCA is detailed in the BCA Compliance Report prepared by Credwell Consulting. The stormwater management regime proposed for the development is detailed on the stormwater management plans prepared by SCP Consulting. The application is also supported by a Waste Management Plan by Elephants Foot detailing how waste will be managed throughout the demolition, construction and ongoing occupation of the development.

Finally, the application is supported by a BASIX Certificate and a NatHERS Certificate prepared by AGA Consulting confirming that the building performs well with regard to sustainability and meets and/or exceeds relevant industry standards.

## 4 Statutory Planning Framework

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the EP&A Act, as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential adverse environmental impacts are discussed below.

### 4.1 Manly Local Environmental Plan 2013

An assessment of the relevant provisions of MLEP 2013 is undertaken, below.

#### 4.1.1 Zoning

MLEP 2013 applies to the subject site and this development proposal. The subject site is located within the C4 Environmental Living with the proposed residential flat building permissible with consent.

The proposal is consistent with the stated objectives of the C4 Environmental Living zone, as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Response: The documentation prepared in support of the application demonstrates that the proposal is low-impact in relation to the ecological and scientific characteristics of the site with the building form providing for a complimentary and compatible visual/aesthetic outcome consistent with that established by other medium density housing within the zone and within the street block and that of development generally within the sites visual catchment.

- *To ensure that residential development does not have an adverse effect on those values.*

Response: As above. We also rely on the accompanying Visual and View Impact Assessment prepared by Bonus + Associates to demonstrate that the proposed residential development will not have an adverse effect on the aesthetic values of the area.

- *To protect tree canopies and ensure that new development does not dominate the natural scenic qualities of the foreshore.*

Response: Whilst the proposal requires the removal of a number of 'low retention value' or 'exempt' species of trees, all of which are non-native, to facilitate the orderly and economic use and development of the land, the integrated landscape regime proposed will ensure that appropriate tree canopy is reinstated and that the development does not dominate the natural scenic qualities of the foreshore.

- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*

Response: As above.

- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*

Response: The proposal is compliant with the applicable landscaped area controls with stormwater run-off and water quality appropriately managed as detailed on the accompanying stormwater management plans prepared by SCP Consulting.

- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

Response: This submission clearly demonstrates that the height of the proposed development is compatible with the balance of waterfront development within the zone and the street block. Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191, we have formed the opinion that most observers would not find the apparent size of the proposed development offensive, jarring or unsympathetic in the streetscape context. The proposal will coexist in harmony with surrounding development/ land uses and existing vegetation.

Accordingly, there is no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

#### 4.1.2 Height of buildings

Pursuant to the Height of Buildings Map of MLEP 2013, the site has a maximum building height limit of 8.5m.

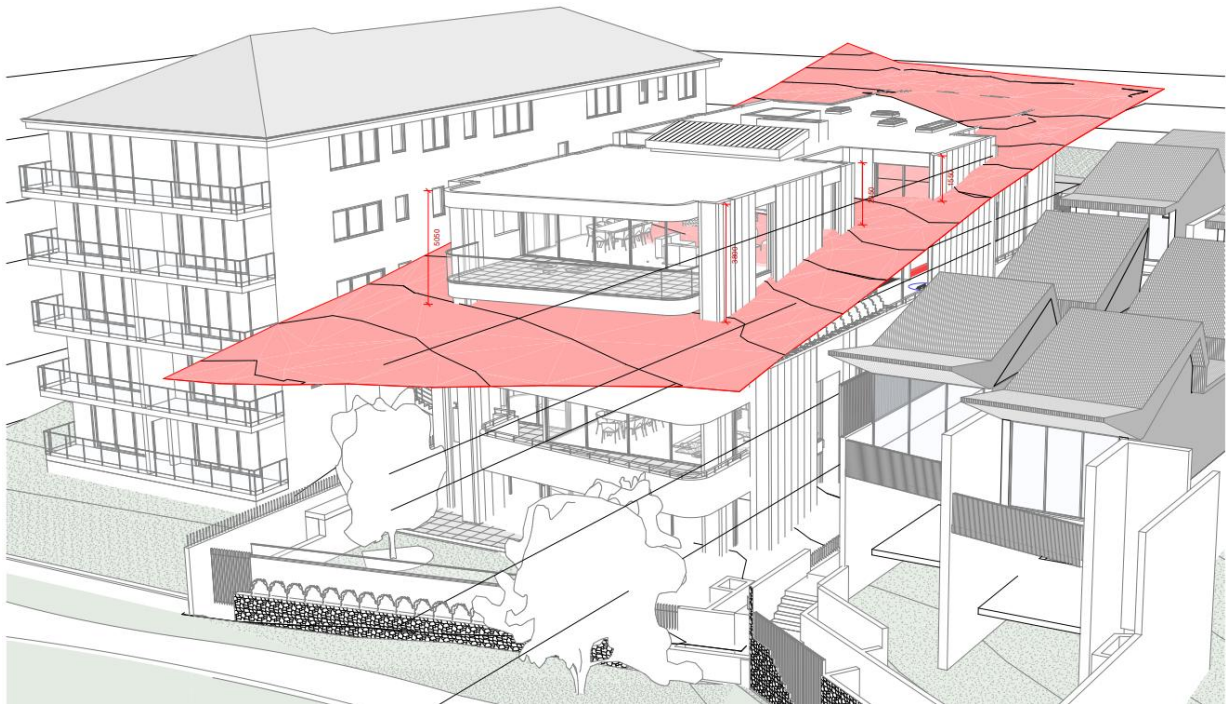
The objectives of this control are as follows:

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

Building height is defined as follows:

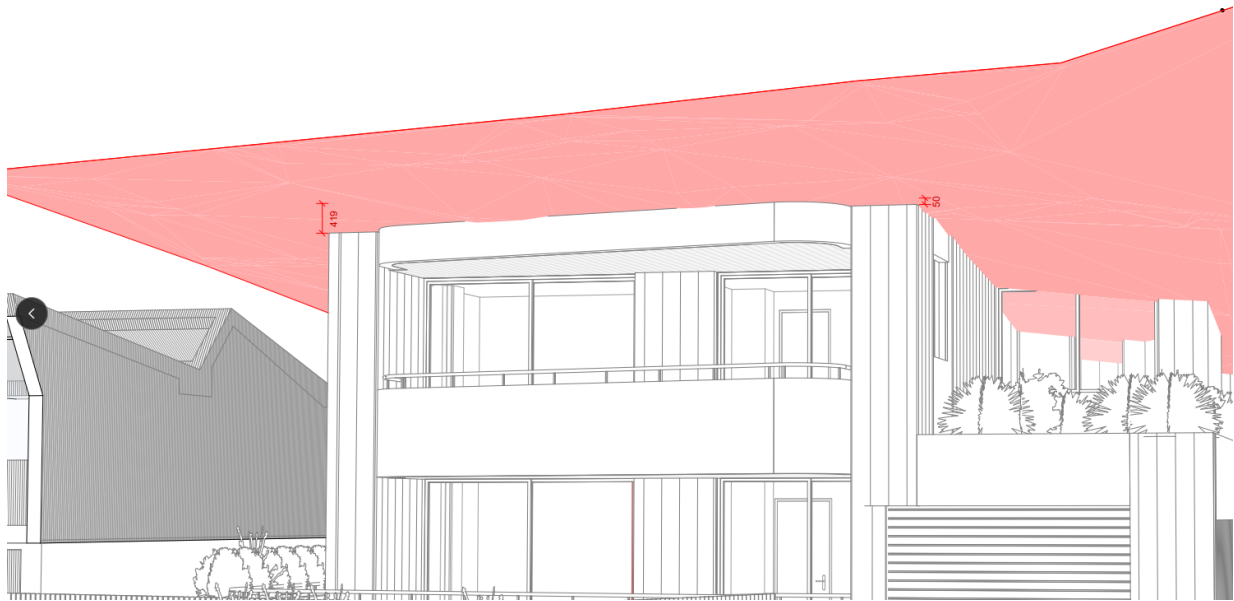
**building height** (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

The building breaches the building height standard to a varying extent as the site falls away towards its Fairlight beach frontage. The southern façade of the building breaches the standard by between 5050mm (59%) and 3800mm (44.7%) as depicted on the building height blanket diagram below.



**Figure 12: Building height plane diagram depicting the elements of the proposal exceeding the 8.5 m building height standard as viewed from the harbour**

The northern street facing façade sits below and is compliant with the height standard by between 50mm (0.05%) and 419mm (4.9%) as depicted on the building height blanket diagram over page.



**Figure 13: Building height plane showing compliance with the building height standard as viewed from the street**

Clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Having regard to these provisions, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the ability to satisfy the objectives of the standard and the virtual abandonment of the building height standard by the consent authority in its approval of waterfront development within this particular street block. Sufficient environmental planning grounds exist to support the variation proposed as outlined in the accompanying clause 4.6 variation request at **ANNEXURE 1**.

#### 4.1.3 Floor space ratio

Clause 4.4 of MLEP 2013 prescribes a maximum floor space ratio of 0.6:1 with respect to the subject site. The objectives of this clause are:

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

The proposed development has a gross floor area of 1056.33m<sup>2</sup> and a floor space ratio of 1.07:1 resulting in non-compliance with the FSR development standard prescribed by clause 4.4 of MLEP 2013 of 468.33m<sup>2</sup> or 79.6%.

Strict compliance with the 0.6:1 FSR development standard has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the ability to satisfy the objectives of the standard and the virtual abandonment of the FSR standard by the consent authority in its approval of waterfront development within this particular street block. Sufficient environmental planning grounds exist to support the variation proposed as outlined in the accompanying clause 4.6 variation request at **ANNEXURE 2**.

#### 4.1.4 Heritage conservation – Heritage Impact Statement

Pursuant to clause 5.10(4) of MLEP 2013 the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

Further, pursuant to clause 5.10(5) the consent authority may, before granting consent to any development:

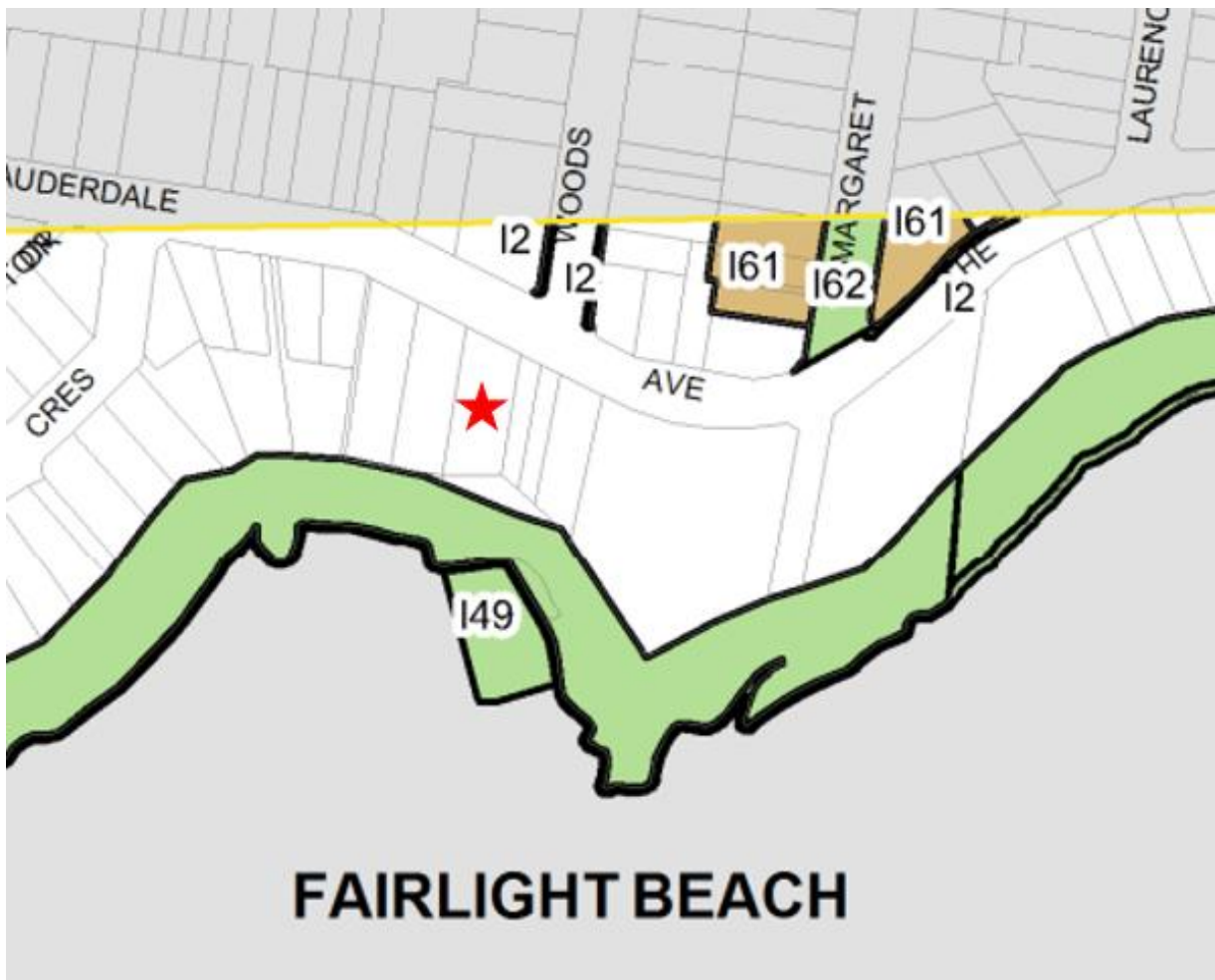
- (a) *on land on which a heritage item is located, or*
- (b) *on land that is within a heritage conservation area, or*
- (c) *on land that is within the vicinity of land referred to in paragraph (a) or (b),*

*require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*



The subject property is not heritage listed or located within a heritage conservation area however is located within the vicinity of the following heritage items as depicted on the heritage map extract below:

|  |  |                 |
|--|--|-----------------|
| <i>Harbour Foreshore</i>                 | <i>Manly area boundary adjacent to Harbour</i> | <i>Item I1</i>  |
| <i>All stone kerbs</i>                   | <i>Manly municipal area</i>                    | <i>Item I2</i>  |
| <i>Esplanade Park and Fairlight Pool</i> | <i>Fairlight foreshore, North Harbour</i>      | <i>Item I49</i> |



**Figure 14: MLEP Heritage map extract showing the spatial relationship of the proposed development to heritage items within the vicinity of the site. Subject site shown with red star.**

This Heritage Impact Statement has been prepared in accordance with the standard guidelines of the NSW Heritage Office.

## **Heritage Considerations**

**The following aspects of the proposal respect or enhance the heritage significance of the adjacent items for the following reasons:**

- The proposed dwelling will contribute positively to the streetscape character and design quality of development located within the site's visual catchment and as viewed to and from the identified heritage item items located within the vicinity of the site.

**The following aspects of the proposal could detrimentally impact on heritage significance.**

- Nil

**The following sympathetic solutions have been considered and discounted for the following reasons:**

- Nil

**Having given consideration to the impact of the proposed works on the significance of the adjacent heritage items we have formed the considered opinion that:**

- The proposed building will contribute positively to the streetscape character and design quality of development located within the site's visual catchment.
- The proposed development will have a neutral impact on the adjacent heritage items and their settings due to the absence of physical impacts and the juxtaposition/spatial relationship of the proposal to the items.

Accordingly, the consent authority can be satisfied that the proposed development will have a neutral impact on heritage items within the vicinity of the site and accordingly there is no statutory impediment to the granting of consent to the proposed works in this instance.

### **4.1.5 Earthworks**

The acceptability of the proposed excavation is addressed in detail within the accompanying geotechnical report prepared by Crozier Geotechnical.

Based on the recommendations and conclusions contained within the geotechnical report the consent authority can be satisfied that the excavation proposed to accommodate the development will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, consistent with the provisions of clause 6.2 of MLEP 2013.

### **4.1.6 Stormwater management**

The stormwater management regime proposed for the development is detailed on the stormwater management plans prepared by SCP Consulting. based on the stormwater management plans the consent authority can be satisfied that the proposed development:

- (a) has been designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
- (b) includes on-site stormwater retention for use as an alternative supply to mains water, and
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

As such, the consent authority can be satisfied that the proposal is consistent with the provisions of clause 6.4 of MLEP 2013.

#### 4.1.7 Foreshore scenic protection area

Clause 6.9 of MLEP 2013 identifies matters that must be considered before consent is granted to the proposed development. These matters are considered, as follows:

- (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,*

Comment: The proposed development will not overshadow the foreshore. Further, as evident in the Visual Impact Assessment prepared to support this application, the proposed development will not result in any unreasonable impacts upon harbour views currently enjoyed from public places to the foreshore. In this regard, we rely on the photomontage over page.

- (b) *measures to protect and improve scenic qualities of the coastline,*

Comment: The proposed development is a high-quality architectural design response that will positively contribute to the scenic quality of the area.

- (c) *suitability of development given its type, location and design and its relationship with and impact on the foreshore,*

Comment: When viewed from the waterway, the proposed development will be seen to be complementary and compatible with surrounding residential development with a neutral impact on the foreshore.

- (d) *measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Comment: The proposed development will not result in any conflict between land-based and water-based coastal activities.



**Figure 15: Photomontage showing the built form relationship of the proposal to the foreshore and its immediate built form context**

The consent authority can be satisfied that the proposal is consistent with the objective and requirements of clause 6.9 of MLEP 2013.

#### 4.1.8 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.*

The consent authority can be satisfied that these services will be available prior to occupation, and conditions of consent can be imposed in this regard.

## 4.2 Manly Development Control Plan 2013

### 4.2.1 Landscaping

Impact upon existing trees is addressed in the Arboricultural Impact Assessment prepared by Jacksons Nature Works with the proposed tree removal appropriately compensated for through the implementation of the proposed integrated site landscape regime as depicted on the accompanying Landscape Plans prepared by Paul Scrivener. The proposed landscaping incorporates a combination of perimeter deep soil landscaping and integrated on-slab landscape treatments at each level of the development to ensure that the proposal is appropriately landscaped.

The landscaping complements the proposed architectural form and positively contributes to the amenity of the proposed development and the surrounding environment. The proposed landscaping is consistent with the requirements and objectives of clause 3.3.1 of MDCP 2013.

### 4.2.2 Sunlight Access and Overshadowing

Clause 3.4.1.1 of MDCP 2013 prescribes that new development must not eliminate more than one-third of the existing sunlight accessing the private open space of adjacent properties between 9am and 3pm in midwinter. Further, clause 3.4.1.2 prescribes that the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for at least 4 hours between 9am and 3pm in midwinter. We note that these controls apply to dwelling houses including the adjoining semi-detached dwellings at 3A and 3B Lauderdale Avenue to the east of the site.

The solar access provisions applicable to the residential flat building at 7 Lauderdale Avenue are contained in clause 4A of the ADG whereby at least 70% of apartments in a residential flat building shall receive minimum of two hours direct sunlight between 9am and 3pm on 21 June to living rooms and private open space areas.

The view from the sun diagrams prepared by Platform Architects clearly demonstrate that existing compliant levels of solar access will continue to be received to the living areas and open space areas of 3A and 3B Lauderdale Avenue between 9am and 2pm with relatively minor overshadowing occurring to the immediately adjoining dwelling house between 2pm and 3pm on 21 June.

In relation to shadowing impacts to the adjacent residential flat building at 7 Lauderdale Avenue the view from the sun diagrams demonstrate that at least 70% of apartments in the residential flat building will continue to receive a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June to living rooms and private open space areas.

These provisions are satisfied.

#### 4.2.3 Privacy and Security

The proposed dwellings are primarily oriented towards the harbour views available to the south, with minimal openings along the side elevations. Where windows are located along side elevations, the openings are narrow or are appropriately screened through the introduction of integrated screening measures and/ or landscaping. Given that surrounding properties have been designed and orientated to maximise available views it is generally accepted that there will be a degree of mutual overlooking between private open space areas where these are located adjacent to the foreshore. A contextually appropriate level of privacy and security is maintained between surrounding development.

The proposed development is consistent with the objectives and requirements of clause 3.4.2 of MDCP 2013.

#### 4.2.4 Maintenance of Views

Views of the harbour are available in a southerly direction from the subject site and adjoining and nearby properties. For properties upslope to the north of the subject site, these views are obtained over the roof of the existing dwelling on site and the roofs of neighbouring buildings to the east and west.

In order to minimise the impacts upon these views, the height of the proposed development presenting to Lauderdale Avenue is 2 storeys and compliant with the 8.5 metre building height standard. The application is supported by a detailed Visual and View Impact Assessment prepared by Bonus + Associates that confirms that the proposal has been designed and sited to minimise impacts upon both public and private views. I have reviewed the view impact assessment and agree with its methodology, analysis and conclusions.

In this respect, Council can be satisfied that the disruption of views from nearby properties has been reasonably minimised and that view sharing between properties is achieved, consistent with the objectives and requirements of clause 3.4.3 of MDCP 2013.

#### 4.2.5 Sustainability

The design provides for sustainable development, utilising passive solar design principles, thermal massing and achieves cross ventilation to a complying number of dwellings within the development.

The application is supported by BASIX and NatHERS Certificates to confirm that the proposed development meets or exceeds necessary requirements and industry standards.

#### 4.2.6 Accessibility

Clause 3.6.1 of MDCP 2013 requires all new development to meet the relevant requirements of the Disability (Access to Premises – Buildings) Standards 2010 and the BCA with respect to the design of equitable access. Further, at least 2 apartments (25% rounded up) within the development, including associated parking and access thereto, is to comply with the provisions of with AS4299 – Adaptable Housing.

The application is supported by an Access Report prepared by Credwell Consulting that confirms compliance with the provisions of this clause.

#### 4.2.7 Stormwater Management

Clause 3.7 of MDCP 2013 requires the management of stormwater to comply with the provisions of Council's *Water Management for Development Policy*.

The stormwater management regime proposed for the development is detailed on the stormwater management plans prepared by SCP Consulting.

#### 4.2.8 Waste Management

Clause 3.8 of MDCP 2013 requires all development to comply with the appropriate sections of Council's Waste Management Guidelines, with all development applications to be accompanied by a Waste Management Plan.

The application is supported by a Waste Management Plan prepared by Elephants Foot detailing how waste is to be managed during demolition, construction and throughout the life of the development.

#### 4.2.9 Mechanical Plant Equipment

The proposed lift overrun does not project above the dominant roof plane and is integrated into the design of the development. Plant equipment will be sited and maintained to prevent adverse acoustic impacts for future occupants of the development and adjoining properties.

The proposed development is consistent with the requirements and objectives of clause 3.9 of MDCP 2013.

#### 4.2.10 Safety and Security

The proposed residential flat building has been designed to appropriately respond the CPTED design principles, providing an environment that is safe and secure for all future residents and visitors, consistent with the provisions of clause 3.10 of MDCP 2013.

#### 4.2.11 Earthworks (Excavation and Filling)

The level of excavation proposed on the site is appropriate for the type of development proposed and in consideration of the slope of the land. The application is supported by a Geotechnical Investigation by Crozier Geotechnical which has assessed and considered the subsurface conditions of the site and provides comments and recommendations in relation to excavation and hydrogeology, retention, footings, slabs on grade, engineered fill and aggressivity, to ensure that the development is undertaken safely, with minimal impact to the surrounding environment.

#### 4.2.12 Residential Built Form Controls Compliance Table

A table demonstrating compliance with the relevant provisions of the DCP is detailed as follows:

| Control  | Requirement  | Proposed   | Compliance   |
|--|--|--|--|
| <b>Part 4 – Residential Development Controls</b> |  |  |  |
| <b>4.1.1.1 Residential Density &amp; Size</b>    | (D3 – 1 dwelling per 250m <sup>2</sup> )<br><br>Based on a site area of 980.1sqm – 3.9 say 4 dwellings | 5 Dwellings<br><br>The proposed exceedance does not detract from consistency with the objectives of this clause, with a variety of dwelling types and dwelling sizes proposed with high levels of internal amenity.  | Acceptable on merit  |
| <b>4.1.2.1 Wall Height</b>                       | Max 8 metres   | 8.2 – 13.55m   | No<br><br>Acceptable on merit particularly having regard to the steep slope of the site. Refer to clause 4.6 variation request in relation to overall building height. |
| <b>4.1.2.2 Number of storeys</b>                 | 2 storeys  | 2-4 storeys<br><br>The proposed development has a 2 storey presentation to Lauderdale Avenue before increasing to 4 storeys as the site falls away towards its rear boundary. The number of Storeys is contextually acceptable with the development providing a complimentary and compatible | Acceptable on merit  |



| Control                              | Requirement  | Proposed  | Compliance  |
|--------------------------------------|--|---|---|
|                                      |  | building height presentation to both the street and the harbour.  |   |
| <b>4.1.2.3 Roof Height</b>           | Pitched Roof: 2.5m (max.)  | Clerestory windows: <2.5m   | Yes   |
|                                      | Parapet: 0.6m (max.)   | Parapet: <0.6m  | Yes   |
| <b>4.1.4.1 Street Front Setbacks</b> | Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity. | The front setbacks relate to the front building line is established by the 2 immediately adjoining properties and development generally located along the southern side of Lauderdale Avenue within the site's visual catchment.  | Yes   |
| <b>4.1.4.2 Side Setbacks</b>         | Setbacks to the side boundary must not be less than 1/3 of the wall height.  | The proposal maintains variable side boundary setbacks of between 2.44m and 5.5 metres from the property boundary as depicted on the architectural plans. The majority of the building maintains compliant 1/3 <sup>rd</sup> wall height setbacks to the side boundaries of the allotment. The consent authority can be satisfied that all setbacks are compliant with the objectives of the control. | No. Some minor non-compliant elements. Acceptable on merit. |
|                                      | Window setback: 3.0m (min.)  | All windows are either setback 3 metres from the side boundary or orientated at 90 degrees to the boundary to prevent direct overlooking opportunities to adjoining properties.   | Yes   |
| <b>4.1.4.4 Rear Setbacks</b>         | Rear setback: 8.0m (min.) and also relate to prevailing pattern of setbacks.   | The proposal maintains a variable rear boundary setback of between four and 6 m which whilst not compliant with the 8 m control responds appropriately prevailing pattern of setbacks established by the  | No<br>Acceptable on merit                                   |

| Control   | Requirement  | Proposed   | Compliance |
|---|--|--|------------|
|   |  | two immediately adjoining properties.<br>The objectives of this control are satisfied.   |            |
| <b>4.1.5.1 Minimum Total Open Space</b>               | Total Open Space = 50% of site area (min.)   | Total Open Space = 727m <sup>2</sup> or 74.18% of the site area  | Yes        |
|   | Landscaped Area = 35% of total open space (min.)   | Landscaped Area = 266m <sup>2</sup> or 49% of <u>required</u> total open space   | Yes        |
|   | 4 trees to be planted on site  | >4 trees proposed.   | Yes        |
| <b>4.1.6.1 Parking Design and Location of Garages</b> | The design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality. | The carparking has been appropriately integrated into the development in the form of basement car parking accessed via a car lift. The basement car parking accommodation will not be discernible as viewed from outside the site with a single width car lift entry ensuring that it will not be a visually prominent element in the streetscape. | Yes        |
|   |  | The width of the garage door is limited to 3.4m.   | Yes        |
|   |  | Residential Spaces = 10 spaces   | Yes        |
|   |  | Visitor Spaces = 1 spaces  | Yes        |
| <b>4.1.6.4 Vehicular Access</b>                       | All vehicles should enter and leave the site in a forward direction.   | All vehicles will be able to enter and existing the site in a forward direction.   | Yes        |
|   | Vehicular access and parking for buildings   |  | Yes        |

| Control   | Requirement   | Proposed   | Compliance            |
|---|---|--|-----------------------|
|   | with more than 1 dwelling is to be consolidated within one location.  | Vehicle access for the 5 dwellings is consolidated into one access driveway.   |                       |
| <b>4.1.6.6 Tandem, Stacked and Mechanical Parking Areas</b> | The design location and management of parking facilities involving tandem, stacked and mechanical parking must consider the equitable access and distribution of parking spaces to all occupants and visitors to the building | The acceptability of the access, car parking and servicing arrangements are detailed within the accompanying Traffic and Parking Assessment Report prepared by PDC Consultants with the proposal's acceptability in relation to accessibility addressed in the accompanying Access Assessment prepared by Credwell Consulting. | Yes                   |
| <b>4.1.8 Development on Sloping Sites</b>                   | <p>The design of development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.</p> <p>The application is to be supported by a Site Stability Report.</p>           | The application is supported by a Geotechnical Investigation by Crozier Geotechnical consistent with the provisions of this clause.  | <p>Yes</p> <p>Yes</p> |
| <b>4.1.10 Fencing</b>                                       | In relation to open/transparent fences, height may be increased up to 1.5m where at least 30 percent of the fence is open/transparent for at least that part of the fence higher than 1m.                                     | The height of the front fence is stepped and does not exceed 1.5m in height.   | Yes                   |

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

#### 4.3.1 Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The site has been used for residential purposes for an extended period of time with no known prior land uses. In this regard, the potential for contamination is considered to be extremely unlikely.

The site is not identified as a contaminated site on the NSW EPA's list of notified sites, nor is it in the vicinity of any listed sites. The consent authority can be satisfied that the subject site is suitable for the proposed development.

As such, the proposed development is consistent with the provisions of Chapter 4 of this policy.

### 4.4 State Environmental Planning Policy (Biodiversity and Conservation) 2021

#### 4.4.1 Sydney Harbour Catchment

The subject property is located within the Sydney Harbour Catchment and therefore, the provisions of Chapter 10 of this policy apply to this development. An assessment of the proposal against the relevant aims of the chapter has been undertaken, and the consent authority can be satisfied in this regard. Whilst referral to the Foreshores and Waterways Planning and Development Advisory Committee is at the discretion of Council, it is our opinion that referral is not warranted in the circumstances of this application.

### 4.5 State Environmental Planning Policy (Sustainable Buildings) 2022

This SEPP applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX Assessment accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

### 4.6 State Environmental Planning Policy (Housing) 2021

Chapter 4 of SEPP Housing 2021 - Design of Residential Apartment Development aims to improve the design quality of residential flat developments to provide sustainable housing in social and environmental terms that is a long-term asset to the community and presents a better built form within the streetscape.

It also aims to better provide for a range of residents, provide safety, amenity and satisfy ecologically sustainable development principles. In order to satisfy these aims, the plan sets design principles in relation to context, scale, built form, density, resources, energy and water efficiency, landscaping, amenity, safety and security, social dimensions and aesthetics to improve the design quality of residential flat building in the State.

The SEPP applies to new residential flat buildings that are at least 3 or more storeys in height and that contain at least 4 dwellings.

As the proposed development is for the erection of a 3 storey residential flat building development containing 5 dwellings, the provisions of the SEPP are applicable to the proposed development.

Clause 147(1)(a) requires the proposal to be assessed against the 9 design quality principles contained in Schedule 9. The proposal's compliance with the design quality principles is detailed in the Design Verification Statement prepared by Platform Architects provided to support this application.

Clause 147(1)(b) requires the consent authority to take into consideration the Apartment Design Guide. In this regard, an Apartment Design Guide compliance table prepared by Platform Architects accompanies this application.

#### 4.7 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 EP&A Act (as amended):

(i) *any environmental planning instrument*

The proposed residential flat building is permissible and consistent with the intent of the MLEP 2013 and MDCP 2013 as they are reasonably applied to the proposed works given the constraints imposed by the site's location, environmental and topographical characteristics.

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

There are no draft environmental planning instruments relevant to the proposed development.

(iii) *Any development control plan*

MDCP 2013 is applicable to this application and has been considered in detail in this report.

(iii) *Any Planning Agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and*

N/A

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

N/A

(v) *Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)*

N/A

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

[The assessment considers the Guidelines (in italics) prepared by the Department of Planning and Environment in this regard].

#### *Context and Setting*

i. *What is the relationship to the region and local context in 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*

These matters have been discussed in the body of this report.

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*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be acceptable with regard to SEPP Housing and the ADG.

*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*

These issues have been discussed in detail in the report. The development provides adequate carparking facilities in conformity with the policy controls.

#### *Public Domain*

The proposed development will have no adverse impact on the public domain. Rather, the proposal will result in a significant enhancement of the public domain, by virtue of the high-quality architectural design solution proposed.

#### *Utilities*

This matter has been discussed in detail in the body of this report.

#### *Flora and Fauna*

The proposal will result in a significant improvement to the quality and quantity of landscaping across the site, providing increased habitat value for fauna.

#### *Waste Collection*

Waste will be managed appropriately on the site with regard to Council's DCP controls. An On-Going Waste Management prepared by Elephants Foot accompanies this application.

#### *Natural hazards*

N/A

#### *Economic Impact in the locality*

The proposed development will generate temporary employment during construction. On-going employment will be provided through the employment of building and strata managers for the building and on-going maintenance requirements.

### *Site Design and Internal Design*

i) *Is the development design sensitive to environmental considerations 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*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the general principles, desired future character and built form controls.

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 comply with the provisions of the Building Code of Australia. The proposal complies with the relevant standards pertaining to health and safety and will not have any detrimental effect on the occupants.

### *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 safety or environmental impacts will arise during construction.



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

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development 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*
- *Are the site attributes conducive to development*

The adjacent development does not impose any unusual or impossible development constraints. The development will not cause excessive or unmanageable levels of transport demand.

The development responds to the topography and constraints of the site, is of adequate area, and is a suitable design solution for the context of the site.

(d) *Any submissions received in accordance with this act or regulations*

It is envisaged that Council will appropriately consider any submissions received during the notification period.

(e) *The public interest*

The proposed works are permissible and consistent with the intent of the LEP and DCP controls as they are reasonably applied to the proposed development. The development would not be contrary to the public interest.

## 5 Conclusion

The proposal is permissible and in conformity with the objectives of MLEP 2013 as they reasonably relate to this form of development on this particular site. The proposed development appropriately responds to the guidelines contained within the MDCP 2013 and the massing and built form established by residential development within this particular street block. The proposal satisfies the design quality principles contained within Chapter 4 of SEPP (Housing) 2021 and the design guidance within the Apartment Design Guide.

Platform Architects have responded to the client brief to design a contextually responsive building of exceptional quality with high levels of amenity for future occupants which respects the amenity of neighbouring properties in terms of the sharing of views and the attainment of adequate sunlight and daylight. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of this site having regard to the topography, height, scale, proximity, use and orientation of surrounding development.

It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The accompanying plans depict a high quality and contextually appropriate built form outcome that responds to adjacent and nearby development and the built form characteristics established by waterfront development within the street block between Fairlight Crescent/ Arlington Drive to the west and Margaret Street to the east. The proposed development is a suitable design response to the zoning of the site and the topography of the land.
- The proposed building height and residential density is compatible with the balance of waterfront development within the street block. Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191, we have formed the opinion that most observers would not find the apparent size of the proposed development offensive, jarring or unsympathetic in the streetscape context. The proposal will coexist in harmony with surrounding development.
- Whilst the proposal requires the consent authority to give favourable consideration to building height and floor space ratio variations, strict compliance has been found to be unreasonable and unnecessary in this instance given the ability to achieve the objectives of the height and FSR standard and the virtual abandonment of the building height and FSR standards by the consent authority in its approval of waterfront development within this particular street block. Sufficient environmental planning grounds exist to support the variation with the accompanying clause 4.6 variation requests well founded.

- The non-compliances with the dwelling density, storey, side boundary setback, rear setback and wall height controls prescribed by MDCP 2013 have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15(3A)(b) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.
- The proposal will provide a notable increase to the supply of premium housing on a site ideally suited to increased residential densities and which satisfies the design principles for residential apartment development at Schedule 9 of SEPP Housing and the applicable objectives of the ADG.

Having given due consideration to the matters pursuant to Section 4.15(1) of the EP&A Act as amended, it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance.

**Boston Blyth Fleming Pty Limited**



**Greg Boston**

**Director**

**ANNEXURE 1**

**CLAUSE 4.6 VARIATION REQUEST – HEIGHT OF BUILDINGS**

**ANNEXURE 2**

**CLAUSE 4.6 VARIATION REQUEST – FLOOR SPACE RATIO**