

11 February 2022

Attn: Maxwell Duncan
Northern Beaches Council
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**RE: RESPONSE TO COUNCIL REGARDING DEVELOPMENT APPLICATION AT
88 BOWER STREET, MANLY (DA2021/1400)**

Dear Maxwell,

Regarding the letter from Northern Beaches Council dated 24 January 2022, in relation to the Development Application for 88 Bower St, Manly (DA2021/1400), we have collated a response to address the items raised. The three items outlined in the letter were the classification of the building as alterations and additions work and the proposed breaches of the height and FSR controls.

Subsequent to your letter and our discussions we have undertaken amendments to the Development Application submission to reduce the bulk and FSR of the proposal which are included as part of our response.

Executive Summary

We put forward the following points in response to the aforementioned letter for your consideration:

1. Alterations and Additions
 - The building should be assessed as an alterations and additions as it maintains the use, general siting and landscaping of the existing house and celebrates the rich familial ties to key portions of the original building fabric – we have reattached the 20th December letter we have previously provided that outlines our assessment for your information;
 - We note that after your recent site inspection (which confirmed the masonry and concrete construction of the existing dwelling) it was agreed that the proposed works would be treated as alterations and additions;
2. Height of Buildings
 - The minor encroachment of the roof form into the 8.5m height plane is extremely localised at the NW corner of the built form and results in minimal contribution to the bulk of the building;
 - The breach poses no adverse amenity impact on the neighbouring properties in relation to overshadowing or views;
 - The proposed highest point of the roof form is less than the 2009 LEC approval;
 - The lower ground floor is subject to flood inundation and is non habitable. The permitted GFA and FSR needs to be facilitated at the upper levels creating a breach of the height control;
3. Floor Space Ratio
 - The existing dwelling exceeds the 0.45:1 FSR control and the proposed FSR is below the 2009 LEC approval;

- The lower ground GFA is subject to overland flow and king tides and is non-habitable. When this area is excluded the FSR of the development is 0.46:1;
- The FSR control of 0.45:1 has clearly been exceeded in current approval for this site (0.58:1) and a substantial number of properties in the immediate vicinity have also exceed this control;
- The FSR of the existing dwelling is 0.52:1;
- No neighbours have objected to the development, rather letters of support have been provided.

List of Amendments

Notwithstanding the above commentary we appreciate from our discussions with Council that FSR is a key item of consideration and as such we have undertaken amendments to the design that do not significantly alter the overall proposition however reduce the GFA and provide a closer numerical match to the 0.45:1 control.

The amendments result in the proposed FSR reducing to 0.53:1 (down from 0.57:1 in the lodged DA or 0.58:1 from the LEC approval). Furthermore the FSR is 0.44:1 if the non-habitable lower ground GFA is excluded.

Please see a key summary below noting that amendments have been clouded in red on the documentation:

- FSR reduced from 0.57 to 0.53:1;
- Height plane encroachment reduced from 1190mm to 1170mm;
- Reconfigured lower ground floor, service room and stair access hall;
- Switched bedroom 3 and rumpus locations;
- Reduced extent of new rumpus;
- Increased landscaped and open space areas to ground floor;
- Reduced extent of formal dining room;
- Increased landscaped and open space areas to garden and deck;
- Reduced extent of entry hall and study at entry level;
- Reduced extent of roof overhang over deck and formal dining;
- Reduced extent of roof overhang over roof terrace and study.

List of Amended Documents

Architectural (Squillace Architects)

- DA-001 – Cover Sheet, Issue B
- DA-005 – 3D View 01, Issue B
- DA-006 – 3D View 02, Issue B
- DA-011 – Site Plan, Issue B
- DA-012 – Site Analysis Plan, Issue B
- DA-099 – Floor Plan – Lower Ground, Issue B
- DA-100 – Floor Plan – Ground floor, Issue B
- DA-101 – Floor Plan – Level 1, Issue B
- DA-102 – Floor Plan – Entry Level, Issue B
- DA-103 – Floor Plan – Roof Level, Issue B
- DA-201 – Elevation Sheet 1, Issue B
- DA-202 – Elevation Sheet 2, Issue B
- DA-301 – Section Sheet 1, Issue B
- DA-302 – Section Sheet 2, Issue B
- DA-401 – Shadow Study Plan Winter Solstice, Issue B
- DA-402 – Shadow Study Plan Winter Solstice, Issue B
- DA-431 – Sun's Eye View Sheet 1, Issue B
- DA-432 – Sun's Eye View Sheet 2, Issue B

- DA-510 – Gross Floor Area Calculations, Issue B
- DA-511 – FSR Study, Issue B
- DA-521 – Excavation Plan, Issue B
- DA-531 – Open Space and Landscape Plans, Issue B

List of Relevant Referenced Documents

Architectural (Squillace Architects)

- Assessment of alterations and additions planning principle letter by Squillace Architects dated 21st December 2021

Planning (JV Urban)

- Statement of Environmental Effects dated July 2021
- Clause 4.6 Variation to Height of Buildings Standard dated July 2021
- Clause 4.6 Variation to FSR Standard dated July 2021

Detailed Response to Letter

From Northern Beaches Council dated 24 January 2022

1. **Coorey v Municipality of Hunters Hill [2013] NSWLEC 1187**

The extent of demolition and the overall works proposed as part of this application, demonstrate that the proposal should be considered as a new dwelling, as opposed to alterations and additions to the existing dwelling. This is based on the qualitative and quantitative matters for consideration outlined in planning principle Coorey v Municipality of Hunters Hill [2013] NSWLEC 1187. Any future application proposing this extent of demolition should be described as a new dwelling and will be assessed as such by Council officers.

As per our recent site visit on 2nd February the existing building was shown to be primarily double brick masonry construction with concrete slabs.

On site it was outlined that the building was designed by the client's father with stone work laid by her grandfather, highlighting the strong familial bonds to the cultural heritage of the building. Significant elements of the original design are retained and celebrated such as the sandstone feature walls, existing brickwork and the horizontal expression of slabs which has clearly been demarcated to be retained in the Development Application documentation.

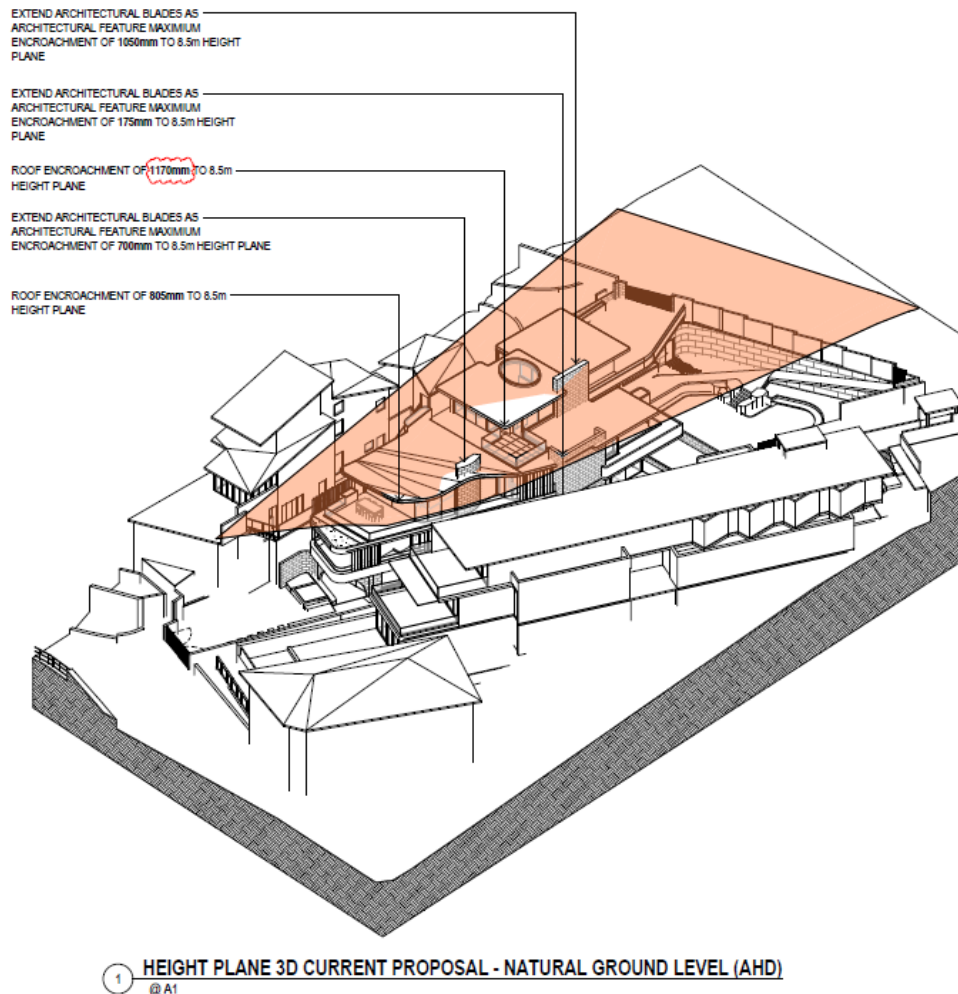
Upon site inspection by Council it was agreed that the development should be treated as an alterations and additions proposal.

Please refer to detailed assessment of the proposal against the alterations and additions planning principle for further information.

2. **Building Height**

The application has not demonstrated consistency with the objectives of the building height development standard or that there are sufficient environmental planning grounds to justify contravention of the 8.5m height limit prescribed by clause 4.3 of MLEP 2013. The non-compliance is not consistent with the bulk and scale of surrounding development as suggested in the clause 4.6 submission, but rather as a result of the incorporation of four storeys in one vertical plane, elevated above existing ground level. The extent of non-compliance at Level 4 (Noted as entry level on the plans) is not supported.

The proposed breach is minor in nature and predominantly comprises of a small breach by the roof form of the top storey which is localised to the north western corner of the building. An additional 2 breaches of the height plane occur due to the extension of existing sandstone blade walls as architectural features.



Excerpt from DA-551, Building Height Plane Diagram, issue B, Squillace Architects

The proposed breaches result in no adverse amenity impacts on the neighbouring buildings and do not contribute to the visual bulk of the building when viewed from public domain.

We feel that the breach is consistent with the objectives of the Manly LEP objectives for height given the following:

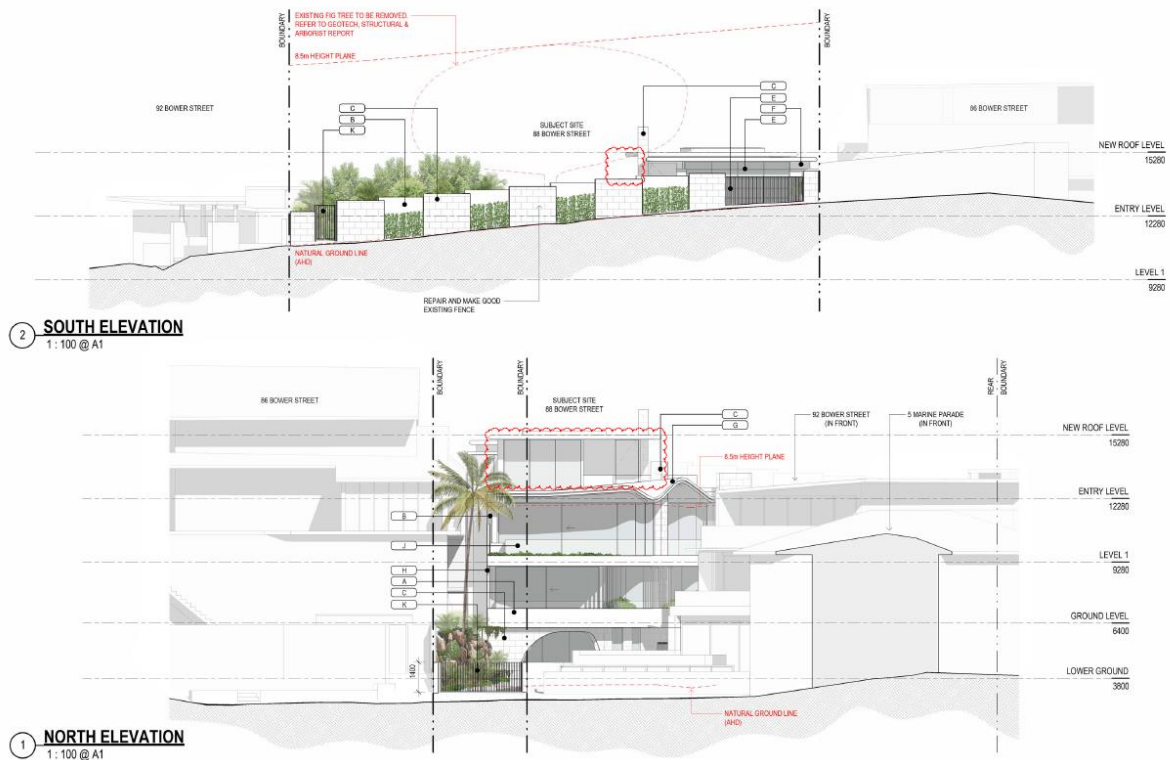
Clause 4.3 1) a)

The proposed built form is consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality

The dwelling remains subordinate to the bulk, scale and domineering visual appearance of many of the large, existing buildings fronting Marine Parade and foreshore area.

When viewed from Bower St the proposal sits significantly lower than the existing neighbouring property to the east (86 Bower St) and at a similar (if not slightly lower) level to 92 Bower St to the west given the sloping topography as evidenced in the southern elevation. A similar condition occurs

at the northern elevation along Marine Parade which presents the proposal as consistent with the bulk and scale of the adjoining properties.



Excerpt from DA-201, Elevations Sheet 1, issue B, Squillace Architects

Clause 4.3 1) b)

The proposal is a reasonable proposition in terms of bulk and scale

The proposal maintains the low-density residential environment and provides for additions to an existing single detached dwelling which is of low impact and does not unreasonably impact on the ecological, scientific or aesthetic values of its setting.

The proposed additions are provided with a new low profile roof form on each level which minimises height and bulk. The roof has been designed to be recessive and reflect the coastal setting and will not be prominent when viewed from adjoining properties or the public domain.

Clause 4.3 1) c)

The proposal does not impact views to, from and between the public domain and residential development

The dwelling will not cause any detrimental impact on the natural scenic qualities of the foreshore or Marine Parade.

The combination of a low profile roof form along with built form that steps down the site minimise the disruption of views.

No water views are disturbed by the proposed development, in fact they are enhanced given the removal of the fig tree along Bower St as shown in the southern elevation above.

Clause 4.3 1) d)

The proposal maintains solar access to adjoining properties and the public domain

No overshadowing impacts arise from any non-compliant element of the development as shown in the shadow diagrams and sun eye views.

Clause 4.3 1) e)

The proposed development has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

The vegetation impact of the proposed development is minimal and well compensated by new plantings.

Ecological impacts and stormwater water quality are addressed in the terrestrial biodiversity report and stormwater management plan.

Additionally we note the following in relation to the proposed development:

- The encroachment of into the 8.5m height plane is extremely localised at NW corner of the entry level and would not require the removal of this entire level to meet the LEP height control for the site;
- The proposed highest point of the roof form is less than the 2009 LEC approval;
- The portion of building that Council has described as 4 storey is a very small, localised portion of the building at its centre and is limited to services and stair access (non-habitable uses) and is not classified as a storey at the location in question given it is fully underground in this position. The area in question is resultant of additional excavation of the lower ground floor to provide connection to the proposed new stair and has no access to daylight or ventilation. It poses no amenity impact to the adjoining neighbours and would not decrease the height of the building if this area was to be removed given this area is flood prone;
- The entry level RL was established to provide a safer and less steep driveway whilst still maintaining a sympathetic relationship to the bulk and scale of the neighbouring properties;
- No neighbours have objected to the development, rather letters of support have been provided.

3. Floor Space Ratio

With a floor space ratio of 0.57:1, the proposed development exceeds the 0.45:1 floor space ratio prescribed by MLEP 2013. The application has not demonstrated that compliance with the FSR development standard is unreasonable or unnecessary, or that there are sufficient environmental planning grounds to justify the extent of non-compliance proposed, and as such, the proposed variation is not supported.

It is noted that the proposal has not incorporated a number of storage and access areas, into the gross floor calculations.

We feel that the GFA exceedance is consistent with the objectives of the Manly LEP objectives for FSR given the following:

Clause 4.4 1) a)

The proposed built form is consistent with the bulk and scale of the existing and desired street character

The dwelling remains subordinate to the bulk, scale and domineering visual appearance of many of the large, existing buildings fronting Marine Parade and foreshore area.



PERSPECTIVE OF PROPOSED DWELLING FROM MARINE PARADE

Excerpt from DA-005, 3D View 1, issue B, Squillace Architects

Clause 4.4 1) b)

The development does not obscure important landscape and townscape features

The dwelling will not cause any detrimental impact on the natural scenic qualities of the foreshore or Marine Parade.

The combination of a low profile roof form along with built form that steps down the site minimise the disruption of views.

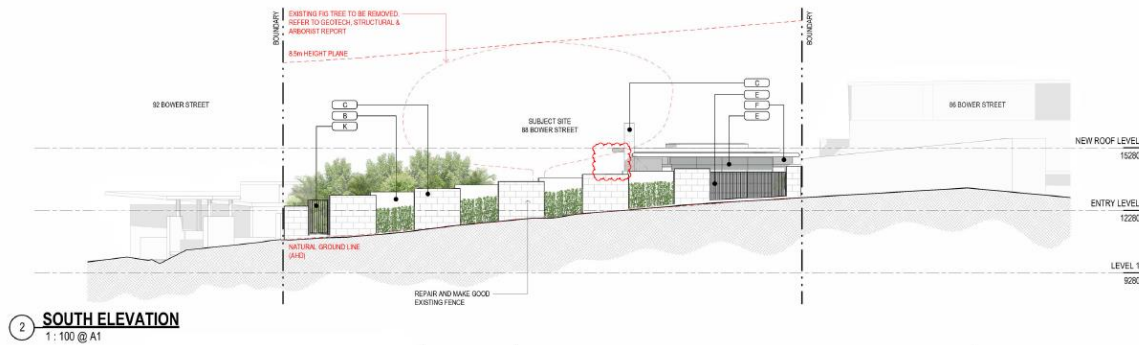
No water views are disturbed by the proposed development, in fact they are enhanced given the removal of the fig tree along Bower St.

Please see below view studies that show that the proposal has negligible visual impact on the surrounding properties.

Clause 4.4 1) c)

The proposal maintains an appropriate visual relationship between new development and the existing character and landscape of the area

The proposed built form is sympathetic to the scale of neighbouring development and is comparable in scale and bulk to its neighbours as shown in the below elevation.



Excerpt from DA-201, Elevations Sheet 1, issue B, Squillace Architects

Clause 4.4 1) d)

The proposal minimises adverse environmental impacts on the use or enjoyment of adjoining land and the public domain

The proposal provides for additions to an existing single detached dwelling which will be of low impact and does not unreasonably impact on the ecological, scientific or aesthetic values of its setting. The dwelling will not cause any detrimental impact on the natural scenic qualities of the foreshore or Marine Parade.

Additionally we note the following in relation to the proposed development:

- The existing dwelling exceeds the FSR control (existing FSR is 0.52:1, the LEP control for the site is 0.45:1)
- The Council preDA minutes state that there is merit to the requested FSR variation (which was larger in quantum at preDA, was scaled back from 0.65:1 to 0.57:1 at DA) subject to no adverse amenity impacts to adjoining properties and that the proposal meets the objectives of the control - We feel that both of these items have been clearly demonstrated in the DA documentation and SEE clause 4.6 variation to FSR and summarised above;
- The proposed FSR (0.57:1) is below the FSR (0.58:1) of the 2009 LEC approval. Additionally we have further reduced the proposed building footprint as per the updated documentation and the proposed GFA has decreased to 0.53:1 or 0.44:1 when the lower ground non-habitable GFA is excluded;

GFA SUMMARY TABLE (PROPOSED)

SITE AREA	736.1 m ²
FSR	0.45:1
ALLOWABLE GFA	331.2 m ²
GROSS FLOOR AREA	
LOWER GROUND	76.1 m ²
GROUND LEVEL	161.6 m ²
LEVEL 1	134.6 m ²
ENTRY LEVEL	21.4 m ²
TOTAL	393.7 m ²
PROPOSED FSR (INCLUDING FLOOD PRONE AREA)	0.53:1
PROPOSED FSR (EXCLUDING FLOOD PRONE AREA)	0.43:1
EXISTING FSR	0.52:1
PREVIOUS APPROVED PROPOSED FSR	0.58:1
APPROVED DA NUMBER : 216/2007	
COMMENCED ON 14.07.14	
REF: DS MC/14.82959	

Excerpt from DA-510, Gross Floor Area Calculations, issue B, Squillace Architects

- The entire lower ground level is within an overland flow zone and subject to king tides and comprises of a significant portion of the GFA. Currently the existing lower ground floor RL of 3.8 sits below the flood planning level and associated freeboard requirements. As shown in the below site photography the lower ground is area is subject to water ingress during flood events, causing damp conditions, in particular within the lower portion of the walls, and significantly limiting the use;
- Given the above commentary regarding flood inundation at the lower level, the permitted gross floor area and FSR needs to be facilitated at the upper levels creating a breach of the height control. When this area is excluded the FSR of the development is 0.44:1 as noted above.



Photo of water damage to the existing lower ground room fronting Marine Parade, 02.02.22, Squillace Architects

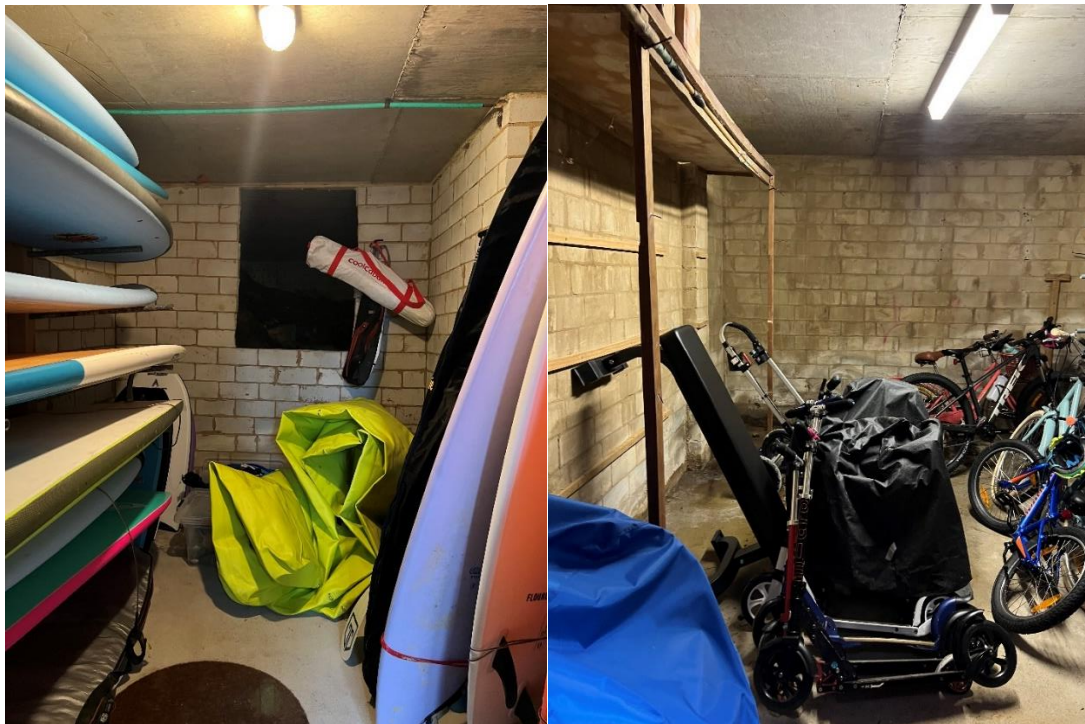
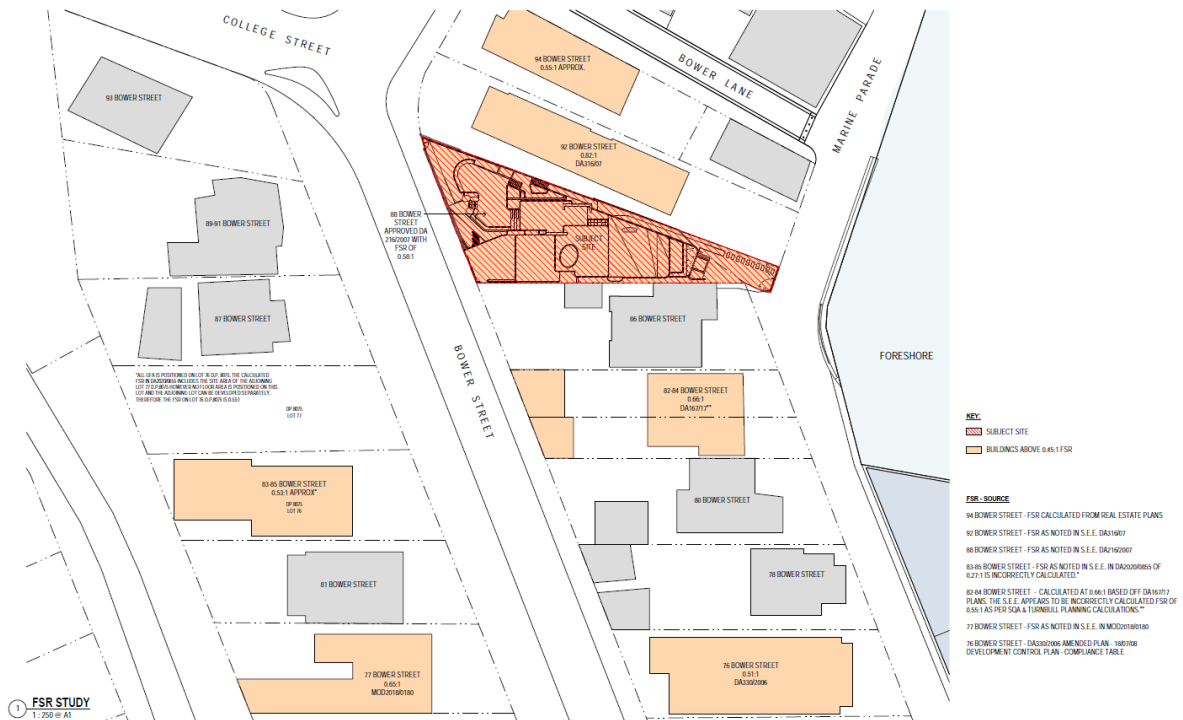


Photo of existing lower ground rooms that comprise of storage spaces given the constraints on uses, 02.02.22, Squillace Architects

- The FSR control of 0.45:1 has clearly been exceeded in current approval for this site (0.58:1) and a substantial number of properties in the immediate vicinity have also exceed this control as highlighted orange in the below plan;



Excerpt from DA-511, FSR Study, issue A, Squillace Architects

- No neighbours have objected to the development, rather letters of support have been provided.

I trust this response satisfies the queries raised by Council. If you require any further information, please do not hesitate to contact me.

Yours sincerely,

Vince Squillace

Director / B Arch (Hons) AIA, AAA, ACA
Architect (NSW Reg. 6468)