



STATEMENT OF ENVIRONMENTAL EFFECTS

Demolition Works and Rebuilding of New Boat Shed and Associated Works

**2A Beatty Street,
Balgowlah Heights
NSW 2093**

✉ mathew@fourtowns.com.au

☎ 0425232018

www.fourtowns.com.au

PO Box 361, Balgowlah NSW 2093

This report has been prepared to support a Development Application under the *Environmental Planning and Assessment Act 1979*.

Report prepared by:

Mathew Quattroville

Director – Four Towns Pty Ltd

Report prepared for:

Murray Coleman

26 October 2025

© Four Towns Pty Ltd

NOTE: This document is the property of Four Towns Pty Ltd (trading as Four Towns Planning). This document is Copyright, no part may be reproduced in whole or in part, without the written permission of Four Towns Pty Ltd.

Disclaimer

This report has been prepared with due care and thoroughness by Four Towns Pty Ltd. The statements and opinions are given in good faith and in confidence that they are accurate and not misleading. In preparing this document, Four Towns Pty Ltd has relied upon information and documents provided by the Client or prepared by other Consultants. Four Towns Pty Ltd does not accept responsibility for any errors or omissions in any of the material provided by other parties.

Table of Contents

1. Introduction and Background Information	4
1.1 Introduction	4
1.2 Background Information	4
2. Site Profile	7
2.1 Property Description	7
2.2 Site and Locality Description	7
3. Proposal	11
4. Statutory Planning Controls	14
4.1 Environmental Planning and Assessment Act 1979 (as amended)	14
4.2 State Environmental Planning Policies	14
4.3 Manly Local Environmental Plan 2013	22
4.4 Manly Development Control Plan 2013	42
5. Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979 (as amended)	64
6. Summary and Conclusion	68

1. Introduction and Background Information

1.1 Introduction

This report has been prepared as supporting documentation for a Development Application for demolition works and rebuilding of new boat shed and associated works at 2A Beatty Street, Balgowlah Heights, being Lot 22 within Deposited Plan 1124834.

This report has been prepared following instructions from the client, Murray Coleman. In preparing this application consideration has been given to the following:

- *Environmental Planning and Assessment Act, 1979* (as amended) (EP&A Act);
- Environmental Planning and Assessment Regulation 2021;
- Relevant State Environmental Planning Policies;
- Manly Local Environmental Plan 2013 (MLEP 2013);
- Manly Development Control Plan (MDCP);
- Pre-Lodgement Notes PLM2025/0084 dated 17 July 2025;
- Architectural Plans prepared by Peter Downes Design;
- Heritage Impact Statement prepared by BI Architects;
- Geotechnical Assessment prepared by White Geotechnical Group;
- Stormwater Management Plan prepared by TLA Engineers;
- Bushfire Risk Assessment Report prepared by Sydney Bushfire Consultants;
- Arboricultural Impact Assessment Report prepared by Temporal Tree Management;
- Structural Limited Condition Report prepared by TLA Engineers;
- Waste Management Plan.

This Statement of Environmental Effects describes the proposed development having particular regard to the provisions of Section 4.15 of the EP&A Act 1979 and examines any potential environmental impacts with regard to the relevant sections of the Act, State policies and requirements of Northern Beaches Council's MDCP.

The conclusions of the Statement of Environmental Effects are that the proposed development, being demolition works and rebuilding of new boat shed and associated works, is permissible with development consent and is consistent with the relevant statutory planning instruments including the Manly Local Environmental Plan 2013 and planning policies of the Manly Development Control Plan 2013.

Accordingly, the Development Application succeeds on its merits and should be approved by Council as submitted.

1.2 Background Information

The site was the subject of recent Development Applications to Northern Beaches Council:

- **DA81/2017** for alterations and additions to the existing dwelling house, including a new swimming pool which was approved by Council on 23 June 2017; and
- **DA2023/1725** for alterations and additions to the dwelling house including the construction of an inclined passenger lift which was approved by Council on 3 May 2024.

This application was the subject of a pre-lodgement meeting with Northern Beaches Council – PLM2025/0084 on the 17 July 2025. Relevant changes and comments from the meeting notes are provided below:

• **Limited development in foreshore area and Foreshore Scenic Protection area**

Comment:

It is recommended that the terrace is reduced and redesigned in size so that no part of the terrace encroaches the foreshore building area (Clause 6.10 of the Manly LEP). This will contribute toward providing an appropriate balance between natural form and built form in the foreshore area to protect amenity of the area (consistent with the objective of Clause 6.10 of the LEP).

Comment: The proposal has been modified from the pre-lodgement to reduce the deck to an acceptable size consistent and in line with the existing retaining wall. Refer to assessment under Heading Clause 6.10 of MLEP on pages 36-40.

Clause 6.10 Limited development on foreshore area

Comment:

The proposed section of terrace area within the foreshore area would require a request to vary the development standard under Clause 4.6 of the Manly LEP (see further detail on this above). However, as outlined elsewhere in this letter, it is recommended that all areas of proposed terrace be removed from the foreshore area. This will assist in ensuring a suitable outcome is provided for the Foreshore Scenic Protection area under the DCP (Clause 5.4.1) and ensure consistency with the objectives for Clause 6.10 of the Manly LEP.

Comment: The proposal does not require a clause 4.6 written request. Refer to assessment under Heading Clause 6.10 of MLEP on pages 36-40.

MANLY DEVELOPMENT CONTROL PLAN 2013 (MDCP 2013)

Comment:

The proposal complies with relevant built form controls under the Manly DCP. It is recommended that any future application addresses the provisions of Clause 5.4.1 Foreshore Scenic Protection Area. Specifically, it is advised the location of the proposed boatshed is well screened by existing or proposed vegetation.

Comment: The proposal has been strategically designed to sit behind existing mature trees. The proposal will further enhance the site with additional plantings in front of the existing retaining wall to minimise bulk and scale to Sydney Harbour.

Landscaping

Comment: The application is supported by an Arboricultural Impact Assessment Report prepared by Temporal Tree Management (AQF Level 8) with the following comments:

*The eight assessed trees (Trees 1, 2, 3, 4, 5, 6, 7 and 8) are suitable for retention as part of the proposed development. Trees 4, 5 and 7 will sustain Major encroachments that will be suitably mitigated to an acceptable impact through the retention of existing retaining walls and the use of sensitive excavation methods. Trees 2 and 6 will sustain Minor NRZ encroachments that will not impact their viability within the landscape. Trees 1, 3 and 8 will not be directly impacted by the proposed works. The Tree Protection Plan is provided in **Appendix H**.*

The proposal is supported by an arborist report which concludes the proposed development is suitable and will retain the existing trees subject to relevant recommendations during construction.

Heritage

Comment: The proposal has made minor amendments to the plans provided with the pre-lodgement meeting with the application providing further documentation to support the proposed works. This includes structural engineering advice that the existing chimney can be retained in its current position. The proposal is for the rebuilding and extension of the boat shed and deck. The proposed deck level (RL7.33) is lower than that existing (existing RL7.51 to RL7.59) and links with the inclinor platform level (RL7.33) approved under DA2023/1725. The proposal includes screen planting to ensure the proposal when viewed from Sydney Harbour will have no adverse impacts and can be supported as submitted. Refer to relevant sections of this report and the Heritage Impact Statement prepared by BI Architects for full assessment.

Biodiversity

Comment: The proposal retains existing trees on-site. The application is supported by a Bushfire Risk Assessment Report prepared by Sydney Bushfire Consultants and an Arboricultural Impact Assessment Report prepared by Temporal Tree Management. It is noted that the site was the subject of a recent DA2023/1725 with occupation certificate completed for the works. The works were the subject of the same recommendations from the bushfire consultant, therefore proving that the APZ/IPA can be accommodated on the site.

Summary

Comment: Council advised in the pre-lodgement notes that they could be supportive of the application subject to additional supporting documentation and amendments. It is our professional opinion that the proposal the subject of this application has been adequately revised to satisfy the matters addressed within the pre-lodgement notes and can be supported by Council as submitted.

2. Site Profile

2.1 Property Description

The subject allotment is described as 2A Beatty Street, Balgowlah Heights, being Lot 22 within Deposited Plan 1124834. The site is zoned C3 Environmental Management under the Manly Local Environmental Plan 2013.

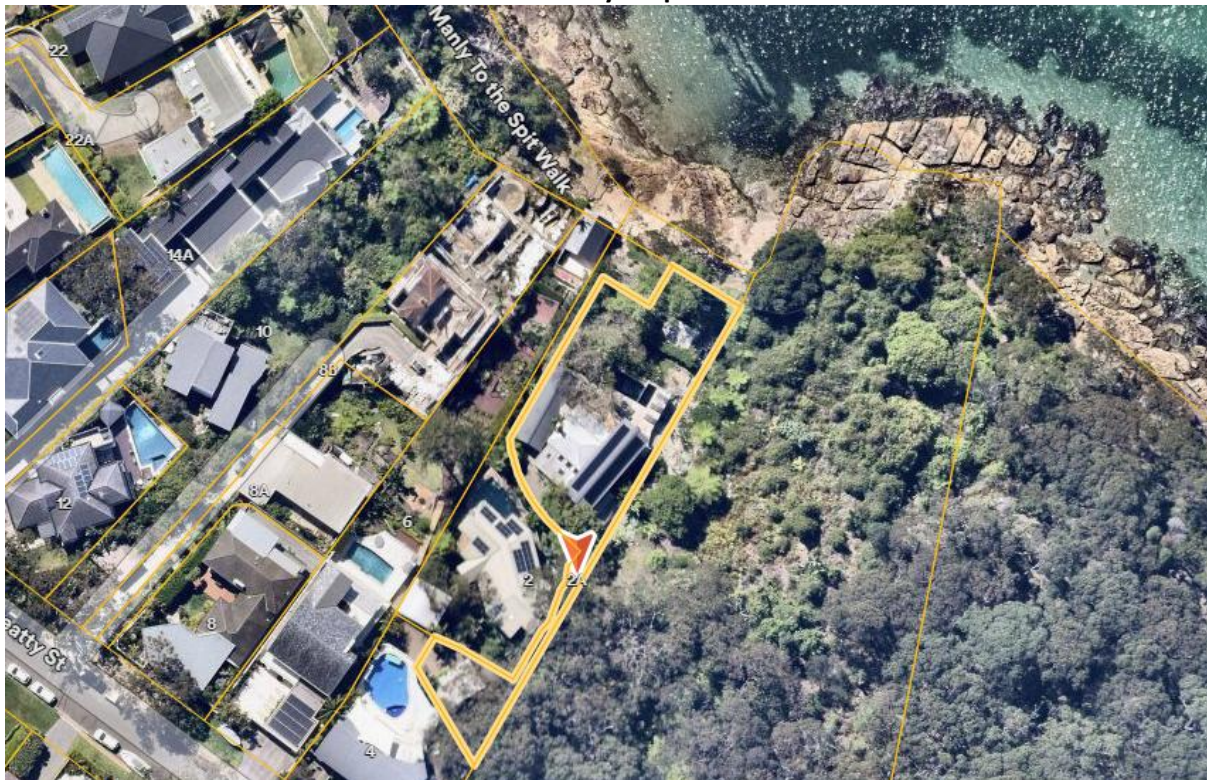
Identified on the site is heritage item '134' relating to the east facing stone facade of the original cottage. Furthermore, the subject site adjoins heritage item '138' relating to the Dobroyd Headland and Grotto Point Sydney Harbour National Park; and is in close vicinity to item '11' relating to the Harbour foreshore along Forty Baskets Beach. The site is not located within a conservation area.

2.2 Site and Locality Description

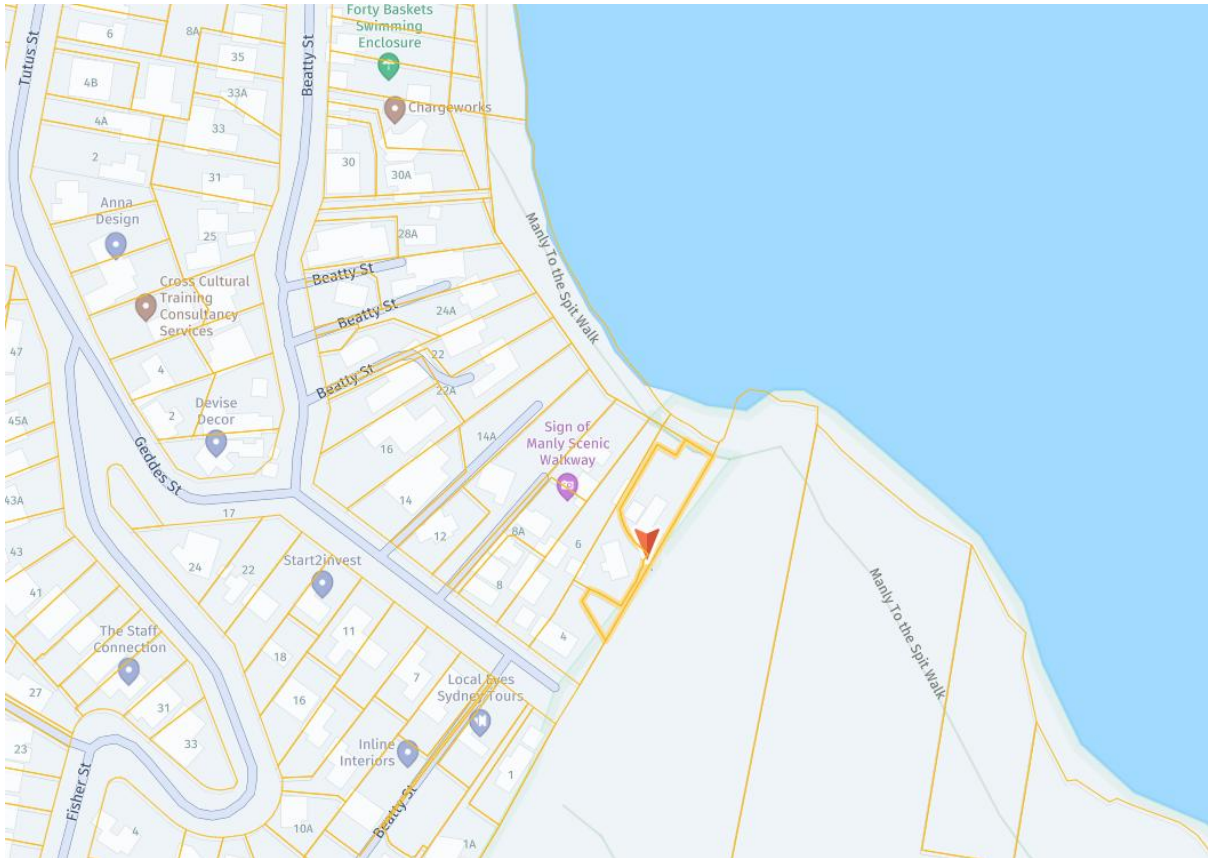
The site is located on the north-eastern side of Beatty Street, south-east of the intersection with Geddes Street at the end of the cul-de-sac. The allotment is irregular in shape with no street frontage and a depth of approximately 92m. Access between Beatty Street and the carport is provided by a right of way, and pedestrian access between the carport and dwelling is provided along the access handle via an inclinator and stairway. The total site area is 1,292sqm. The site has a steep topography with an approximate 33m slope from the south-west to the north-east of the property. The site is currently occupied by a one and two storey stone and tile cottage with a metal roof, a swimming pool, boatshed and carport. The site has existing vehicular access to Beatty Street via a right of way servicing no. 2, 2A and 4 Beatty Street.

The locality maps below show the location and area of the site:

Locality Maps



Source: Nearmaps 2025



Source: Nearmaps 2025

Adjoining and surrounding development is characterised by similar 2-3 storey battle-axe type allotments. Directly adjacent to the site to the north-east is Forty Baskets Beach, zoned RE1 Public Recreation, and further north is North Harbour. Directly to the east of the site is Sydney Harbour National Park, zoned C1 National Parks and Nature Reserves. It is noted that 6 Beatty Street, Balgowlah Heights recently obtained and rebuilt their boatshed to the rear boundary with nil side setbacks. 8B Beatty Street is also under construction with substantial works within the foreshore area. Relevant photos are provided on the following pages highlighting the site and streetscape of the area.

Visual Analysis



Photograph of the existing boatshed and decking



Photograph of the existing boatshed and retaining wall from lower level of site



Photograph of the existing boatshed from the east with chimney to be retained



Photograph of 6 Beatty St – recently approved and built boat shed to the rear boundary within foreshore area

3. Proposal

The proposed development is for demolition works and rebuilding and reconfiguration of existing boat shed and associated works at 2A Beatty Street, Balgowlah Heights. The proposal remains consistent with the locality and with relevant Council controls and ensures privacy and solar access are maintained for surrounding properties and the site. The proposed works include the following:

Demolition Works

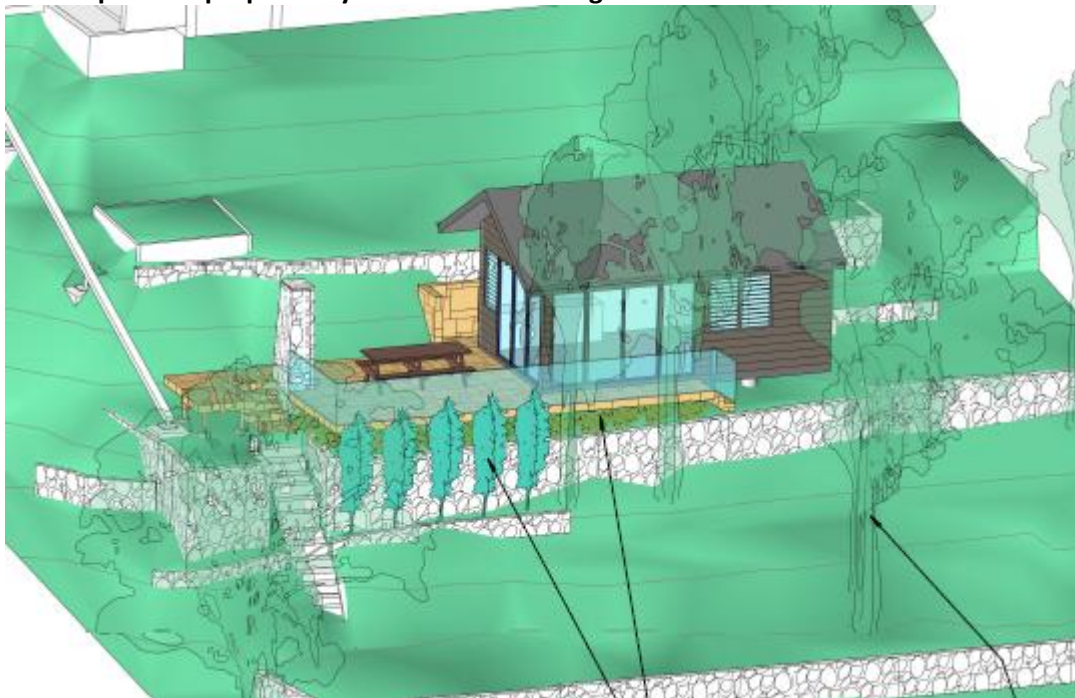
- As depicted on architectural plans prepared by Peter Downes Designs.

Proposed Works

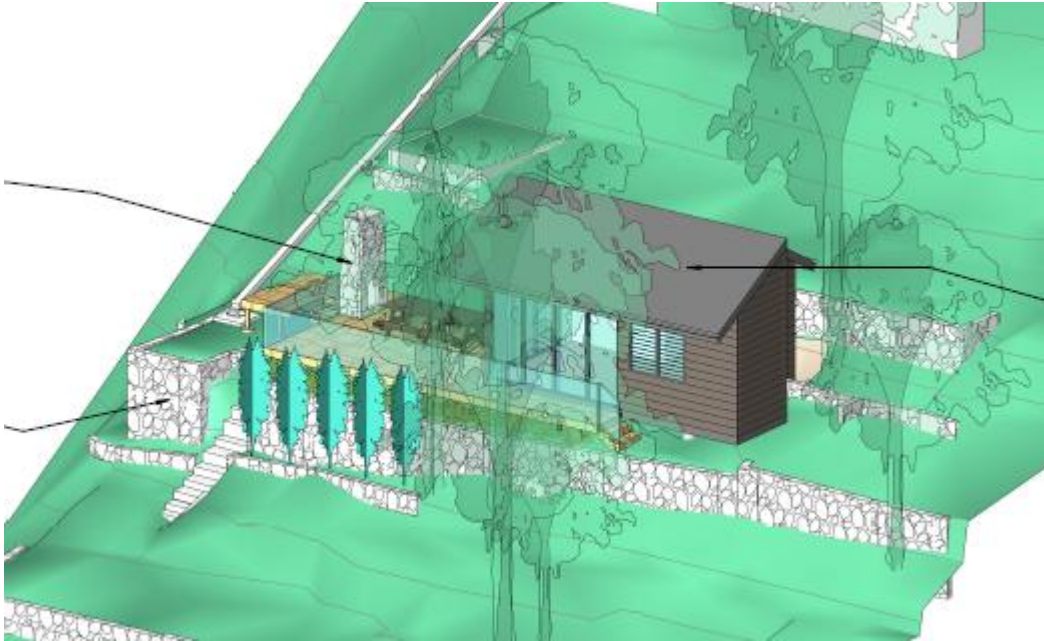
- Rebuild boat shed and deck with new reconfiguration
- Landscaping as specified on the plans
- Chimney to be remediated to engineers details
- Existing stone stairs to be repaired where required

**Refer to architectural plans prepared by Peter Downes Designs for a full description of all works.*

3D Perspectives prepared by Peter Downes Designs



Note the perspectives show that the proposal reduces the impact of the existing structures when viewed from the public foreshore and Sydney Harbour.

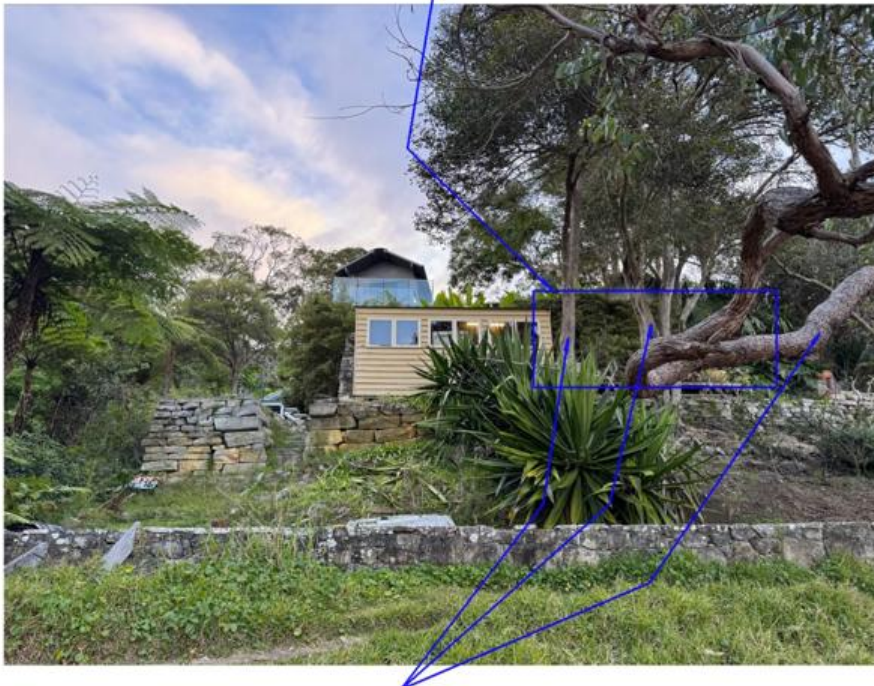


Note the perspectives show that the proposal reduces the impact of the existing structures when viewed from the public foreshore and Sydney Harbour.

Photo Perspectives

The image below and on the following page shows that the proposal will have an increased benefit with a reduction in visual bulk and scale to that existing when viewed from the foreshore or the Harbour.

blue outline indicates position of boatshed
proposed to be rebuilt behind existing trees



all trees to be retained and
protected to Arborist's details

blue outline indicates position of boatshed
proposed to be rebuilt behind existing trees



all trees to be retained and
protected to Arborist's details

4. Statutory Planning Controls

The proposal has been assessed in accordance with the following instruments and controls:

- *Environmental Planning and Assessment Act 1979*, and *Environmental Planning and Assessment Regulation 2021*;
- State Environmental Planning Policies;
- Manly Local Environmental Plan 2013; and
- Manly Development Control Plan 2013.

4.1 *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation 2021)

The EP&A Act 1979 governs all environmental planning instruments within New South Wales. The proposal has been reviewed pursuant to the matters for consideration within Section 4.15 of the EP&A Act 1979.

The proposal is not Designated Development under Section 4.10 of the EP&A Act 1979 or Schedule 3 of the EPA Assessment Regulation 2021, therefore Northern Beaches Council is the Consent Authority. In addition, the proposal does not constitute an Integrated Development under the EP&A Act 1979, Section 4.46 with no further approvals from other Government agencies required.

4.2 State Environmental Planning Policies (SEPPs)

SEPP (Transport and Infrastructure) 2021

It is submitted that the proposal does not fall under the provisions of SEPP (Transport and Infrastructure) 2021 and therefore no assessment is required.

SEPP (Sustainable Buildings) 2022

The proposal has been assessed in accordance with the relevant provisions of the BASIX and Energy Efficiency. A BASIX Certificate is not required as the work relates to the construction of a boatshed which is a Class 10a building under the BCA and is therefore “BASIX excluded development” as per the definition below:

BASIX excluded development means the following development—

(a) development for the purposes of a garage, storeroom, carport, gazebo, verandah or awning,

(b) development that involves the alteration of a building listed on the State Heritage Register under the Heritage Act 1977,

(c) development that involves the alteration of a building resulting in a space that cannot be fully enclosed, other than a space that can be fully enclosed but for a vent needed for the safe operation of a gas appliance,

Example— *A verandah that is open or enclosed by a screen, mesh or other material that permits the free and uncontrolled flow of air.*

(d) development that involves the alteration of a building declared by the Planning Secretary, by order published in the Gazette, to be BASIX excluded development.

SEPP (Resilience and Hazards) 2021

Chapter 2 Coastal management

The aims of Chapter 2 of the SEPP (Resilience and Hazards) 2021 is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*, including the management objectives for each coastal management area by:

- a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

Division 3 Coastal environment area



2.10 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal processes,*
- (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

(2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—

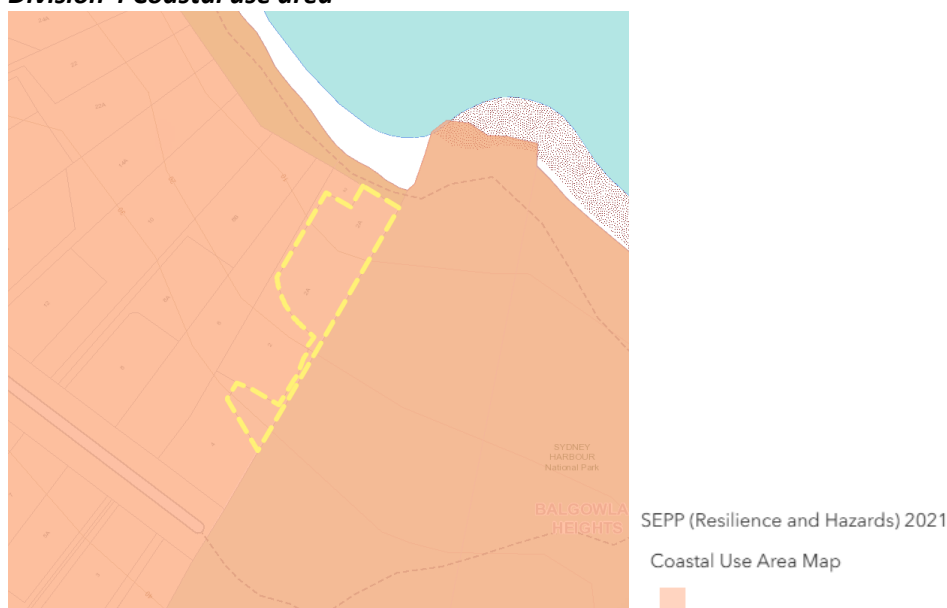
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

(3) This section does not apply to land within the Foreshores and Waterways Area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.

Not applicable – the site is located within the Foreshores and Waterways Area within the State Environmental Planning Policy (Biodiversity and Conservation) 2021, therefore clause 2.10 Coastal environment area does not apply to the site.

Notwithstanding this, the extent of the works does not give rise to any impacts to any coastal environmental values, natural coastal processes, marine vegetation or existing public open space. The proposal is consistent with adjoining properties and the streetscape of Beatty Street. The proposed alterations and additions avoid any adverse impacts to those areas identified within Clause 2.10(1) and have been designed to minimise any impacts to the coastal environment area. In this instance the proposal is supportable, and the consent authority can be satisfied that the proposal will comply with the relevant provisions of Division 3: Coastal Environment Area of the SEPP (Resilience and Hazards) 2021.

Division 4 Coastal use area



2.11 Development on land within the coastal use area

(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.*

(2) This section does not apply to land within the Foreshores and Waterways Area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.

Not applicable – the site is located within the Foreshores and Waterways Area within the State Environmental Planning Policy (Biodiversity and Conservation) 2021, therefore clause 2.11 Coastal use area does not apply to the site.

Notwithstanding this, the proposal complies with section 1(a) as it will:

- Not result in any adverse impacts to the existing safe access provided to the foreshore, any headland or rock platform in this immediate locality where members of the public have access to.
- Not result in overshadowing, wind funneling or the loss of any significant views from a public place to the foreshore.
- Ensure the visual amenity and scenic qualities of the coastline in this immediate locality are not impacted in any way by the proposed development.
- Not result in any impacts upon Aboriginal cultural heritage, practices or places.
- Ensure the cultural and built environment heritage in this locality are not impacted by the proposed development.

The proposal complies with section 1(b) as it:

- Has been designed and sited to avoid any adverse impacts referred to in Section (a) above. The building footprint has been designed to be consistent with other developments and is consistent with the rear building alignment of neighbouring properties.
- Does not have any adverse impacts that need to be minimised to be compliant with section 1(a) above.

The proposal complies with section 1(c) as:

- The development has been designed considering the surrounding coastal and built environment and the bulk, size and scale of the development. The proposal is appropriate for the site and considered to be compatible with the existing and future character of the neighbourhood and surrounding environment. The site increases the usability of landscaping to that existing and is compatible in terms of building height and appearance for the locality.

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

The proposed development will not increase the risk of coastal hazards on the subject site.

Chapter 4 Remediation of land

Chapter 4 of the SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting of consent to the carrying out of any development on that land.

4.6 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless—

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is—

- (a) land that is within an investigation area,*
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—*
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

It is submitted that the site has been used for the purpose of residential accommodation for decades. The builder/contractors should take all measures to ensure if contamination is found during construction that relevant procedures are followed to report and remove contaminated materials. A site inspection was undertaken with no evidence of landfill. Therefore, it is our assessment that the site is considered low risk, and no further investigations are required.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to various rescinded SEPPs that related to the preservation of trees and vegetation, koala habitat and bushland in urban areas.

The aims of this Policy are to protect the biodiversity values of trees and other vegetation, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The development remains consistent with the provisions of the SEPP. The proposed works do not remove any trees or significant vegetation. An Arboricultural Impact Assessment Report prepared by Temporal Tree Management is submitted with the application which concludes the existing trees can be retained based on the proposed works subject to tree sensitive design measures. The proposal has been designed with adequate landscaping, deep soil areas and plantings. On this basis, it is our professional opinion that the proposal meets the relevant provisions of the SEPP.

6.3 Foreshores and Waterways Area



Division 3 Development in Foreshores and Waterways Area

6.28 General

(1) In deciding whether to grant development consent to development in the Foreshores and Waterways Area, the consent authority must consider the following—

(a) whether the development is consistent with the following principles—

- (i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good,*
- (ii) the public good has precedence over the private good,*
- (iii) the protection of the natural assets of Sydney Harbour has precedence over all other interests,*

(b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,

(c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,

(d) whether the development promotes water-dependent land uses over other land uses,

(e) whether the development will minimise risk to the development from rising sea levels or changing flood patterns as a result of climate change,

(f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,

(g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,

(h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.

(2) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—

- (a) having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites,*
- (b) if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,*
- (c) if the development is for or in relation to industrial or commercial maritime purposes—public access that does not interfere with the purposes will be provided and maintained to and along the foreshore,*
- (d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,*
- (e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from—*
 - (i) the Foreshores and Waterways Area, and*
 - (ii) public places, landmarks and heritage items.*

(3) In this section—

aquatic vegetation includes seagrass, saltmarsh and algal and mangrove communities.

Note—

Development that does not require development consent may constitute an activity under the Act, Division 5.1. The Environmental Planning and Assessment Regulation 2021, Part 8, Division 1, sets out factors to be taken into account by determining authorities in exercising functions under the Act, section 5.5.

The site is located within the Foreshores and Waterways Area within the State Environmental Planning Policy (Biodiversity and Conservation) 2021. The proposed development will not have any adverse impact on the Foreshores and Waterways Area noting the proposal will not impact any natural assets of Sydney Harbour including any natural intertidal foreshore areas, natural landforms or native vegetation. The proposal has been sensitively designed to protect terrestrial and aquatic species, populations and ecological communities, noting the proposed works will not physically damage or shade any aquatic vegetation. The development will not impact any watercourses, wetlands or riparian lands. The proposal incorporates a sympathetic design to enhance, protect and maintain the unique visual qualities of the Foreshores and Waterways Area including its islands, foreshores and tributaries. The proposal will not have an impact on views and vistas appreciable to and from the Foreshores and Waterways Area, maintaining reasonable view sharing between the subject site, adjoining properties, and from the public domain.

6.33 Boat storage facilities

In deciding whether to grant development consent to development for the purposes of boat storage facilities in the Foreshores and Waterways Area, the consent authority must consider the following—

- (a) whether the development will increase the number of public boat storage facilities and encourage the use of the facilities,*
- (b) whether the development will avoid the proliferation of boat sheds and other related buildings and structures below the mean high water mark,*
- (c) whether the development will provide for the shared use of private boat storage facilities,*
- (d) whether the development will avoid the proliferation of private boat storage facilities in and over the waterways by providing facilities that satisfy a demonstrated demand,*
- (e) whether the development will minimise the visual intrusion caused by the boat storage facility,*
- (f) for development involving permanent boat storage—whether the development will—*
 - (i) be adversely affected by the wave environment in relation to safety and utility, and*
 - (ii) avoid adverse impacts on safe navigation and single moorings.*

The proposed boatshed will not increase the number of boat storage facilities within the foreshore as the proposal will simply replace the existing boat shed on site. The siting of the proposed boat shed is considered to be appropriate as the location of the new boat shed will be substantially the same as where the existing boat shed was situated on site, albeit in a more appropriate location which reduces visual impact from the foreshore. The proposed boat shed has been sensitively designed of an appropriate bulk and scale to minimise the visual intrusion of the structure within the foreshore area and to maintain views and view corridors appreciable from adjoining properties. The proposed boat shed has been designed with appropriate materials and has been located above the MHWL to ensure the structure will not be adversely affected by the wave environment.

On the basis of the above, the proposal meets the relevant provisions of the SEPP and can be supported as submitted.

4.3 Manly Local Environmental Plan 2013 (MLEP2013)

The relevant matters to be considered under MLEP2013 are outlined below in the LEP summary compliance table.

Part 4: Principal Development Standards			
Standard	Permitted	Proposed	Comments
4.1 Minimum subdivision lot size	1150sqm	N/A	N/A – no change to existing lot size.
4.1AA Minimum subdivision lot size for community title scheme	N/A	N/A	N/A
4.1A Minimum lot sizes for manor houses and multi dwelling housing (terraces) in Zone R2	N/A	N/A	N/A
4.2 Rural subdivision	N/A	N/A	N/A
4.3 Height of buildings	8.5m	4.89m	Complies – the boat shed has been designed with a maximum building height of 4.89m which is well below the prescribed 8.5m maximum building height.
4.3A Special height provisions	N/A	N/A	N/A
4.4 Floor space ratio	0.4:1 516.8sqm	0.196:1 253.7sqm	Complies – the proposal replaces the existing boat shed with a minor increase of 3.4sqm. The site and all buildings are well under the allowable 0.4:1.
4.5 Calculation of floor space ratio and site area	Noted	Noted	Noted
4.6 Exceptions to development standards	Noted	N/A	N/A – no variation proposed to development standards.

Part 5: Miscellaneous Provisions	
Provisions	Comments
5.1 Relevant acquisition authority	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissible uses	N/A
5.5 Controls relating to secondary dwellings on land in a rural zone	N/A
5.6 Architectural roof features	N/A
5.7 Development below mean high water mark	N/A
5.8 Conversion of fire alarms	N/A

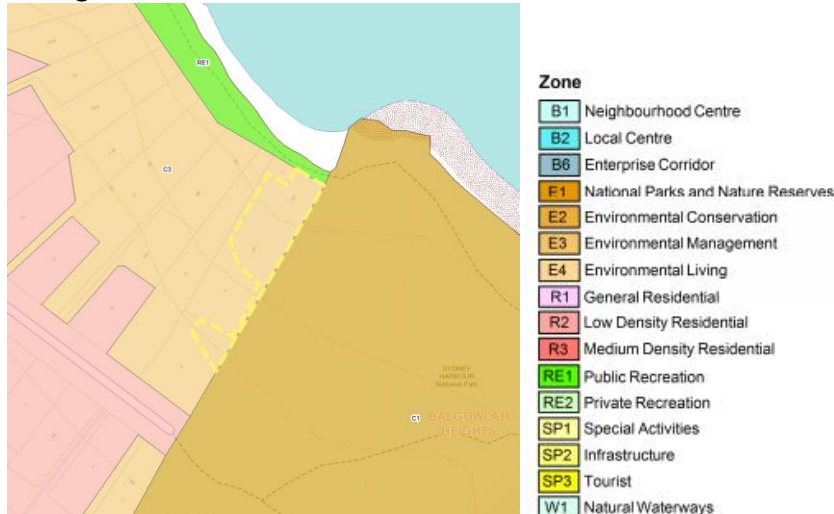
5.9 Dwelling house or secondary dwelling affected by natural disaster	N/A
5.9AA (Repealed)	N/A
5.10 Heritage conservation	Identified on the site is heritage item '134' relating to the east facing stone facade of the original cottage. Furthermore, the subject site adjoins heritage item '138' relating to the Dobroyd Headland and Grotto Point Sydney Harbour National Park; and is in close vicinity to item '11' relating to the Harbour foreshore along Forty Baskets Beach. Refer to Clause 5.10 for detailed assessment.
5.11 Bush fire hazard reduction	N/A
5.12 Infrastructure development and use of existing buildings of the Crown	N/A
5.13 Eco-tourist facilities	N/A
5.14 Siding Spring Observatory – maintaining dark sky	N/A
5.15 Defence communications facility	N/A
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones	N/A
5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	N/A
5.18 Intensive livestock agriculture	N/A
5.19 Pond-based, tank-based and oyster aquaculture	N/A
5.20 Standards that cannot be used to refuse consent—playing and performing music	N/A
5.21 Flood planning	A portion of the site is identified as Flood Prone Land. Refer to Clause 5.21 for detailed assessment
5.22 Special flood considerations	N/A
5.23 Public bushland	N/A
5.24 Farm stay accommodation	N/A
5.25 Farm gate premises	N/A

Part 6: Relevant Additional Local Provisions	
Provisions	Comments
6.1 Acid sulfate soils	N/A
6.2 Earthworks	The proposal includes minor excavation works. Refer to Clause 6.2 for detailed assessment.
6.3 (Repealed)	N/A
6.4 Stormwater management	The application is supported by a Stormwater Management Plan. Refer to Clause 6.4 for detailed assessment.
6.5 Terrestrial biodiversity	The site is identified within the terrestrial biodiversity map. Refer to Clause 6.5 for detailed assessment.
6.6 Riparian land and watercourses	N/A
6.7 Wetlands	N/A
6.8 Landslip risk	N/A

6.9 Foreshore scenic protection area	The site is identified within the Foreshore Scenic Protection Area. Refer to Clause 6.9 for detailed assessment.
6.10 Limited development on foreshore area	A portion of the subject site is identified within the Foreshore Building Line Map. Refer to Clause 6.10 for detailed assessment.
6.11 Active street frontages	N/A
6.12 Essential services	Complies – the site has access to relevant essential services.
6.13 Design excellence	N/A
6.14 Requirement for development control plans	N/A
6.15 Tourist and visitor accommodation	N/A
6.16 Gross floor area in Zone B2	N/A
6.17 Health consulting rooms in Zones E3 and E4	N/A
6.18 (Repealed)	N/A
6.19 Development in St Patrick's Estate	N/A
6.20 Location of sex service premises	N/A
6.21 Noise impacts – licensed premises	N/A
6.22 Development for the purposes of secondary dwellings in certain residential and environmental protection zones	N/A

Relevant Schedules	
Schedule	Comments
Schedule 1 – Additional permitted uses	N/A
Schedule 2 – Exempt development	N/A
Schedule 3 – Complying development	N/A
Schedule 4 – Classification and reclassification of public land	N/A
Schedule 5 – Environmental heritage	N/A
Schedule 6 – Pond-based and tank-based aquaculture	N/A

Zoning Provisions



Zone C3 Environmental Management

1 Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To protect tree canopies and provide for low impact residential uses that 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.
- 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.
- To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Dwelling houses; Environmental protection works; Flood mitigation works; Health consulting rooms; Home businesses; Oyster aquaculture; Pond-based aquaculture; Roads; Secondary dwellings; Tank-based aquaculture; Water supply systems

4 Prohibited

Industries; Local distribution premises; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Comment:

The site is zoned C3 Environmental Management. The proposed works are permissible with Council's consent and consistent with the objectives of the zone as follows:

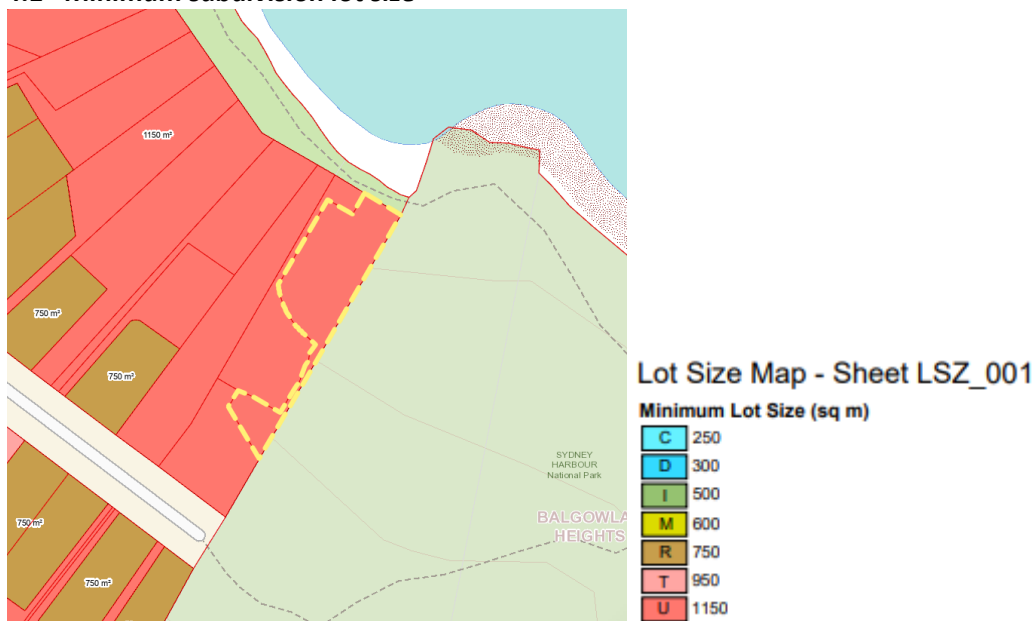
- The proposed works have been designed to rebuild existing structures in a similar location which protects and manages the sites ecological and aesthetic values.

- The proposal retains the intent of development on the site therefore not having an adverse effect on those values.
- The proposal retains existing trees and canopies on the site, as supported by expert documentation.
- The proposal in our professional opinion has a net benefit to that existing, noting the rebuilding of the boatshed is shifted to the west behind existing tree coverage reducing the appearance to the foreshore.
- The proposed bulk and scale is consistent with that on-site, albeit shifted to further minimise the outlook when viewed from the foreshore.

On the basis of the above, the proposal is consistent with the objectives of Zone C3 Environmental Management.

Part 4 Principal development standards

4.1 Minimum subdivision lot size



(1) *The objectives of this clause are as follows—*

- (a) *to retain the existing pattern of subdivision in residential zones and regulate the density of lots in specific locations to ensure lots have a minimum size that would be sufficient to provide a useable area for building and landscaping,*
- (b) *to maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns,*
- (c) *to require larger lots where existing vegetation, topography, public views and natural features of land, including the foreshore, limit its subdivision potential,*
- (d) *to ensure that the location of smaller lots maximises the use of existing infrastructure, public transport and pedestrian access to local facilities and services.*

(2) *This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*

(3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

(3A) *If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.*

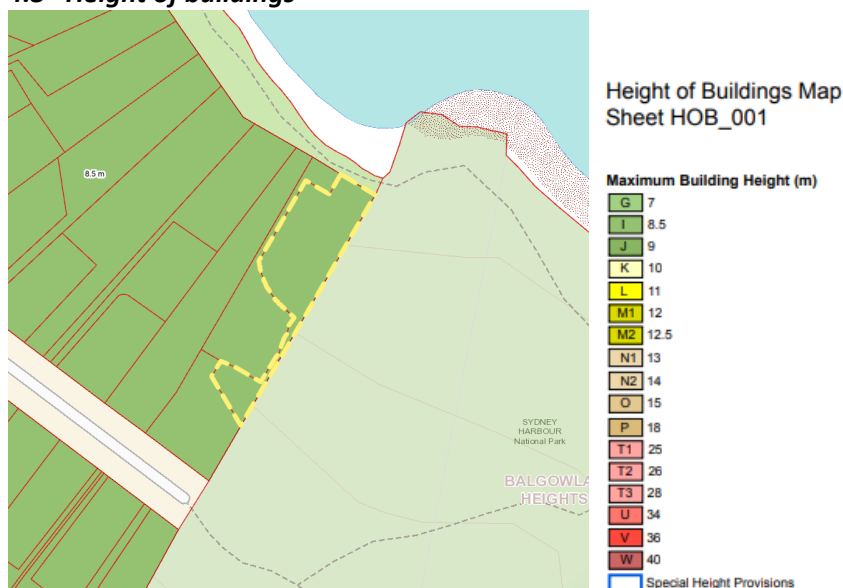
(4) *This clause does not apply in relation to the subdivision of any land—*

- (a) *by the registration of a strata plan or strata plan of subdivision under the [Strata Schemes Development Act 2015](#), or*
- (b) *by any kind of subdivision under the [Community Land Development Act 1989](#).*

Comment:

Not applicable – the site has a minimum lot size of 1150sqm. The proposal does not change the lot size of the property, nor does it propose any form of subdivision. Clause 4.1 is not applicable to this assessment.

4.3 Height of buildings



(1) *The objectives of this clause are as follows—*

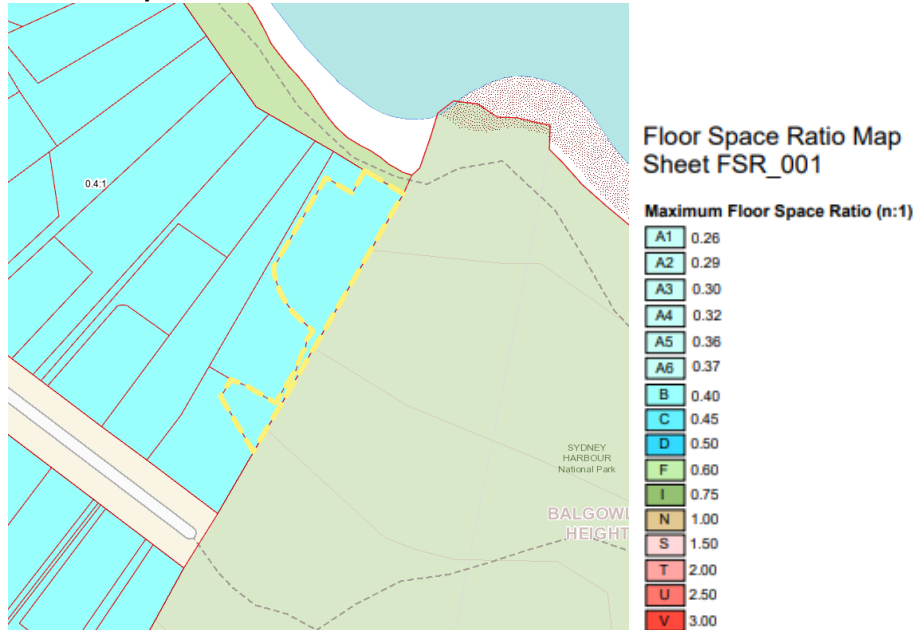
- (a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- (b) *to control the bulk and scale of buildings,*
- (c) *to minimise disruption to the following—*
- (i) *views 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.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*

Comment:

Complies – the subject site has a prescribed 8.5m maximum building height. The proposed boat shed has been designed with a maximum height of 4.89m, which is well below the maximum 8.5m requirement. The proposal complies with the objectives and numerical requirements of Clause 4.3 and can be supported by Council as submitted.

4.4 Floor space ratio



(1) *The objectives of this clause are as follows—*

- (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.*

(2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

(2A) *Despite subclause (2), the floor space ratio for a building on land in Zone B2 Local Centre may exceed the maximum floor space ratio allowed under that subclause by up to 0.5:1 if the consent authority is satisfied that at least 50% of the gross floor area of the building will be used for the purpose of commercial premises.*

Comment:

Complies – the site is subject to a maximum FSR requirement of 0.4:1 (or 516.8sqm of GFA). The proposed boat shed includes 3.4sqm of additional GFA to that existing, which equates to a compliant FSR of 0.196:1 (253.7sqm of GFA). The proposal is consistent with the objectives and achieves full compliance with the numerical requirements of Clause 4.4.

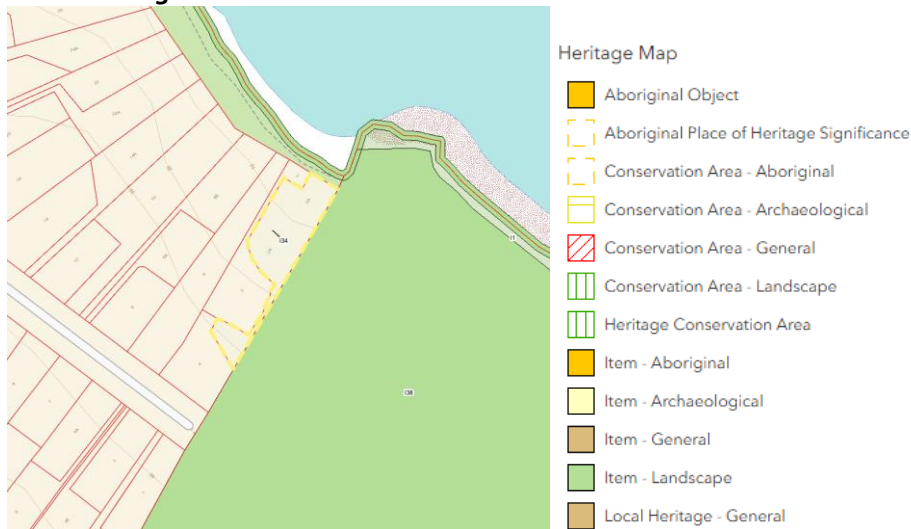
4.6 Exceptions to development standards

Comment:

Not applicable – the proposal does not contravene or propose any variation to any development standards.

Part 5 Miscellaneous provisions

5.10 Heritage conservation



(1) **Objectives** *The 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.*

Comment:

Identified on the site is heritage item '134' relating to the east facing stone facade of the original cottage.

Furthermore, the subject site adjoins heritage item '138' relating to the Dobroyd Headland and Grotto Point Sydney Harbour National Park; and is in close vicinity to item '11' relating to the Harbour foreshore along Forty Baskets Beach.

It is important to acknowledge that the heritage item on the site is mapped and relates only to the east facing stone façade of the original cottage. Unlike other heritage items, the entire site is not mapped.

The application is supported by a Heritage Impact Statement prepared by BI Architects, with relevant parts of the report provided below:

4.4 The Works and Reason for its Implementation

The reason for the works is to reconfigure the boatshed and deck to the allotment. The current boatshed and deck have some structural deficiencies that inhibit any development potential to its usage.

4.5 Impact of the Works

The following is a merit-based assessment. It does not consider compliance or otherwise with Council's numerical controls except where non-compliance would result in a heritage impact. Refer to the Statement of Environmental Effects that accompanies this application.

The following assessment is made with an understanding of the objectives and controls provided by the Manly LEP 2013 and the Manly DCP.

The proposed reconfiguration of the existing boatshed and timber deck will have an acceptable impact on the subject site due to the following reasons:

- As per Council's Heritage rating to the site, the eastern stone wall of the original dwelling at 2A Beatty Street, Balgowlah is heritage listed and is not located within a Heritage Conservation Zone.*
- No works are proposed to the original dwelling, with all works located to the boatshed to the rear of the allotment. Thus, the proposed works would not result in any physical impact to the historical significance of the main heritage listed dwelling.*
- Several boatsheds have been constructed to the site, with the original boatshed constructed in 1914, a later one in a new located constructed in 1932 or 1933, and the current boatshed constructed on the 1990s'. The proposed new boatshed is merely part of the evolutionary development of the site.*
- The proposed new boatshed is also part of the evolving needs of the property, with the proposed works adding to the heritage story of the property, while at the same time, (with the preservation of the fireplace and chimney) providing a chronicled link to the historical use of the site.*
- The existing boatshed and deck to the rear of the allotment, was a later constructed built form to the site, most likely constructed around the 1990s, and contains negligible historical significance to the site. There is no detailing that is historically noteworthy to the current boatshed that would be affected from its configuration. The timber deck is fully rotted and is structural unsafe. The stone fireplace and chimney is also a later addition and has some structural deficiencies.*
- The proposed reconfiguration of the boatshed and deck will result in no loss of historical significance to the allotment.*
- The existing boatshed and deck have no items of any historical relevance. There are no fittings or other items of any historical relevance that would be affected from its reconfiguration.*
- The proposed reconfiguration of the boatshed and new terrace is an example of high-quality, well-resolved contemporary development within an established streetscape. The existing and proposed works do not compete with traditional buildings within the established streetscape but rather help to improve the prominence of older and historical significance buildings by providing a clear and notable contradistinction between them. This is a well-established working principle in heritage conservation and management.*
- The proposed works are well resolved and appropriate for the site and the character of the existing dwelling to the allotment.*
- The proposed reconfiguration of the boatshed and new terrace would not contradict with any traditional and appropriately styled detailing found on the original heritage listed dwelling or other heritage listed items in the near vicinity.*
- The proposed reconfiguration of the boatshed and new terrace has been designed in a building form and style that is consistent with the existing boatshed and the established character of the existing heritage listed dwelling and surround streetscape. The proposed works have been designed*

to ensure a harmonised relationship between the existing boatshed, the existing dwelling, the adjoining heritage listed items.

- A pitched roof form (identical to the current roof form) has been proposed, which is the main roof form with other buildings in the near vicinity, and therefore the form relates positively to the historical character of the site and the surrounding area.*
- The mass and height of the proposed reconfiguration of the boatshed and new terrace is consistent with the existing boatshed and surrounding context and is also subservient to the main dwellings to the site.*
- The materiality of the proposed reconfiguration of the boatshed and new terrace has been selected to harmonise with the existing dwelling as well as other dwellings within the near vicinity. Cladding and a metal roof have been proposed to the works, with these materials being commonly used on other buildings within the surrounding context, and thus the proposed materials relate to the established historical streetscape character of the area.*
- The proposed colour scheme is in keeping with the established colour pallet of the existing heritage listed dwelling. The proposed colour scheme thus harmonies with the established historical character of the surrounding area.*
- The proposed reconfiguration of the boatshed and new terrace predominantly maintains the existing density of development to the site, and the proposed density is consistent with the density of other dwellings in the near vicinity.*
- The proposed works maintain the existing stone fireplace and chimney to the existing boatshed. The fireplace and chimney is not noted as being of any major historical significance, and is also a later addition, most likely from the mid-1990s.*
- As per the structural engineer's statement (see separate attachment), the existing fireplace and chimney can be retained and repaired in its current location and condition. The works to the fireplace and chimney are thus compatible with the historical significance of the site.*
- The proposed reconfiguration of the boatshed and new terrace will not undermine or cause physical damage to the existing heritage listed dwelling or surrounding buildings.*
- There is no change to the fencing of the site from the proposed works.*
- There is no change to the front setback from the proposed works.*
- The proposed reconfiguration of the boatshed and new terrace will result in negligible overshadowing impacts.*
- No view corridors to and from the site are affected from the proposed reconfiguration of the boatshed and new terrace.*
- The proposed reconfiguration of the boatshed and new terrace does not impede any natural water courses or other historical drainage flow paths over the site.*
- There is negligible changes to the topography of the site from the proposed reconfiguration of the boatshed and new terrace.*

- *The public can still fully appreciate the site, the existing heritage listed dwelling, and the adjoining heritage listed items. There is also no loss of the historical character to the site from the proposed reconfiguration of the boatshed and new terrace.*
- *The proposed development is not sited on any known or potentially significant archaeological deposits.*
- *This report forms a record of the history and fabric of the existing house at this change point.*

Heritage Impacts on Adjoining Heritage Listed Items

The proposed works are within the visual catchment of the heritage listed 'Manly Municipal area harbour foreshore', the 'Natural Landscape at Dobroyd Hedland and Grotto Point in Sydney Harbour National Park', and the 'Guringai Resting Place' in that:

- *The proposed works cannot be interpreted with the adjoining heritage listed items, with there being a substantial visual and physical separation between the proposed reconfiguration of the existing boatshed and deck, and the nearby heritage listed items. The proposed reconfiguration of the boatshed and new terrace therefore cannot be interpreted within the same context as the adjoining heritage listed items.*
- *The impact of the visual amenity from the proposed reconfiguration of the boatshed to the adjoining heritage listed items is negligible.*
- *There is no loss to the historical integrity of the adjoining heritage listed items from the proposed reconfiguration of the boatshed and new terrace.*
- *The proposed configuration of the boatshed and deck to 2A Beatty Street, Balgowlah Heights would have no impact on the ability to understand the heritage listed significance of any of the adjoining heritage listed items.*

5.0 CONCLUSION

This Heritage Impact Statement has provided an assessment of the heritage significance of the proposed reconfiguration of the existing boatshed and deck, while maintaining and repairing the existing fireplace and chimney to 2A Beatty Street, Balgowlah Heights.

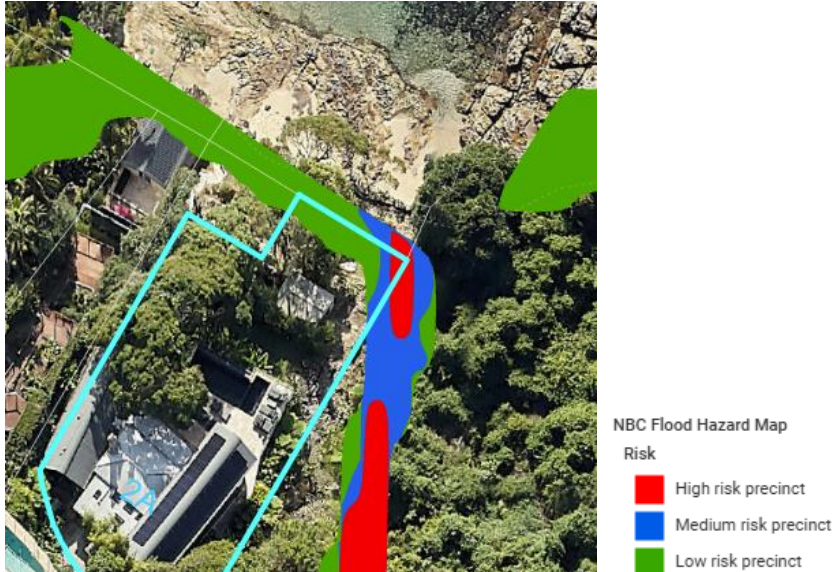
The proposed works do not result in any adverse effects to the existing heritage listed wall to the original cottage, or to the adjoining heritage listed items within the near vicinity.

The proposed works would not affect any of the original historically significant components of the original dwelling or the surrounding context. The proposed works would also have no impact on the ability to understand the heritage significance of any nearby heritage listed items.

The proposed works fulfil the aims and objectives as laid out by the Manly LEP 2013 and the Manly DCP. As such, in our professional opinion, the proposed works presented are suitable development and we recommend that they be supported in their current form.

As per the expert review and assessment by BI Architects, and noting the sites heritage significance relates to one sandstone wall, it would be unreasonable for Council to require amendments to the plans, as proposed, noting that the boatshed has been rebuilt due to its dilapidated state, and located to have less impact from the foreshore. Further, the chimney can be retained as per the structural advice and the existing deck to be replaced and relocated on the eastern side of the boatshed has a lower proposed RL than that existing. On this basis, the proposal as submitted, can be supported from a heritage perspective.

5.21 Flood planning



Comment:

Complies - a portion of the site is identified as Flood Prone Land. The proposed works in our opinion are located outside of the flood prone area as per the assessment of DA2023/1725 and the advice provided within the Natural Environment Referral Response – Flood, noting an FPL of 5.0m AHD near the boat house. Based on the works proposed at a minimum RL7.33, the works are above the FPL of 5.0m AHD and therefore, it is our opinion no further assessment is required.

Part 6 Additional local provisions

6.1 Acid sulfate soils

Comment:

Not applicable – the subject site is not identified as Acid Sulfate Soils. Regardless, the proposed works are considered minor and would not impact any watertable or acid sulfate land.

6.2 Earthworks

(1) *The objectives of this clause are as follows—*

- (a) *to ensure that earthworks and associated groundwater dewatering for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) *to allow earthworks of a minor nature without requiring a separate development consent.*

(2) *Development consent is required for earthworks unless—*

- (a) *the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
- (b) *the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*

(3) *Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*

- (d) the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Note. *The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.*

Comment:

Complies – the development involves minor excavation works relating to the proposed works including all slabs and footings, as required. The proposed excavation works are considered to be minor with a geotechnical assessment provided and prepared by White Geotechnical Group. The proposal complies with the relevant objectives and the requirements of Clause 6.2.

6.4 Stormwater management

- (1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.*
- (2) This clause applies to all land in residential, business, industrial and environmental protection zones.*
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—*
 - (a) is 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, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
 - (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Comment:

Complies – the proposal is supported by a Stormwater Management Plan prepared by TLA Engineers.

6.5 Terrestrial biodiversity



- (1) The objective of this clause is to maintain terrestrial biodiversity by—
 - (a) protecting native fauna and flora, and*
 - (b) protecting the ecological processes necessary for their continued existence, and*
 - (c) encouraging the conservation and recovery of native fauna and flora and their habitats.**
- (2) This clause applies to land identified as “Biodiversity” on the Terrestrial Biodiversity Map.*
- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider—
 - (a) whether the development is likely to have—
 - (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
 - (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
 - (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
 - (iv) any adverse impact on the habitat elements providing connectivity on the land, and**
 - (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.**
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—
 - (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
 - (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.**

Comment:

Complies - the site is identified on the terrestrial biodiversity map. The proposal is for demolition works and rebuilding a new boat shed and associated works, with all works confined within the developable area of the allotment. The proposal has been designed with regards to mitigate, minimise and avoid. The proposal retains all significant vegetation on site. An Arboricultural Impact Assessment Report prepared by Temporal Tree Management is submitted with the application which supports the proposal with tree protection measures where the development may encroach within the TPZ of nearby trees on-site. It is our professional opinion that the proposal meets the relevant objectives clause 6.5.

6.9 Foreshore scenic protection area



(1) The objective of this clause is to protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore in Manly.

(2) This clause applies to land that is shown as “Foreshore Scenic Protection Area” on the Foreshore Scenic Protection Area Map.

(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.

Comment:

Complies – the site is identified within the foreshore scenic protection area. A review of the matters for consideration are provided below:

(a): The proposed works have been designed to ensure reasonable view sharing is maintained to the foreshore. There will be no overshadowing of the foreshore area or loss of views from a public place to the foreshore. The proposed works will not create conflict between land-based and water-based coastal activities. As per the outlines of the photos provided under Heading 3 “The Proposal”, the works are located within existing vegetation and mature trees which buffer the structures and ensure the visual amenity of the harbour is maintained. In our opinion, the proposal is consistent with that existing on-site, noting the existing boatshed building and decking.

(b): The proposed development shall be finished in recessive colours and materials which will help the structures to blend in with the surrounding natural environment and should represent an improvement over the existing structures that will aid in enhancing the scenic qualities of the coastline.

(c): The proposed works including the boatshed, terrace and stairs remain in approximately the same area as the existing structures with the boatshed shifted to the west to further screen the structure from the foreshore. The proposed positioning of the boatshed behind the existing trees which sit in the foreshore area, assists in utilising the sites existing natural features to screen the boatshed from view of the public foreshore area than the existing arrangement. Further, the terrace area links with the existing platform for the inclinator and is lower than that existing on the site. The terrace area in effect forms a safe landing and level area for access to the boatshed and foreshore area.

Based on the above, Council can support the proposal as the objective of Clause 6.9 is met.

6.10 Limited development on foreshore area



Foreshore Building Line Map

- Foreshore Area
- Foreshore Building Area
- Foreshore Building Line
- Land Below Foreshore Building Line

(1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.

(2) Development consent must not be granted to development on land in the foreshore area except for the following purposes—

- (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,*
- (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,*
- (c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

(3) Development consent must not be granted under this clause unless the consent authority is satisfied that—

- (a) the development will contribute to achieving the objectives for the zone in which the land is located, and*
- (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- (c) the development will not cause environmental harm such as—*
 - (i) pollution or siltation of the waterway, or*
 - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - (iii) an adverse effect on drainage patterns, and*
- (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- (f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*

(h) sea level rise or change of flooding patterns as a result of climate change has been considered.

(4) In satisfying itself about a matter mentioned in subclause (3) (e), the consent authority must give consideration to the following—

(a) continuous public access to and along the foreshore through or adjacent to the proposed development,

(b) public access to link with existing or proposed open space,

(c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,

(d) public access to be located above mean high water mark,

(e) reinforcing the foreshore character and respect for existing environmental conditions.

(5) In this clause—

foreshore area means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody.

foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.

Comment:

Complies - the proposal is for demolition works and the rebuilding of the boatshed and deck. The proposal works are permissible as it involves the 'rebuilding' of the existing boatshed and deck which is an acceptable form of development with the consent of Council under Clause 6.10(2) of the MLEP. A further review of the parameters of subclause 6.10(2) is provided below:

Cl6.10(2) has three subclauses which allow development (buildings) within the foreshore area. It is important to understand the definition of "building" as per the EPA Act:

building has the same meaning as in the Act.

Note— The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure).

As per the "building" definition, both the boatshed and deck are defined as a building.

It is important to note that Cl6.10 2a, b and c are single provisions i.e. not requiring the other clauses to trigger the allowance. On this basis, the proposed works would comply with each allowance below:

(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,

The proposal is for the rebuilding and extension of the existing boatshed and deck. This is also consistent with other recent developments approved in the Manly LEP area, provided below. The proposed works satisfy Cl6.10(2)(a).

(b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,

The rebuilding/erection of the boatshed and deck are located above the MHWM and in an area elevated above the foreshore area and not conflicting with access to the foreshore area. The erection of a building (which includes a deck) in this location is acceptable and appropriate due to the sites features and existing building/structures within this area. The proposed works satisfy Cl6.10(2)(b).

(c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).

Subclause 6.10(2)(c) includes specific building works/structures. The proposed works in our opinion also fall within this subclause with boatsheds and stairs specifically referenced, with the deck ancillary to the boatshed for the storage and loading of items into the boat shed. The deck also has provision for a picnic table. The deck/terrace integrates with the levels of the waterway access stairs, boatshed and inclined lift landing, and so its function is not only to enhance the usability of the boatshed, picnic opportunities and enjoyment of the foreshore area, but also to provide a common landing area which conveniently links the dwelling, boatshed and waterway all together with safe level access. The proposed works satisfy Cl6.10(2)(c).

To further assist in the assessment of Clause 6.10 and the proposed works, a review of recent approvals in the Manly LEP area so the following approvals and building works which did not require a Clause 4.6 variation:

DA2022/1471 and Mod2025/0121 – 8B Beatty St, Balgowlah Heights

Building works within the foreshore area. Not considered as part of the assessment officers report and no clause 4.6 variation required.

DA2024/1446 – 151 Seaforth Crescent, Seaforth

Council approved DA2024/1446 at 151 Seaforth Cres for alterations and additions to an existing waterfront deck (which included both a larger and higher deck) without the need of a cl4.6 report. Assessment officers comments below:

The proposed development is for the rebuilding and minor extension of an existing building wholly in the foreshore area and includes the addition of waterway access stairs.

DA2023/1501 – 127 Seaforth Crescent, Seaforth

Council approved DA2023/1501 for building works (including a deck) within the foreshore area with no requirement for a clause 4.6 variation. Assessment officers comments below:

6.10 Limited development on foreshore area

Under Clause 6.10 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes: the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so, boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).

Comment: The proposed development is for the extension and alteration of an existing building partly in the foreshore area, and will result in the footprint of the building extending further into the foreshore area. This consists of a minor extension to the existing deck on both the western and northern sides of the dwelling within the foreshore area. In accordance with Clause 6.10(2)(a), the works within the foreshore area can be considered under the provisions of this clause, without the need for a written Clause 4.6 variation request.

DA208/2017 and Mod2021/0928 – 6 Beatty St, Balgowlah Heights

Building works included the rebuilding of existing boat shed plus other works approved in foreshore area. No clause 4.6 variation required.

DA2018/0832 and Mod2024/0281 – 149A Seaforth Crescent, Seaforth

Council approved DA2018/0832 and Mod2024/0281 for building works (including a deck) within the foreshore area with no requirement for a clause 4.6 variation. Assessment officers comments below: *The proposed works are for a deck (outdoor recreation) within the foreshore area, The proposal is consistent with the clause. The seawall shown on the landscape architectural plan, is recommended to be removed as part of approval of this application.*

DA2023/1230 – 161B and 163 Seaforth Crescent, Seaforth

Council approved DA2023/1230 for building works (construction of a dwelling house) within the foreshore area with no requirement for a clause 4.6 variation. Assessment officers comments below: *Comment: The proposed development is for demolition of the existing dwelling house and construction of a new dwelling house. The proposed dwelling house has a greater footprint in the foreshore area than the existing dwelling house, but is set further landward of the mean high water mark and therefore is a lesser linear encroachment into the foreshore area. The proposed development is permissible under Clause 6.10(2)(b) above. The existing slope, topographical features of the site (rock outcrops and cliff faces), and sewer line necessitate construction of a dwelling in this proposed location and with this proposed configuration. To avoid construction in the foreshore area would unreasonably restrict development of the lot in that it would require a substantial reduction of the building footprint and greater excavation of the existing topography. The proposed dwelling location is compliant with setback controls, and is as envisaged by the previous development consent (DA184/2016) that granted approval for the lot on which this dwelling house is proposed.*

DA2019/1265 – 15 Monash Crescent, Clontarf

Approved by NSW L&E Court. Application provided a cl4.6 for alterations and additions within the foreshore area. The judgement did not make reference to the requirement of a cl4.6 with only cl4.6 to FSR and Building Height confirmed in the judgement.

On the basis of the above, it is confirmed that the works are acceptable, existing on site to be rebuilt, and consistent with other approvals granted for works within the foreshore area. On this basis, Council can be satisfied that the works meet the objective of Clause 6.10 and a Clause 4.6 report is not required.

As per the considerations of Cl6.10(3), the following is noted:

- (a): The proposed development is consistent with the objectives of the C3 Environmental Management zone as reviewed within this report.
- (b): The appearance of the proposed development is compatible with the surrounding area with the rebuilding of the boatshed in fact reducing the appearance to the foreshore. We emphasise the approval granted at 6 Beatty St for the new boatshed built to the rear boundary within the foreshore area.
- (c): The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats or drainage patterns.
- (d): The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway.
- (e): The proposed development retains public access along the foreshore, noting the location of the existing boatshed and the reconfiguration and rebuilding proposed.
- (f): The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. Refer to Heritage Impact Statement prepared by BI Architecture.
- (g): The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. As per the outlines of the photos provided under Heading 3 “The

Proposal”, the works are located within existing vegetation and mature trees which buffer the structures and ensure the visual amenity of the harbour is maintained.

(h): The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

It is our professional opinion that the proposed works satisfy the objective and requirements of clause 6.10 and can be supported by Council, as submitted.

6.12 Essential services

(1) 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.*

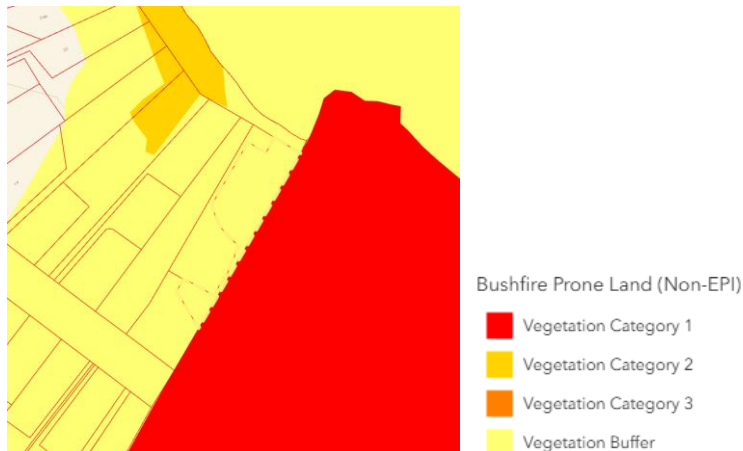
(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any essential service referred to in this clause.

Comment:

Complies – the site has access to relevant essential services.

General

Bushfire Prone Land



Comment:

The site is identified as Bush Fire Prone Land. A Bushfire Risk Assessment Report prepared by Sydney Bushfire Consultants supports the application.

The site is not identified on the following maps:

- Land Reservation Acquisition Map
- Wetlands Map
- Watercourse Map
- Active Street Frontages Map
- Key Sites Map
- Landslide Risk Map
- Acid Sulfate Soils Map

4.4 Manly Development Control Plan (MDCP)

In designing the proposed changes to the built form, due consideration has been given to the respective sections and objectives of MDCP2013, in particular:

- Part 3: General Principles of Development
- Part 4: Development Controls and Development Types

Key components of the DCP have been detailed below. The proposal is compliant with relevant provisions of the MDCP2013.

Part 3: General Principles of Development

3.1 Streetscapes and Townscapes

3.1 Streetscapes and Townscapes

Relevant DCP objectives to be met include the following:

Streetscape

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

Townscape

Objective 4) To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape.

Objective 5) To assist in maintaining the character of the locality.

Objective 6) To recognise the importance of pedestrian movements and townscape design in the strengthening and promotion of retail centres.

Objective 7) To minimise negative visual impact, in particular at the arterial road entry points into the Council area and the former Manly Council area, so as to promote townscape qualities.

Comment:

Complies – the proposed application complies with Clause 3.1: Streetscape and Townscape within the Manly Development Control Plan 2013.

3.1.1 Streetscape (Residential areas)

Streetscape is defined (see Dictionary in this plan) and represents the inter-relationship between buildings, landscape and open spaces in the street scene. Local amenity and identity are closely linked to streetscape character. Development should recognise predominant streetscape qualities, such as building form, scale, patterns, materials and colours and vegetation which contributes to the character of the local area.

3.1.1.1 Complementary Design and Visual Improvement

a) *Development in the streetscape (including buildings, fences and landscaping) should be designed to:*

- complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality;*

- ii) *ensure the bulk and design of development does not detract from the scenic amenity of the area (see also paragraph 3.4 Amenity) when viewed from surrounding public and private land;*
- iii) *maintain building heights at a compatible scale with adjacent development particularly at the street frontage and building alignment, whilst also having regard to the LEP height standard and the controls of this plan concerning wall and roof height and the number of storeys;*
- iv) *avoid elevated structures constructed on extended columns that dominate adjoining sites such as elevated open space terraces, pools, driveways and the like. See also paragraph 4.1.8 Development on Sloping Sites and paragraph 4.1.9 Swimming Pools, Spas and Water Features;*
- v) *address and compliment the built form and style any heritage property in the vicinity to preserve the integrity of the item and its setting. See also paragraph 3.2 Heritage Considerations;*
- vi) *visually improve existing streetscapes through innovative design solutions; and*
- vii) *incorporate building materials and finishes complementing those dominant in the locality. The use of plantation and/or recycled timbers in construction and finishes is encouraged. See also paragraph 3.5.7 Building Construction and Design.*

Setback Principles in Higher Density Areas

- c) *In higher density areas (including LEP Zones R1 & R3), careful consideration should be given to minimising any loss of sunlight, privacy and views of neighbours. This is especially relevant in the design of new residential flat buildings adjacent to smaller developments. See also paragraph 3.4 Amenity.*

Comment:

Complies – the proposed application complies with Clause 3.1: Streetscape and Townscape within the Manly Development Control Plan 2013.

3.1.1.3 Roofs and Dormer Windows

- a) *Roof forms should complement, but not necessarily replicate the predominant form in the locality and in particular those of adjacent buildings.*
- b) *Roofs should be designed to avoid or minimise view loss and reflectivity.*
- c) *Dormer windows and windows in the roof must be designed and placed to compliment the roof structure and reflect the character of the building. In particular, such windows are not permitted on the street frontage of the building where there is no precedent in the streetscape, especially on adjoining dwellings.*

Comment:

Complies – the proposed works retain a consistent roof form for the new structure as per existing on the site. The proposed boatshed roof has been sensitively designed to retain view corridors and amenity to adjoining properties.

3.2 Heritage Considerations

Relevant DCP objectives in relation to heritage in this plan include the following:

Objective 1) To retain and conserve environmental heritage and cultural significance of Manly including:

- *significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- *the foreshore, including its setting and associated views; and*

- *potential archaeological sites, places of Aboriginal significance and places of natural significance.*

Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.

Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/ or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.

Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.

Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.

Comment:

Identified on the site is heritage item '134' relating to the east facing stone facade of the original cottage. Furthermore, the subject site adjoins heritage item '138' relating to the Dobroyd Headland and Grotto Point Sydney Harbour National Park; and is in close vicinity to item '11' relating to the Harbour foreshore along Forty Baskets Beach. The application is supported by a Heritage Impact Statement prepared by BI Architects. Relevant sections in relation to MDCP from the report are provided below:

Objective 1

There is no loss of the fabric to the original heritage listed cottage from the proposed reconfiguration of the boatshed and new terrace.

There is negligible impact to the foreshore setting and associated views from the proposed reconfiguration of the boatshed and new terrace.

The site is not known to contain any aboriginal significance.

The natural significance of the site is maintained from the proposed works.

Objective 2

The proposed reconfiguration of the boatshed and new terrace will not impact the original main dwelling/cottage to the site.

The main historical significance of the original heritage listed eastern stone wall to the main dwelling/cottage is not affected from the proposed reconfiguration of the boatshed and new terrace.

Objective 3

The proposed reconfiguration of the existing boatshed and new terrace has been designed so as not to detract from the significance of the heritage listed stone wall.

Objective 4

The proposed reconfiguration of the existing boatshed and new terrace is compatible with the surrounding character of the area.

Objective 5

The existing boatshed, including the area of the deck in a very poor condition and are not used. Further deterioration is inevitable.

The proposed reconfiguration of the existing boatshed and new terrace will assist in the adaptive reuse of the boatshed and provide improved usage of the building for use by its occupants.

3.3 Landscaping

3.3.1 Landscape Design

Objective 1) To encourage appropriate tree planting and maintenance of existing vegetation.

Objective 2) To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.

3.3.2 Preservation of Trees or Bushland Vegetation

Objective 1) To protect and enhance the urban forest of the Northern Beaches.

Objective 2) To effectively manage the risks that come with an established urban forest through professional management of trees.

Objective 3) To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.

Objective 4) To protect and enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.

Objective 5) To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long term.

Objective 6) To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.

Comment:

Complies – the proposal for demolition works and the rebuilding the existing boat shed, deck and associated works have been designed with adequate open space and landscaping that integrates and is functional with the layout of the proposed development. The proposal includes provisions for adequate soft landscaping, deep soil areas and new plantings. The proposed works do not remove any trees or significant vegetation. An Arboricultural Impact Assessment Report prepared by Temporal Tree Management is provided with the application package noting sensitive tree protection measures where the development may encroach within the TPZ of nearby trees on-site. In this regard, the proposal meets the objectives of controls 3.3.1 and 3.3.2 and can be supported by Council as submitted.

3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)

Relevant DCP objectives to be met in relation to these paragraphs include the following:

Objective 1) To protect the amenity of existing and future residents and minimise the impact of new development, including alterations and additions, on privacy, views, solar access and general amenity of adjoining and nearby properties including noise and vibration impacts.

Objective 2) To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.

Designing for Amenity

a) Careful design consideration should be given to minimise loss of sunlight, privacy, views, noise and vibration impacts and other nuisance (odour, fumes etc.) for neighbouring properties and the development property. This is especially relevant in higher density areas, development adjacent to smaller developments and development types that may potentially impact on neighbour's amenity such as licensed premises.

b) Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private viewpoints.

c) The use of material and finishes is to protect amenity for neighbours in terms of reflectivity. The reflectivity of roofs and glass used on external walls will be minimal in accordance with industry

standards. See also Council's Administrative Guidelines regards DA lodgement requirements for materials and finishes.

Comment:

Complies – the proposed works have been designed to retain the amenity of the adjoining neighbours and for the occupants of the dwelling. It is considered that the impacts to the existing amenity of the neighbouring properties will be negligible.

3.4.1 Sunlight Access and Overshadowing

Objective 1) To provide equitable access to light and sunshine.

Objective 2) To allow adequate sunlight to penetrate:

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment:

Complies - the proposed works will not result in any overshadowing impacts to the adjoining neighbours.

3.4.1.1 Overshadowing Adjoining Open Space

In relation to sunlight to private open space of adjacent properties:

- a) New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June) ; or*
- b) Where there is no winter sunlight available to open space of adjacent properties from 9am to 3pm, the calculations for the purposes of sunlight will relate to the equinox in March and September from 9am to 3pm.*

Comment:

Complies – the proposal complies with the numerical standards and provides equitable solar access to adjoining open space areas.

3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties

In relation to sunlight to the windows or glazed doors to living rooms of adjacent properties:

- a) for adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9am to 3pm on the winter solstice (21 June);*
- b) for adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 4 hours from 9am to 3pm on the winter solstice (21 June);*
- c) for all adjacent buildings (with either orientation) no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours specified above.*

Comment:

Complies – the proposal will allow for adequate sunlight to the living rooms of adjacent properties.

3.4.2 Privacy and Security

Note: Consideration of privacy are typically balanced with other considerations such as views and solar access. The degree of privacy impact is influenced by factors including the use of the spaces where overlooking occurs, the times and frequency these spaces are being used, expectations of occupants for privacy and their ability to control overlooking with screening devices.

Relevant DCP objectives to satisfy in relation to this part include the following:

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

- appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings;*
- mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

Complies – the proposal will ensure that there are no impacts to the privacy or security of adjoining properties or to the occupants of the dwelling. Privacy will be retained for neighbours as the proposed works will not result in any unreasonable overlooking impacts to neighbouring properties.

3.4.2.1 Window Design and Orientation

a) Use narrow, translucent or obscured glass windows to maximise privacy where necessary.

b) When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy.

Comment:

Complies – the proposed window openings will not result in any adverse visual privacy impacts to the immediate neighbouring dwellings. The proposed window configurations will not contribute to any adverse privacy impacts to the neighbouring properties and will maintain a reasonable level of amenity to the adjoining premises.

3.4.2.3 Acoustical Privacy (Noise Nuisance)

a) Consideration must be given to the protection of acoustical privacy in the design and management of development.

b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.

c) Council may require a report to be prepared by a Noise Consultant that would assess likely noise and vibration impacts and may include noise and vibration mitigation strategies and measures. See particular requirements for noise control reports for licenced premises below at paragraph g) below.

Comment:

Complies – any noise generated from the proposed development will be associated with a 'dwelling house' and is an acceptable form of development within the C3: Environmental Management Zoning of the site. All noise generating spaces including outdoor living areas have been appropriately

located in a manner which considers the acoustical privacy of adjoining neighbours particularly to bedrooms and primary living areas.

3.4.3 Maintenance of Views

Relevant DCP objectives to be satisfied in relation to this paragraph include the following:

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

a) The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.

b) Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.

c) Templates may be required to indicate the height, bulk and positioning of the proposed development and to assist Council in determining that view sharing is maximised and loss of views is minimised. The templates are to remain in place until the application is determined. A registered surveyor will certify the height and positioning of the templates.

Comment:

Complies – it is our professional opinion that the proposal will not have any impacts to views or view corridors. The proposal has been reviewed under the planning principle of Tenacity Consulting vs. Warringah City Council [2004] NSWLEC 140 and it is submitted that the four-step assessment for view loss is not required for this application.

3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)

Relevant objectives in relation to this part include the following:

Objective 1) To ensure the principles of ecologically sustainable development are taken into consideration within a consistent and integrated planning framework that achieves environmental, economic and social sustainability in the short, medium and long term.

Objective 2) To encourage the retention and adaptation of existing dwellings including a preference for adaptive reuse of buildings rather than total demolition. Where retention and adaption is not possible, Council encourages the use of building materials and techniques that are energy efficient, non-harmful and environmentally sustainable.

Objective 3) To minimise waste generated by development and embodied in the building materials and processes through demolition.

Objective 4) To encourage the use of recycled materials in landscape construction works.

Objective 5) To encourage the establishment of vegetable gardens and the planting of fruit trees.

Objective 6) To encourage energy efficient building design, construction and practices, that reduce energy consumption (primarily for heating and cooling), reduce the use of non-renewable fossil fuels, minimise air pollution, greenhouse gas emissions and reduce energy bills.

Objective 7) To require that residential site planning and building design optimise solar access to land and buildings.

Objective 8) To site and design development to optimise energy conservation and sustainability in accordance with BASIX legislation and encourage development to exceed requirement particularly to ensure energy efficient use of energy for internal heating and cooling.

See also Council's Administrative Guidelines

Objective 9) To site and design development to optimise energy conservation (in accordance with the energy hierarchy) and sustainability to which BASIX does not apply.

Objective 10) To ensure non-residential development involving a gross total floor area of greater than 500 sqm set and meet criteria for energy efficiency/conservation through an Energy Performance Report.

Objective 11) To ensure non-residential development complies with the Building Code of Australia energy efficiency provisions.

Comment:

Not applicable – the proposal is for a boatshed which does not require a BASIX certificate as the proposed works constitute “BASIX excluded development”.

3.6 Accessibility

Comment: Not applicable.

3.7 Stormwater Management

Relevant objectives to satisfy relation to this part include the following:

Objective 1) To manage urban stormwater within its natural catchments and within the development site without degrading water quality of the catchments or cause erosion and sedimentation.

Objective 2) To manage construction sites to prevent environmental impacts from stormwater and protect downstream properties from flooding and stormwater inundation.

Objective 3) To promote ground infiltration of stormwater where there will be no negative (environmental) impacts and to encourage on-site stormwater detention, collection and recycling.

Objective 4) To make adequate arrangements for the ongoing maintenance of stormwater facilities.

Comment:

A Stormwater Management Plan in accordance with Councils Water Management Policy supports the application prepared by TLA Engineers.

3.8 Waste Management

Relevant objectives to satisfy in relation to this paragraph include the following:

Objective 1) To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development (ESD).

Objective 2) Encourage environmentally protective waste management practices on construction and demolition sites which include:

- sorting of waste into appropriate receptors (source separation, reuse and recycling) and ensure appropriate storage and collection of waste and to promote quality design of waste facilities;*
- adoption of design standards that complement waste collection and management services offered by Council and private service providers;*
- building designs and demolition and construction management techniques which maximises avoidance, reuse and recycling of building materials and which will minimise disposal of waste to landfill; and*

- *appropriately designed waste and recycling receptors are located so as to avoid impact upon surrounding and adjoining neighbours and enclosed in a screened off area.*

Objective 3) Encourage the ongoing minimisation and management of waste handling in the future use of premises.

Objective 4) To ensure waste storage and collection facilities complement waste collection and management services, offered by Council and the private service providers and support on-going control for such standards and services.

Objective 5) To minimise risks to health and safety associated with handling and disposal of waste and recycled material, and ensure optimum hygiene.

Objective 6) To minimise any adverse environmental impacts associated with the storage and collection of waste.

Objective 7) To discourage illegal dumping.

Comment:

A Waste Management Plan is provided with the application package. All waste generated from the proposed construction works will reuse, recycle and dispose of waste in an environmentally friendly and sustainable manner. In accordance with Northern Beaches Council's waste minimisation plan/policy, where appropriate and achievable, materials will be recycled and reused to ensure that waste avoidance is incorporated into the development.

3.9 Mechanical Plant Equipment

Comment:

Not applicable – the proposal does not include a plant room or mechanical plant equipment on the roof.

3.10 Safety and Security

Relevant DCP objectives to be met in relation to these paragraphs include the following:

Objective 1) To ensure all development are safe and secure for all residents, occupants and visitors of various ages and abilities.

Objective 2) To ensure that the design process for all development integrate principles of 'Safety in Design' to eliminate or minimise risk to safety and security.

Objective 3) To contribute to the safety and security of the public domain.

Comment:

Complies – the development has been designed with due regard to safety and security for both the occupants of the dwelling and adjoining neighbours. The proposed works will maintain passive surveillance to the foreshore, while ensuring the privacy of the occupants is adequately maintained.

Part 4: Development Controls and Development Types

4.1 Residential Development Controls

Relevant DCP objectives to be met in relation to residential development include the following:

Objective 1) To delineate by means of development control the nature and intended future of the residential areas of the former Manly Council area.

Objective 2) To provide for a variety of housing types and densities while maintaining the existing character of residential areas of the former Manly Council area.

Objective 3) To ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residences, the existing environmental quality of the environment or the aesthetic quality of the former Manly Council area.

Objective 4) To improve the quality of the residential areas by encouraging landscaping and greater flexibility of design in both new development and renovations.

Objective 5) To enable population growth without having adverse effects on the character, amenity and natural environment of the residential areas.

Objective 6) To enable other land uses that are compatible with the character and amenity of the locality.

Objective 7) To ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increased demand.

Comment:

Complies – the proposed development is consistent with the objectives for residential development. The development is deemed to be consistent with the desired future character of the area and will not compromise the amenity of the surrounding properties or the aesthetic qualities of the locality.

4.1.1 Dwelling Density, Dwelling Size and Subdivision

Relevant DCP objectives to be satisfied in relation to this part include:

Objective 1) To promote a variety of dwelling types, allotment sizes and residential environments in Manly.

Objective 2) To limit the impact of residential development on existing vegetation, waterways, riparian land and the topography.

Objective 3) To promote housing diversity and a variety of dwelling sizes to provide an acceptable level of internal amenity for new dwellings.

Objective 4) To maintain the character of the locality and streetscape.

Objective 5) To maximise the use of existing infrastructure.

Comment:

Not applicable – the site is mapped as density area D9 – which is subject to a minimum density requirement of 1150sqm. The allotment comprises an area of 1292sqm and contains an existing approved dwelling. No changes are proposed to the existing density on the site and no subdivision is proposed.

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

a) LEP Zones where numeric height controls in this DCP apply

Height controls under paragraph 4.1.2 of this plan apply to development in LEP Zones R1, R2, R3, E3 and E4. This part of the DCP does not apply to development of other lands subject to the LEP Height of Building standard identified on the LEP Height of Building Map.

See also paragraph 4.2 of this plan in relation to height controls and considerations in the LEP Business Zones.

b) Exceptions to Height

Where an existing building exceeds the maximum height controls in this plan or the height of building standards in the LEP, any alterations and/or additions to the building must not increase the overall height of the existing building.

See also paragraph 4.1.7.2 Habitable Rooms in the Roof Structure.

Comment:

Complies - refer to Clause 4.3 under Manly Local Environmental Plan 2013 for further details.

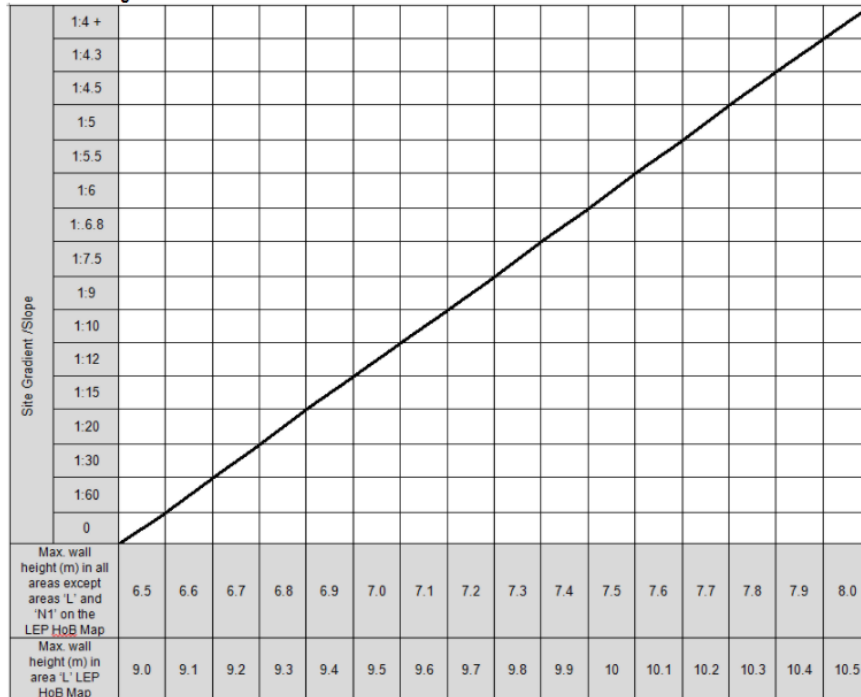
4.1.2.1 Wall Height

a) Within the LEP Height of Buildings development standard, the maximum external wall height is calculated based on the slope of the land under the proposed wall. Figures 26, 27 and 28 provide guidelines for determining the maximum height of external walls based on the particular slope of the land along the length of these proposed walls. The maximum wall height control will also vary from one building, elevation or part elevation to another depending on the slope of land on which the wall is sited. Within the range of maximum wall heights at Figures 26 and 28, the permitted wall height increases as the slope of the land increases up to a gradient of 1 in 4, at which point the permitted maximum wall height is capped according to Figure 26.

Figure 26 - Wall Height in relation to the LEP Height of Buildings Map

Subzones on the LEP Height of Buildings (HoB) Map *	Maximum Wall Height on flat land (no gradient)
Area 'L' on HoB Map (11m)	9m
Area 'N1' on HoB Map (13m)	12m
All other areas on HoB map	6.5m

* Note: Council's Wall Height control applies to the subzones within LEP Zones R1, R2, R3, E3 and E4.

4.1.2.1 Wall Height**Comment:**

Complies – the proposed rebuilding of the boat shed complies with the numerical requirements for control 4.1.2.1 Wall Height.

4.1.2.2 Number of Storeys

- a) Buildings must not exceed 2 storeys, except on land in areas 'L' and 'N1' on the LEP Height of Building Map and notwithstanding the wall and roof height controls in this plan.
- b) Buildings on land in areas 'L' and 'N1' on the LEP Height of Building Map Buildings must not exceed 3 storeys notwithstanding the wall and roof height controls in this plan.
- c) Variation to the maximum number of storeys may be considered:

- i) where specific physical site constraints warrant an exception to this requirement. In these circumstances the development must still fully comply with other numeric height controls and development standards; and*
- ii) to allow an additional understorey where that storey satisfies the meaning of basements in the LEP*

Comment:

Complies – the proposal is for the rebuilding and reconfiguration of existing boat shed, deck and associated works. The boatshed is a single storey structure with a sensitive design of an appropriate bulk and scale. The proposal is not out of context and can be supported by Council, as submitted.

4.1.2.3 Roof Height

*a) Pitched roof structures must be no higher than 2.5m above the actual wall height *, calculated in accordance with Figure 29.*

** Note: In this paragraph ‘actual wall height’ means the wall height that is either existing or proposed rather than the maximum achievable wall height control in this plan.*

b) Roof parapets may extend up to 0.6m above the actual wall height where Council considers that a parapet is considered to be appropriate to the design of the development and satisfies the objectives of this DCP and the LEP. For example, a parapet roof should not result in the appearance of lift structures and the like that protrude above the roof.

Note: As the LEP definition ‘Building Height’ incorporates plant and lift overruns, these structures must be similarly contained and not protrude above the maximum roof height.

Comment:

Complies – the proposed boatshed includes a roof design which achieves full compliance with the controls under 4.1.2.3.

4.1.3 Floor Space Ratio (FSR)

Note: FSR is a development standard contained in the LEP and LEP objectives at clause 4.4(1) apply. In particular, Objectives in this plan support the purposes of the LEP in relation to maintaining appropriate visual relationships between new development and the existing character and landscape of an area as follows:

Objective 1) To ensure the scale of development does not obscure important landscape features.

Objective 2) To minimise disruption to views to adjacent and nearby development.

Objective 3) To allow adequate sunlight to penetrate both the private open spaces within the development site and private open spaces and windows to the living spaces of adjacent residential development.

Comment:

Complies – the proposal has been sensitively designed to achieve full compliance with the FSR requirements for the site. Refer to detailed assessment provided under Clause 4.4 of the MLEP.

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

Relevant DCP objectives to be met in relation to this part include:

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

Objective 2) To ensure and enhance local amenity by:

- providing privacy;*
- providing equitable access to light, sunshine and air movement; and*

- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

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

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

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

Comment:

Merit Assessment – the proposal has a minor non-compliance with the rear setback due to the stepped nature of the rear setback line which distorts development within that area. The proposal meets the objectives of Control 4.1.4 and was supported in principle at the pre-lodgement meeting.

Side Setback	Rear Setback
Western side setback: 7.129m	0.9m – 8.88m
Eastern side setback: 9.043m	

4.1.4.1 Street Front setbacks

- a) Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.*
- b) Where the street front building lines of neighbouring properties are variable and there is no prevailing building line in the immediate vicinity i.e. where building lines are neither consistent nor established, a minimum 6m front setback generally applies. This street setback may also need to be set further back for all or part of the front building façade to retain significant trees and to maintain and enhance the streetscape.*
- c) Where the streetscape character is predominantly single storey building at the street frontage, the street setback is to be increased for any proposed upper floor level. See also paragraph 4.1.7.1.*
- d) Projections into the front setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, chimneys, meter boxes and the like, where no adverse impact on the streetscape or adjoining properties is demonstrated to Council's satisfaction.*

Comment:

Not applicable – the proposal relates to an ancillary structure built to the rear of the property.

4.1.4.2 Side setbacks and secondary street frontages

- a) Setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.*

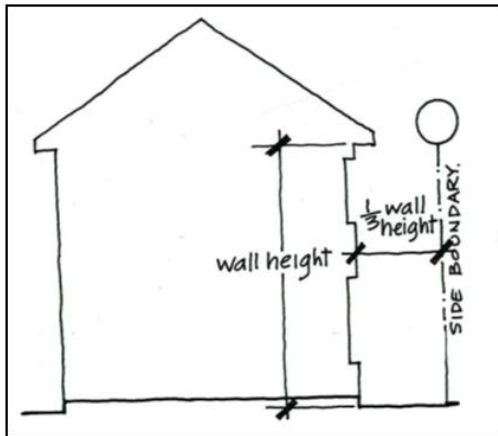


Figure 31 - Side Setback Diagram

- b) Projections into the side setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, and the like, if it can demonstrate there will be no adverse impact on adjoining properties including loss of privacy from a deck or balcony.*
- c) All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;*
- d) For secondary street frontages of corner allotments, the side boundary setback control will apply unless a prevailing building line exists. In such cases the prevailing setback of the neighbouring properties must be used. Architecturally the building must address both streets.*
- e) Side setbacks must provide sufficient access to the side of properties to allow for property maintenance, planting of vegetation and sufficient separation from neighbouring properties. See also paragraph 4.1.4.3.b.vi. of this plan.*
- f) In relation to the setback at the street corner of a corner allotment the setback must consider the need to facilitate any improved traffic conditions including adequate and safe levels of visibility at the street intersection. In this regard Council may consider the need for building works including front fence to be setback at this corner of the site to provide for an unobstructed splay. The maximum dimension of this triangular shaped splay would be typically up to 3m along the length of the site boundaries either side of the site corner.*

4.1.4.3 Variations to Side Setback in Residential Density Areas D3 to D9 (see paragraph 4.1.1 of this plan)

Note: The following paragraphs apply to residential density areas D3 to D9 identified in Schedule 1 - Map A of this plan. In this regard the variations in this paragraph do not apply to density areas D1 and D2.

- a) Council may consider an exception to the side setback control to enable windows at 90 degrees to the boundary to provide some flexibility in the siting and design of buildings which assist in satisfying setback objectives relating to privacy subject to the following:*
 - i) The average distance to the boundary over the length of the wall is to be no less than the required setback control. In relation to the average distance to boundary, the area of building protruding into the minimum setback must be no greater than the area of land at the side boundary that is setback more than what is required by the minimum setback line.*
 - ii) The wall protruding into the minimum setback must not provide windows facing the side boundary.*
 - iii) The subject side elevation must provide a window(s) at some 90 degrees to the boundary.*
- b) Walls located within 0.9m of any one of the side boundaries may be considered but must:*
 - i) contain no windows; **
 - ii) be constructed to one side boundary only;*
 - iii) limit height to 3m; **
 - iv) limit length to 35 percent of the adjoining site boundary; ***

- v) submit a standard of finish and materials for external surfaces which complement the external architectural finishes of adjacent properties and/or the townscape character;*
- vi) obtain a right-of-way to provide access for maintenance; and*
- vii) satisfy the objectives for setback in this plan and the applicant can demonstrate no disadvantage to the adjacent allotment through increased overshadowing, or loss of view and no impediment to property maintenance.*

Comment:

Complies – the proposed boatshed has been designed with adequate setbacks to the east and western side boundaries.

4.1.4.4 Rear Setbacks

- a) The distance between any part of a building and the rear boundary must not be less than 8m.*
- b) Rear setbacks must allow space for planting of vegetation, including trees, other landscape works and private and/or common open space. The character of existing natural vegetated settings is to be maintained. See also paragraph 3.3 Landscaping.*
- c) On sloping sites, particularly where new development is uphill and in sensitive foreshore locations, consideration must be given to the likely impacts of overshadowing, visual privacy and view loss.*
- d) Rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity to minimise overshadowing, visual privacy and view loss.*

Comment:

Merit assessment – the proposed boatshed located within the rear setback maintains all trees and significant vegetation on site and has been appropriately sited to preserve the character of the sites existing natural vegetated setting. With consideration for the existing character of other dwellings along the water frontage in the immediate vicinity, boatsheds are a common feature within the foreshore area. The proposed boat shed is not a habitable structure and, therefore, consideration of potential privacy impacts is not necessary in this instance. The proposed boat shed is a single storey structure and will, therefore, not create any unreasonable impacts upon the provision of equitable access to light, sunshine and air movement, nor will it impact upon the sharing of views. The location of the boatshed has been shifted to the west to maximise landscape buffering to the boatshed from the foreshore, therefore minimising visual impact from the foreshore and waterway. On this basis, the proposed location of the boat shed can be supported due to the unique shape of the lot and consistent line as per existing structure on site.

4.1.4.5 Foreshore Building Lines and Foreshore Area

Note: Foreshore building lines are contained in the LEP clause 6.10 and the LEP Foreshore Building Line Map. This paragraph is to be read in conjunction with the LEP and provides supporting and more detailed controls and considerations in respect of exceptions which may be considered under LEP clause 4.6.

- (a) Any exception proposed to the foreshore building lines under LEP clause 4.6 must consider the particular site terrain, the setback of adjoining development and Council's existing or future proposed foreshore walkway. Any exception sought for foreshore land that is reclaimed must also consider the position of the mean high watermark on adjoining properties.*
- (b) Development on any property with a foreshore building line may be required to be setback a further distance from the mean high water mark than required by the LEP Foreshore Building Line Map to satisfy the objectives of the LEP in instances where the proposed height of building on the foreshore frontage is greater than 15m. The minimum foreshore setback for development in this instance is to be no less than the maximum wall height at the foreshore frontage.*

- (c) Development of land that is permitted in the foreshore area is to be designed to complement the natural or established landscaped character of the waterfront and must not be used for accommodation.*
- (d) Care must be taken when considering opportunities for 'continuous public access along the foreshore and to the waterway' under LEP clause 6.10(3)(e) to ensure that:*
 - (i) remnant riparian vegetation is not degraded and removed; or*
 - (ii) the width of riparian land that is to be protected and or rehabilitated is not reduced on order to provide public access; or*
 - (iii) pathways are to be generally located outside the foreshore/riparian areas to avoid impacts on foreshore/riparian areas, flora and fauna and habitat it provides and the rehabilitation of riparian vegetation. If access to the foreshore/riparian areas needs to be provided, the access should be limited to strategic locations rather than provided continuous access pathways along these sensitive areas. Locating the pathways outside the foreshore/riparian areas would also improve public surveillance and safety.*
- (e) In relation to Lots 101,102 & 103 DP1047595 and Lots 104 & 105 DP1048038 Rignold Street, Seaforth; the following foreshore building line controls apply notwithstanding any other provisions of this plan:*
 - (i) The natural tree cover between the foreshore building line and the water's edge is to be retained and any future landscaping should complement existing natural vegetation. The retention of rock outcrops and other native features of the site are to be given due consideration in any development of the site.*
 - (ii) Swimming pools will not be permitted between the foreshore building line and the water's edge, but gazebos, pergolas and other similar structures will be permitted provided that they are designed in keeping with the bushland character of the site and the adjacent foreshore area.*
 - (iii) No retaining walls or fences are to be erected between the foreshore building line and the water's edge.*

Comment:

Complies – refer to full assessment under Clause 6.10 MLEP.

4.1.5 Open Space and Landscaping

Relevant DCP objectives to be met in relation to these paragraphs include the following:

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Comment:

Complies – the proposal has been designed with new and enhanced landscaping on-site retaining the existing landscaped areas and providing new opportunities for plantings and soft landscaped features on site. The proposal includes additional plantings to buffer the new works albeit consistent with that existing on the site and sympathetic to the foreshore area.

4.1.5.1 Minimum Residential Total Open Space Requirements

Numeric Controls

a) Open Space must be provided on site in accordance with Figure 34 - Numeric Requirements for Total Open Space, Landscaped Area and Open Space Above Ground.

<i>Residential Open Space Areas at DCP Schedule 1 – Map B</i>	<i><u>Total Open Space</u> (minimum percentage of site area)</i>	<i><u>Landscaped Area</u> (minimum percentage of <u>Total Open Space</u> Open Space)</i>	<i><u>Above Ground</u> (maximum of <u>Total Open Space</u>)</i>
<i>Area OS1</i>	<i>at least 45% of site area</i>	<i>at least 25% of open space</i>	<i>-In relation to dwelling houses: no more than 25% of <u>Total Open Space</u>.</i>
<i>Area OS2</i>	<i>at least 50% of site area</i>	<i>at least 30% of open space</i>	
<i>Area OS3</i>	<i>at least 55% of site area</i>	<i>at least 35% of open space</i>	<i>-In relation to all other land uses permitted in the Zone: no more than 40% of <u>Total Open Space</u>.</i>
Area OS4	at least 60% of site area	at least 40% of open space	

Minimum dimensions and areas for Total Open Space

b) Total Open Space (see Dictionary meanings including landscape area, open space above ground and principal private open space) must adhere to the following minimum specifications:

- i) horizontal dimension of at least 3m in any direction; and
- ii) a minimum unbroken area of 12sqm.
- iii) A variation to the minimum specifications in i) and ii) above may only be considered for Above Ground Open Space where it can be demonstrated that lesser dimensions or areas will better serve to minimise amenity impacts on neighbours. A lesser areas of above ground open space may be included or calculated under the minimum requirements in the circumstances of the case. In all other cases open space that does not comply with the minimum specification is not included or calculated under the minimum requirements for total open space.

Provisions for Total Open Space Above Ground

Note: This paragraph limits the extent of total open space which may be provided above ground level.

c) Open Space Above Ground is limited on site in accordance with Figure 34 - Numeric Requirements for Total Open Space, Landscaped Area and Open Space above Ground Level. The maximum open space above ground requirement is determined as a percentage of the Total Open Space.

Amenity Considerations

- i) Areas of total open space that are above ground are considered to have a potentially greater impact on the amenity of neighbours. Accordingly the provision of open space that is above ground is to be confined to a maximum percentage of the total open space for any development. In particular, roof terraces and large decks are discouraged and are not a preferred design option when providing open space above ground.
- ii) All open space above ground including verandas, balconies, terraces, are not to be enclosed.
- iii) The Total Open Space Above Ground as provided for in Figure 34 may be refused by Council where privacy and/or view loss are issues and where development does not satisfy particular considerations in the following paragraphs iv) and v).

- iv) Roof terraces are not permitted unless designed for privacy with no direct lines of sight to adjoining private open spaces or habitable window openings both within the development site and within adjoining sites.
- v) Council may also require methods of sound attenuation and/or acoustic treatment to be indicated in the DA to protect the acoustic amenity of neighbouring properties and the public. See paragraph 3.4.2.4 Acoustical Privacy (Noise Nuisance).

Comment:

Complies – the site is identified as OS3 requiring at least 60% of site are as total open space and at least 40% of total open space as landscaped area. Based on figures provided in the assessment officers report for DA2023/1725, the site complies with the total open space requirements, noting the proposal reduces total open space by 3.4sqm.

4.1.5.2 Landscaped Area

Numeric Controls

a) Landscaped Area must be provided on site in accordance with above Figure 34 - Numeric Requirements for Total Open Space, Landscaped Area and Open Space above Ground Level. The minimum landscaped area requirement is a percentage of the actual* total open space onsite.

*Note: 'Actual' space refers here to proposed (or existing where no change proposed), rather than the minimum requirement for open space in this plan.

Minimum Dimensions and Areas

b) Minimum dimensions and areas must provide for the following:

- i) soil depth of at least 1m for all landscaped areas either in ground or above ground in raised planter beds; and
- ii) a minimum horizontal dimension of 0.5m measured from the inner side of the planter bed/box, wall or any other structure which defines the landscaped area and incorporating an appropriate drainage and irrigation regime.

c) Minimum Tree Plantings

- i) The minimum tree numbers must be in accordance with Figure 37 - Minimum Number of Native Trees Required.
- ii) The minimum tree requirement may include either existing established native trees or new native trees planted at a pot/container size to be at least 25 litres capacity and being a species selected in accordance with Schedule 4 Part B - Native Tree Selection.
- iii) The required minimum number of native trees required under this paragraph must be planted in a deep soil zone as defined in this plan's Dictionary.

Figure 37 - Minimum Number of Native Trees Required

Note: to be read in conjunction with the [LEP Lot Size Map](#).

Site Area (sqm)	Areas in the LEP Lot Size Map	Minimum number of native trees listed in Schedule 4 Part B
up to 500	Area 'C' on the LEP Lot Size Map	1 tree
up to 500	all Areas except Area 'C' on the LEP Lot Size Map	2 trees
between 500 and 800	all Areas on the LEP Lot Size Map	3 trees
over 800	Area 'C' on the LEP Lot Size Map	3 trees
over 800	all Areas except Area 'C' on the LEP Lot Size Map	4 trees

Landscaping Driveways

d) Driveways alongside boundaries will be sufficiently setback to provide a landscaped area at least 0.5m wide between the driveway area and side boundary for the length of the driveway. Any parking hard stand area or carport associated with the driveway should also be similarly setback unless requiring a greater setback elsewhere under this plan.

Comment:

Complies – the proposal has been designed to retain all significant trees and vegetation on-site. The proposal also includes additional plantings to be selected from Councils native planting guide to achieve respective heights of 3m and 0.9m at maturity.

4.1.5.3 Private Open Space

Note: Private open space is in addition to the provision of communal open space for residential accommodation with more than 1 dwelling. Guidelines for the provisions of communal open space are contained in the Residential Flat Design Code referenced in this plan.

Principal Private Open Space

a) Principal private open space is to be provided in accordance with the following minimum specifications:

- i) Minimum area of principal private open space for a dwelling house is 18sqm; and*
- ii) Minimum area of principal private open space for residential accommodation with more than 1 dwelling on the site is 12sqm for each dwelling.*

*Note: Principal private open space is both part of the private open space as defined in the LEP and the total open space requirement defined in the DCP and must also comply with the meanings and provisions for these spaces provided in the LEP and elsewhere in this DCP.
See also dictionary meaning of principal private open space in this DCP*

Comment:

Complies – the requirement for 18sqm of principal private open space has been satisfied with this proposal.

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Comment:

Not applicable – no change to existing.

4.1.7 First Floor and Roof Additions

Comment:

Not applicable – the proposal is for demolition works and the construction of a new boatshed. No additional stories or roof additions are proposed to the existing dwelling house.

4.1.8 Development on Sloping Sites

Relevant DCP objectives to be met in relation to these paragraphs include:

Objective 1) To ensure that Council and the community are aware of, and appropriately respond to all identified potential landslip & subsidence hazards.

Objective 2) To provide a framework and procedure for identification, analysis, assessment, treatment and monitoring of landslip and subsidence risk and ensure that there is sufficient information to consider and determine DAs on land which may be subject to slope instability.

Objective 3) To encourage development and construction this is compatible with the landslip hazard and to reduce the risk and costs of landslip and subsidence to existing areas.

Comment:

Complies – the proposed works have been sensitively designed to suitably respond to the topography of the land and the varying levels on site to minimise excavation works and the need for excessive cut and fill.

4.1.9 Swimming Pools, Spas and Water Features

Comment:

Not applicable.

4.1.10 Fencing

Comment:

Not applicable – no fencing proposed with this application.

Part 4.4 Other Development (all LEP Zones)

4.4.1 Demolition

Relevant DCP objectives in this plan in relation to these paragraphs include:

Objective 1)

To protect the environment during demolition, site works, and construction phases of development.

Where development involves demolition, the applicant is to demonstrate that the degree of demolition considers any existing building on the land that should be retained and appropriately adapted in order to:

- a) Meet ecologically sustainable development principles by conserving resources and energy and reducing waste from any demolition process; and*
- b) Conserve the cultural heritage of the existing building and that of the locality. An appropriate assessment of potential heritage significance must accompany any DA in relation to demolition. If the property has merit as a potential heritage item, the heritage controls and considerations in this plan apply, and*
- c) Comply with the requirements of the Northern Beaches Waste Management Policy*

Comment:

Complies – the proposal includes demolition works to remove the existing boatshed and deck. Where possible the building will retain materials for reuse, otherwise as per the Waste Management Plan they will be reused or recycled off-site.

4.4.5 Earthworks (Excavation and Filling)

Note: *Before granting development consent for earthworks, consideration must be given to the matters listed in LEP clause 6.2(3)(a)-(h).*

Relevant DCP objectives in this plan in relation to these paragraphs include:

- Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:*
- Limiting excavation, “cut and fill” and other earthworks;*
 - Discouraging the alteration of the natural flow of ground and surface water;*
 - Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*

- *Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.*

See also paragraph 4.1.8 Development on Sloping Sites (Planning Principles).

See also paragraph 3.3.2 Preservation of Trees and Bushland V.

Comment:

Complies – the proposal includes minor excavation works for the construction of the proposed boatshed including all slabs and footings. The excavation works will comply with the relevant objectives and the requirements of Clause 6.2 of MLEP2013.

Part 5 – Special Character Precincts, Areas and Sites

5.4.1 Foreshore Scenic Protection Area

LEP clause 6.9 designates land in the Foreshore Scenic Protection Area as shown on the LEP Foreshore Scenic Protection Area Map to protect visual aesthetic amenity and views both to and from Sydney Harbour, the Pacific Ocean and the Manly foreshore. Development in the Foreshore Scenic Protection Area must not detrimentally effect the ‘visual or aesthetic amenity of land in the foreshore scenic area nor must the development similarly effect the views of that land, including ridgelines, tree lines and other natural features viewed from the Harbour or Ocean from any road, park or land in the LEP for any open space purpose or any other public place. Any adverse impacts considered in this paragraph will be mitigated. In accordance with these LEP objectives Council seeks to conserve and preserve tree canopies and street trees, wildlife corridors and habitat and minimise cumulative impacts on escarpment, rock shelves and other natural landscape features.

5.4.1.1 Additional matters for consideration

LEP clause 6.9(3)(a) to (d) lists certain matters to be taken into account in relation to all development within the Foreshore Scenic Protection Area.

- a) Further to matters prescribed in the LEP, the development in the Foreshore Scenic Protection Area must also:*
 - (i) minimise the contrast between the built environment and the natural environment;*
 - (ii) maintain the visual dominance of the natural environment;*
 - (iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;*
 - (iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;*
 - (v) locate rooflines below the tree canopy;*
 - (vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and*
 - (vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality.*
- b) Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly. See also paragraph 4.1.4.5 of this DCP and LEP clause 6.10 in relation to Foreshore Building Lines and limited development in the Foreshore Area*

Comment:

Complies – as described above the subject site is identified as scenic protection land. The proposed development is designed and sited to complement the locality in Beatty Street. The proposed works are consistent with the existing dwelling and properties surrounding the site. The works blend with the surrounding development when viewed from the foreshore and will maintain the scenic quality of the coastal foreshore.

5.4.3 Flood Prone Land

Objectives

- *Protection of people.*
- *Protection of the natural environment.*
- *Protection of private and public infrastructure and assets.*

Requirements

- 1. Development must comply with the prescriptive controls set out in the Matrix below. Where a property is affected by more than one Flood Risk Precinct, or has varying Flood Life Hazard Category across it, the assessment must consider the controls relevant at each location on the property.*
- 2. Development on flood prone land requires the preparation of a Flood Management Report by a suitably qualified professional.*

Comment:

Complies - a portion of the site is identified as Flood Prone Land. Refer to assessment under Heading CI5.21 Flood Planning under MLEP.

Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles

Dwelling-houses, Semi-detached Dwellings and Secondary Dwellings

- *2 parking spaces for each dwelling house, semi-detached dwellings and secondary dwellings.*

Note: *While no visitor parking is required for a dwelling house or semi-detached dwellings; one of the two spaces required for a Secondary Dwelling may be used as a visitor space for both the secondary and principle dwelling. See paragraph 4.1.6 for exceptions which may be considered by Council.*

Comment:

Not applicable – no change proposed to the existing parking facilities on site.

5. Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979

The following matters are to be taken into consideration when assessing an application pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). Guidelines (in *italic*) to help identify the issues to be considered have been prepared by the Department of Planning and Environment. The relevant issues are:

(a) The provisions of:

(i) The provision of any Environmental Planning Instrument

Comment: The proposal is permissible and consistent with the intent of the Manly Local Environmental Plan and Development Control Plan as they are reasonably applied to the proposed works.

(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

Comment: Not applicable.

(iii) Any development control plan

Comment: The proposal has been reviewed and assessed under Manly Development Control Plan.

(iiia) 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

Comment: Not applicable.

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

Comment: Not applicable.

(v) (repealed)

(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,

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*

Comment: The proposed development has been designed to the character and amenity of the locality. The proposal is of a height, bulk and scale which is consistent with recent approvals and the future character of the precinct. The proposal will have no adverse residential amenity impacts in terms of views, privacy or overshadowing to the neighbouring properties.

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*

Comment: These matters have been discussed in detail earlier in this report. The works have been designed such that potential impacts are minimal and within the scope of the built form controls.

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*

Comment: Not applicable – no change to existing parking provisions on site.

Public Domain

Comment: The proposed development will have no adverse impact on the public domain.

Utilities

Comment: Existing utility services will connect to service the dwelling.

Flora and Fauna

Comment: The site is identified on the terrestrial biodiversity map. The development is for demolition works and the rebuilding of the boat shed and deck with all works confined within the developable area of the allotment. The proposed works are not likely to have any adverse effect on flora, fauna or vegetation. The proposal has been designed with regards to mitigate, minimise and avoid. The proposal retains all significant vegetation on site.

Waste Collection

Comment: Normal domestic waste collection applies to the existing dwelling house.

Natural hazards

Comment: The site is identified as Bushfire Prone Land. The site is also partially identified within Councils Flood Hazard Map.

Economic Impact in the locality

Comment: The proposed development will not have any significant impact on economic factors within the area notwithstanding that it will generate additional employment opportunities through the construction period with respect to the proposed works.

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

Comment: 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

Comment: The proposed development can 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

Comment: The proposal will employ 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

Comment: The site is located in an established residential area. The locality has a variety of property types and sizes. The existing surrounding development comprises a mix of one to two storey dwelling houses. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause unmanageable levels of transport demand with no change of use to the existing dwelling proposed.

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

Comment: No submissions are available at this time.

(e) The public interest

Comment: The proposed works are permissible and consistent with the intent of MLEP2013 and MDCP controls as they are reasonably applied to the proposal for demolition works, rebuilding of the boat shed and associated works. The development would not be contrary to the public interest.

In our opinion, the development satisfies the planning regime applicable to development on this particular site having regards to the considerations arising from its context.

The proposal is acceptable when assessed against the heads of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (as amended), and is appropriate for the granting of consent and accordingly, is in the public interest.

6. Summary and Conclusion

The proposal for demolition works and rebuilding of new boat shed and associated works at 2A Beatty Street, Balgowlah Heights, being Lot 22 within Deposited Plan 1124834, is permissible and consistent with the intent of the built form controls as they are reasonably applied to the proposed works. It is considered that the proposal is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The merits of the application have been assessed in accordance with the provisions of the relevant requirements of MLEP 2013 and the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). There is no evidence that the impacts of the development would warrant amendment to the subject proposal or justify refusal. Where a variation is proposed, adequate documentation has been provided to support the application.
- The nature of the development is appropriate having regard to the area of the site, its geographical location, topography, constraints and adjoining land uses.
- The rebuilding of the structures have been designed to be sympathetic to the foreshore area with the relocation of structures designed to minimise visual appearance and increase vegetation in the foreshore area.
- The proposal has been strategically designed to maintain the existing chimney structure (as per the structural engineers advice) and is supported on a heritage basis by BI Architects.

Accordingly, the proposal for demolition works and rebuilding of new boat shed and associated works at 2A Beatty Street, Balgowlah Heights, is acceptable from environmental, heritage, social, and planning perspectives and approval should therefore be granted by Council.