

# STATEMENT OF ENVIRONMENTAL EFFECTS

Alterations and Additions to the Existing Dwelling  
House, New Garage, Spa and Associated  
Landscape Works at

**No. 38 Bower Street,  
Manly**

Prepared for:

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**Acknowledgement of Country**

We respect and honour Aboriginal and Torres Strait Islander Elders past, present and emerging. We acknowledge the stories, traditions and living cultures of Aboriginal and Torres Strait Islander peoples. We would like to recognise their ongoing connection to land, water and community.

This report has been prepared and reviewed in accordance with our quality control system. The report is a preliminary draft unless it is signed below.

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Date: 19 September 2023

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Abbreviation	Abbreviation Meaning
ADG	Apartment Design Guide
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AS	Australian Standard
ASS	Acid Sulfate Soils
BCA	Building Code of Australia
CBD	Central Business District
CC	Construction Certificate
CIV	Capital Investment Value
CMP	Construction Management Plan/Conservation Management Plan
Council	the Council
CPTED	Crime Prevention Through Environmental Design
CRZ	Critical Root Zone
DA	Development Application
DCP	Development Control Plan
DP	Deposited Plan
DPIE	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EPA Act	Environmental Planning and Assessment Act 1979
EPA Reg	Environmental Planning and Assessment Regulations 2000
EUR	Existing Use Rights
FFL	Finished Floor Level
FSR	Floor Space Ratio
GFA	Gross Floor Area
GCC	Greater Cities Commission (formerly GSC : Greater Sydney Commission)
HCA	Heritage Conservation Area
HIA/HIS	Heritage Impact Assessment/Heritage Impact Statement
LEP	Local Environmental Plan
LGA	Local Government Area
MHWM	Mean High Water Mark
NCC	National Construction Code
NSW	New South Wales
NSWLEC	NSW Land and Environment Court
OC	Occupation Certificate
OSD	On-Site Detention
PCA	Principal Certifying Authority
PoM	Plan of Management
POS	Private Open Space
PP	Planning Proposal
REF	Review of Environmental Factors
RFB	Residential Flat Building
RL	Reduced Level
RMS	Roads and Maritime Services (see TfNSW)
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SREP	Sydney Regional Environmental Plan
SP	Strata Plan
SWMP	Stormwater Management Plan
TfNSW	Transport for New South Wales
TPZ	Tree Protection Zone
VENM	Virgin Excavated Natural Material
WMP	Waste Management Plan
WSUD	Water Sensitive Urban Design
ZFDTG	Zero Fort Denison Tide Gauge (0.925 below AHD)

## 1.0 INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared for James and Tracey Smail by George Karavanas Planning Pty Ltd – (hereafter referred to as GSA Planning). GSA Planning has expertise in Urban Design, Environmental & Traffic Planning.

This SEE is to accompany a Development Application (DA) to Northern Beaches Council for alterations and additions to the existing two to three-storey dwelling at No. 38 Bower Street, Manly, designed by architects Alexander and Co.

The proposal will offer high-quality alterations and additions to the existing dwelling on the subject site, including the demolition of some internal and external walls, refurbishment of interior elements, new façade works, minor excavation for lowered finish floor levels, a dwelling extension at the first floor level, and upgrades to private open space areas. These works retain setbacks and provide building heights that are sympathetic to the existing development and surrounding neighbours. The works involve improvements to pedestrian access, and a replacement double garage with storage to enhance functionality for residents. Landscaping works are proposed in the front, side and rear setbacks, and will complement the proposed built form as well as the site's location. A new spa and associated works in the rear setback have been sympathetically nestled into the garden terraces.

The proposal has been designed to improve the functionality and amenity of the site for residents while considering neighbours' amenity, the unique beach-side location and the steep topography. The proposed works have been designed to blend with the existing built form and surrounding natural environment. The alterations and additions will retain or improve upon existing landscaped areas and largely retains existing trees, which will continue to soften the appearance of the built form and respond to the biodiversity of the area.

In our opinion, the proposed development satisfies the relevant zone objectives in the Manly Local Environmental Plan (LEP) 2013 and the majority of controls of the Manly Development Control Plan (DCP) 2013. The proposal complies with the major building envelope standard of FSR in the LEP.

Whilst the proposal has a greater building height than the development standards of the LEP, a Clause 4.6 Application to Vary a Development Standard for height has been prepared (separately submitted). In our opinion, the proposal is acceptable for the reasons contained in that separate report.

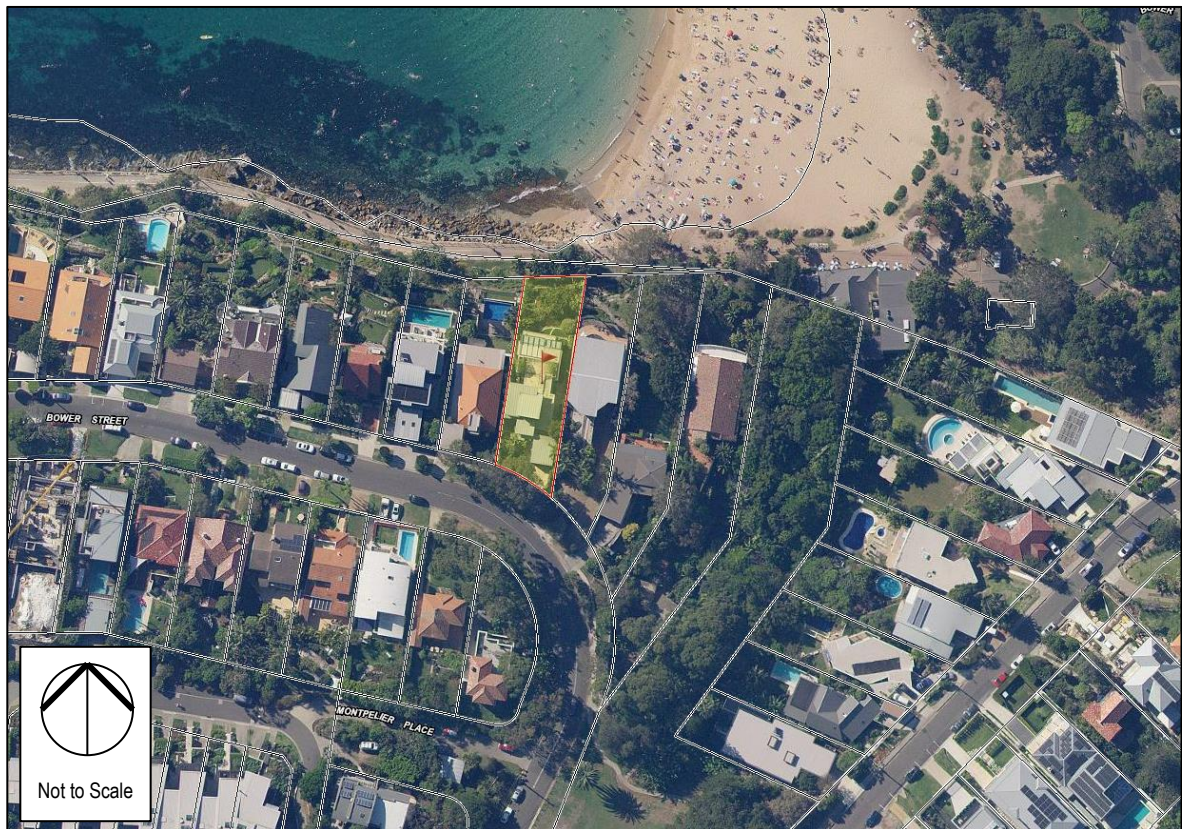
This document is divided into six sections. Section 2 contains a site analysis; Section 3 provides details of the proposal; Sections 4 and 5 contains the detailed assessment of the application in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (EPA Act); and Section 6 concludes the report.

## 2.0 SITE ANALYSIS

This section contains a description of the following: The Locality; Site Description; Existing Built Form and Landscaping; and Existing Character and Context.

### 2.1 The Locality

The subject site is located approximately 11km north-east of the Sydney CBD, 900m from Manly Town Centre and is within the Northern Beaches Local Government Area (LGA) (see **Figure 1**). Directly to the rear of the subject site is Shelly Beach and Cabbage Tree Bay Aquatic Reserve.



Source: SIX Maps

 Subject Site

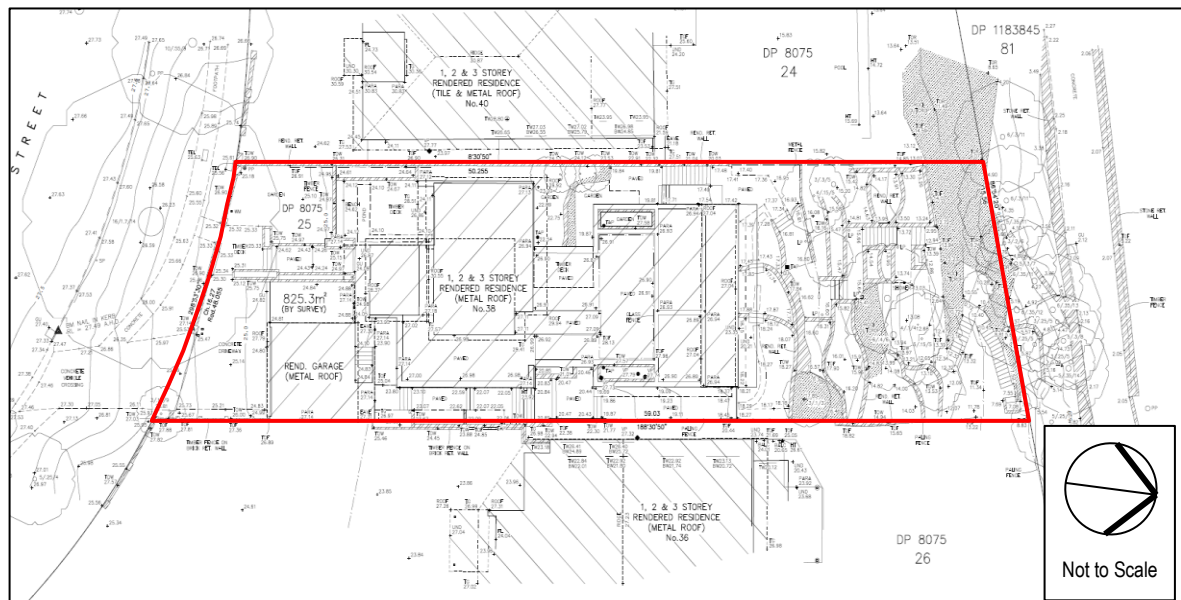
**Figure 1: Location Plan**

## 2.2 Site Description

The subject site is located on the northern side of Bower Street and is known as No. 38 Bower Street, described Lot 25 in DP8075. For the purposes of this report the rear boundary will be described as the northern boundary.

The site is an irregular parcel of land, with a northern boundary of 15.56 metres, an eastern boundary of 59.03 metres, a southern boundary of 16.27 metres, and a western boundary of 50.255 metres, providing a total site area of 825.3m<sup>2</sup> (see **Figure 2** and Survey Plan separately submitted).

The site is relatively steep, with a south to north fall of 20.11 metres (RL 25.30 – 5.19 AHD) through the centre of the site.



Source: Hill & Blume

Subject Site

**Figure 2: Survey Plan**

## 2.3 Existing Built Form and Landscaping

The site is occupied by a one to three storey rendered dwelling with a mix of slanting and flat metal roofs, including a paved roof terrace. The dwelling has a stepped built form which has been designed in response to the undulating topography of the site. It comprises a basement/undercroft plant room and storage space, four bedrooms, four bathrooms/WCs, two rear facing terraces and a first floor terrace, and various living areas. Vehicular access is available via the concrete driveway at the front of the site, accessible from Bower Street, which leads to a double garage located within the front setback (see **Photograph 1**).

The rear of the site is densely landscaped and features terraced gardens which step down this steeply sloping portion of the site. Timber stairs and a pathway in the rear setback provide pedestrian access from the dwelling to Marine Parade (see **Photograph 2 and 3** below and on the following page).



**Photograph 1:** The subject site, as viewed from the street



Source: Realestate.com (2019)

**Photograph 2:** The subject site, as viewed aerially from the rear



**Photograph 3:** The subject site, as viewed within the rear garden (looking east)

## 2.4 Existing Character and Context

Shelly Beach and the Marine Parade walkway which links to Manly Town Centre are at the rear of the subject site. Well-maintained landscaping and street plantings complement the surrounding built and natural form and soften the appearance of the development on the northern side of Bower Street facing the foreshore. Nearby reserves include Shelly Headland Upper Lookout, Shelly Beach Walking Track, and the Shelly Beach to Barracks Precinct Walk.

Surrounding development consists of a mix of predominantly two and three storey detached dwellings. These dwellings include a mixture of traditional and contemporary architectural styles with flat, hipped and gable roof forms. Varied front setbacks exist throughout the area and a number of dwellings have garages and carports forward of the building line, and swimming pools and terraces/balconies at the rear. Nearby development is oriented to the north to capture panoramic ocean views. Importantly, multiple dwellings in the vicinity of the site appear to have undertaken contemporary alterations and additions.

### Development to the North

To the north of the site is Marine Parade, Cabbage Tree Bay, and Shelly Beach (see **Photograph 4 & 5**).



**Photograph 4:** Cabbage Tree Bay, as viewed from the rear yard



**Photograph 5:** Marine Parade and Shelly Beach, as viewed from Marine Parade looking west

### Development to the East

To the east, adjoining the subject site is No. 36 Bower Street, which is a two to three-storey rendered dwelling with a flat metal roof, and terraces oriented towards the rear of the site (see **Photograph 6**). Further to the east is No. 34 Bower Street, which is a predominantly two-storey brick dwelling with a flat roof and terraces oriented to the rear of the site, and a garage in the front setback (see **Photograph 7**).



**Photograph 6:** No. 36 Bower Street, as viewed from Bower Street



**Photograph 7:** No. 34 Bower Street, as viewed from Bower Street

### Development to the South

To south, on the opposite side of the street is No. 43 Bower Street, which is a two-storey rendered dwelling located on a corner allotment, setback from the street and has a pitched tiled roof and terraces oriented to the front of the site (see **Photograph 8**). Also to the south is No. 45 Bower Street, which is a two-storey rendered dwelling with a pitched tiled roof (see **Photograph 9**).



**Photograph 8:** No. 43 Bower Street, as viewed from Bower Street



**Photograph 9:** No. 45 Bower Street, as viewed from Bower Street

### Development to the West

To the west, adjoining the subject site is No. 40 Bower Street, which is a two to three-storey dwelling with a pitched tiled roof, garage at the front of the site, rear swimming pool and terraces oriented to the rear (see **Photograph 10** on the following page). This site has a DA (No. 2023/0495) currently under assessment for alterations and additions which includes a first floor extension and associated works. Further west is No. 42 Bower Street, which is a two to three-storey brick and rendered dwelling with a predominantly flat metal roof, garage at the front of the site, and swimming pool and terraces oriented to the rear (see **Photograph 11** on the following page).



**Photograph 10:** No. 40 Bower Street, as viewed from Bower Street



**Photograph 11:** No. 42 Bower Street, as viewed from Bower Street

## 3.0 THE PROPOSAL

This section will describe the following: Built Form and Land Use; Height; Gross Floor Area and Floor Space Ratio; Landscaping, Private Open Space and Balconies; Access and Parking.

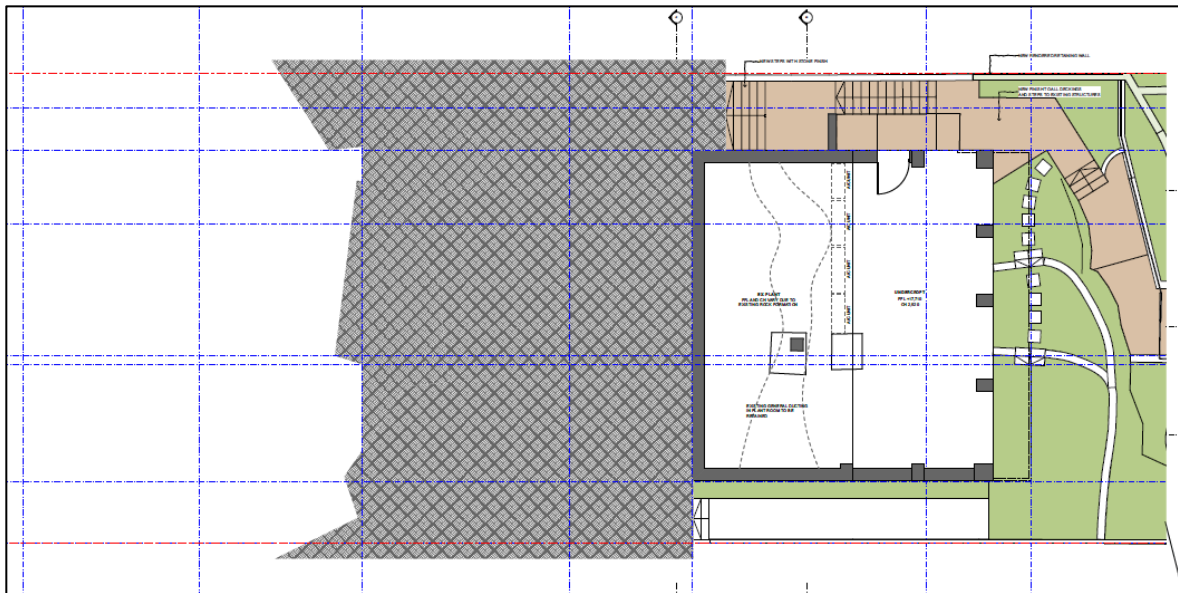
### 3.1 Built Form and Land Use

It is proposed to undertake alterations and additions to the existing building, including construction of an extension at the first floor level, internal reconfiguration, external changes to finishes, new roofing, new garage, spa and landscaping. The proposed works will accommodate three bedrooms and will have a gross floor area (GFA) of 363.06m<sup>2</sup>.

A floor by floor description is provided below. Further details of the proposed development are contained in the architectural drawings, separately submitted.

#### Basement Level

The Basement Level is predominantly at RL 17.710 AHD with varying level changes to the plant area, and is accessed externally via stairs. On this level it is proposed to retain the existing plant area which accommodates AC units; and demolish the existing masonry walls to the storage area and make good the flooring, so the space is converted to an undercroft area with direct connection to the rear garden. Existing structural elements and columns will be retained. Externally, new steps are proposed within the western side setback and rear garden (see **Figure 3**). Details of the location of the spa and associated joinery and landscaping are included in the Landscape Plans (separately submitted).



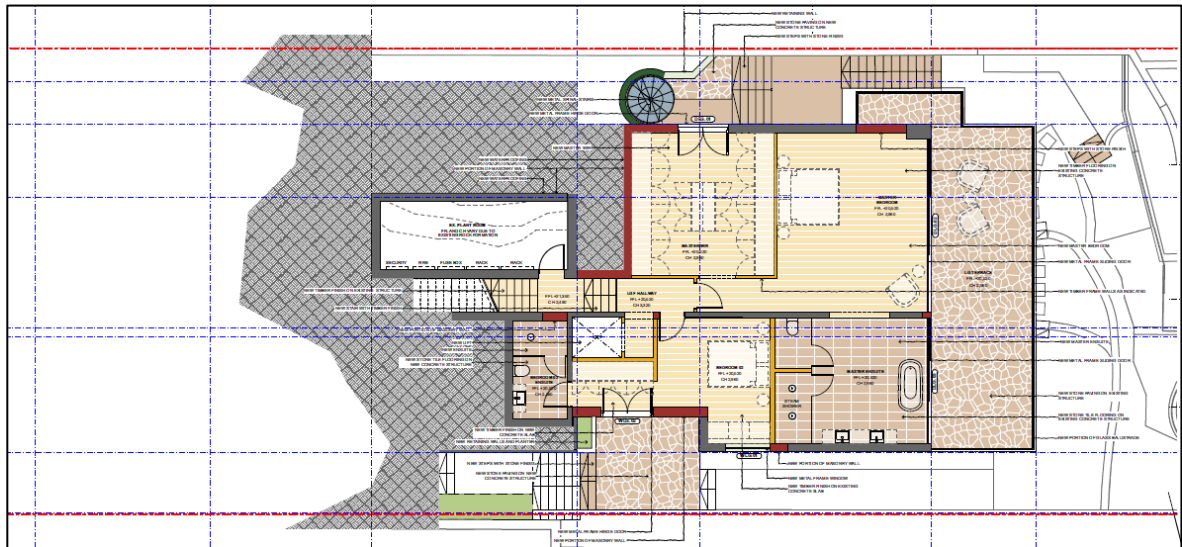
Source: Alexander & Co

**Figure 3: Basement Floor Plan**

#### Lower Ground Floor Level

The Lower Ground Floor Level is at RL 20.52 AHD to RL 21.35 AHD. Alterations and additions at this level include demolition works to make way for new masonry and timber frame walls, new windows and doors, waterproofing, and new floor finishes. The works at this level will accommodate the Master Bedroom with ensuite and walk in robe, Bedroom 2 with ensuite and robe, the existing plant room, and lift and staircase access to the upper levels. There is minor excavation proposed to portions of this floorplate to lower the finished floor level compared to existing.

External modifications include new stone paving on the existing rear terrace and side concrete structure, new portions of glass balustrade to the terrace, new steps to the side and rear setback, and a new metal spiral staircase and retaining wall along the eastern side boundary (see **Figure 4**).

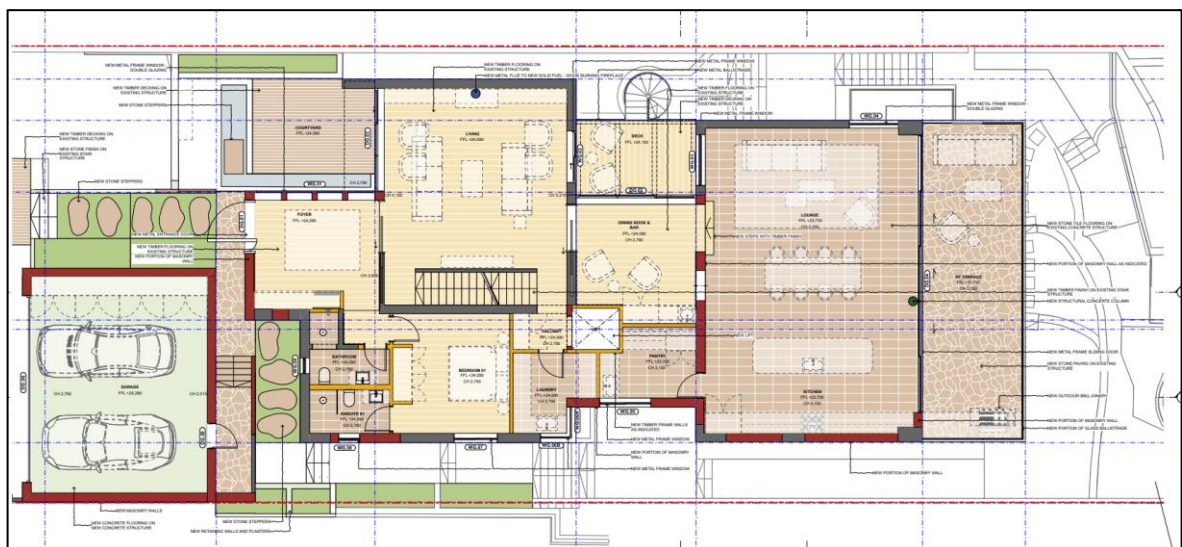


Source: Alexander & Co

**Figure 4: Lower Ground Floor Plan**

### Ground Floor Level

The Ground Floor Level is at RL 23.73 AHD to RL 24.09 AHD, with the garage at RL 25.28 AHD. Alterations and additions at this level include demolition works to make way for new masonry and timber frame walls, new windows and doors, a structural concrete column, and new floor finishes. The works at this level will accommodate the entry foyer, living room, Bedroom 1 with ensuite, bathroom, open plan lounge kitchen and dining area, dining nook and bar, laundry, pantry, and lift and staircase access to the upper and lower level. It is proposed to add a new metal flue to a new solid fuel (wood burning) fireplace in the living room. A new driveway and garage to replace the existing is also proposed, and will accommodate access and parking for two cars as well as storage. External modifications include new timber decking to the pedestrian street entry, front courtyard, and central deck; new stone steppers, stairs and pathways; and new stone paving on the existing terrace (see **Figure 5**).

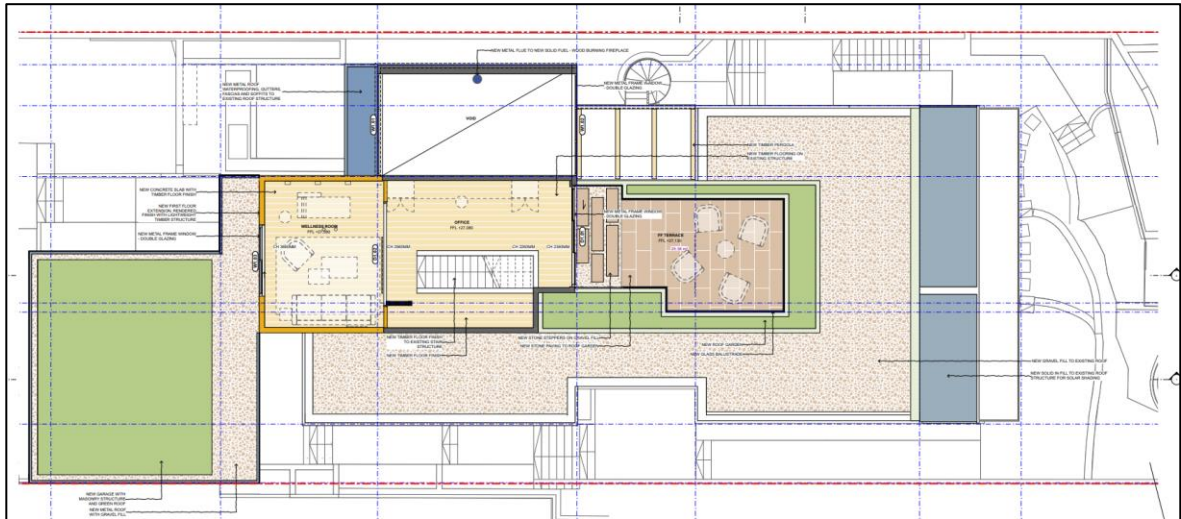


Source: Alexander & Co

**Figure 5: Ground Floor Plan**

### First Floor Level

The First Floor Level is at RL 27.08 AHD to RL 27.13 AHD. Internally, this level will retain the existing office space and stairs with new timber flooring, and includes a southern extension to accommodate a wellness room. The wellness room will include a rendered finish to a lightweight timber structure, a new concrete slab, and double glazed front window. External modifications to this level include refurbishment to the existing rear first floor terrace, with new stone paving and steppers, glass balustrade replacement, and roof garden. A timber pergola to the ground floor deck below is also proposed, as well as gravel fill to existing roof and new green roof on the proposed garage (see **Figure 6**).

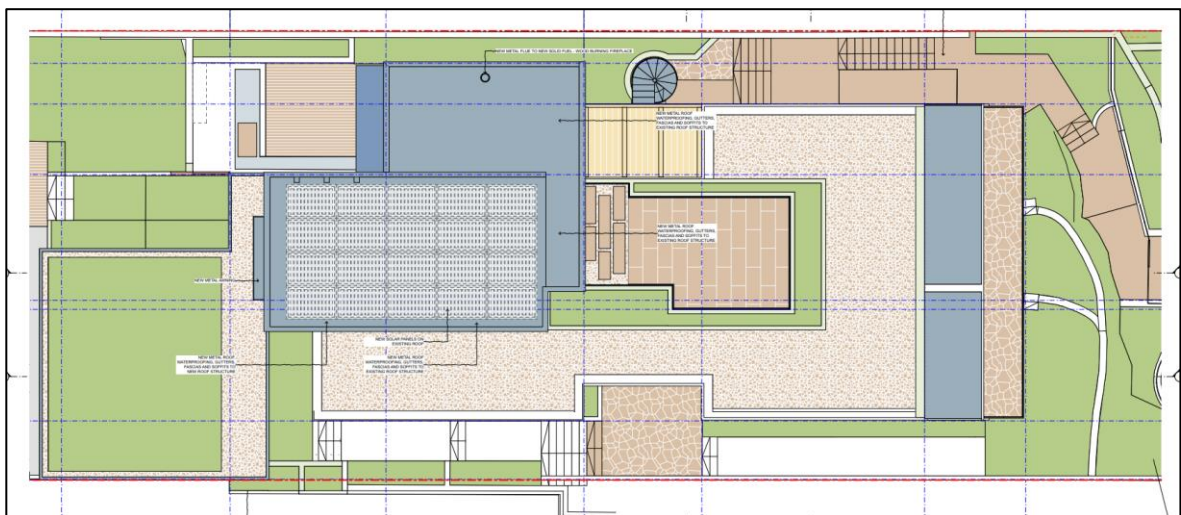


Source: Alexander & Co

**Figure 6: First Floor Plan**

### Roof Level

The Roof Level is at RL 29.76 AHD to RL 31.21 AHD. The proposal includes roof works to suit the extended first floor level below, with new metal roof, waterproofing, gutters, fascias and soffits to the roof existing and new roof structure (see **Figure 7**).

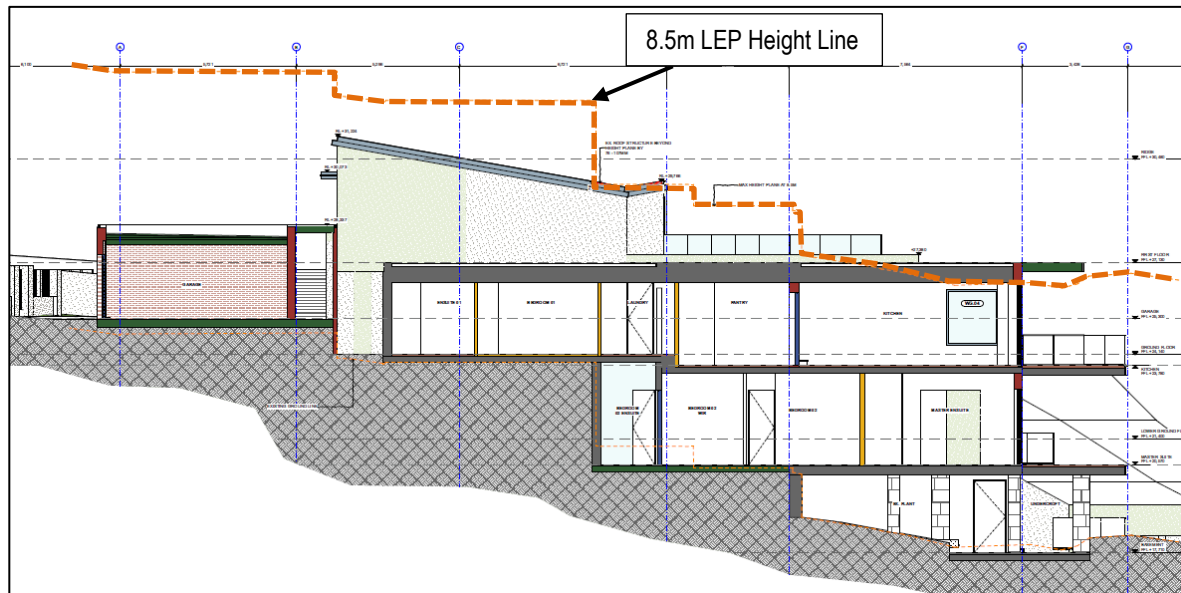


Source: Alexander & Co

**Figure 7: Roof Plan**

### 3.2 Height

The proposed alterations and additions will maintain the two to three storey height as existing. The proposed alterations and additions will have a building height that ranges from minimum 3.527 metres at the top of the garage, to a maximum of 9.866 metres at RL 27.13 AHD towards the rear of the site (same as existing). The proposal has a maximum RL 31.22 AHD at the front of the site, which remains well below the height standard (see **Figure 8**).



Source: Alexander & Co

**Figure 8: Proposed Height Shown in Section**

### 3.3 Gross Floor Area and Floor Space Ratio

The existing dwelling house has a Gross Floor Area (GFA) of 361.35m<sup>2</sup> with a Floor Space Ratio (FSR) of 0.438:1. The proposed alterations and additions to the existing house result in a GFA of 363.06m<sup>2</sup> with a FSR of 0.44:1. A summary of the uses on each floor and GFA is described below (see **Table 1**).

TABLE 1: DETAILS OF THE PROPOSAL		
Floor Level	Details by Level	Gross Floor Area
Basement (FFL 17.710 AHD)	Existing plant room and under croft area	N/A
Lower Ground Floor (FFL 20.52 AHD to FFL 21.25 AHD)	Master Bedroom with ensuite and walk in robe, Bedroom 2 with ensuite, existing plant room, and lift and stair access	110.33m <sup>2</sup>
Ground Floor (FFL 23.73 AHD to FFL 25.28 AHD)	Entry foyer, living room, Bedroom 1 with ensuite, bathroom, laundry, pantry, dining nook, lounge dining and kitchen area, lift and staircase access, and garage	203.30m <sup>2</sup>
First Floor (FFL 27.08 AHD to FFL 27.13 AHD)	Wellness room, office and staircase access	49.43m <sup>2</sup>
<b>TOTAL</b>	<b>1 dwelling and 2 car spaces</b>	<b>363.06 m<sup>2</sup></b>

Drawings prepared by Alexander and Co show the areas included in GFA calculations, and areas excluded by reason of the definition or as basement area (see **Figure 9**).





The proposed development will provide 556.40m<sup>2</sup> open space, which is 67.44% of the site. It is proposed to provide new stone paving on the existing terraces on the lower ground, ground and first floor levels. The terraces will be accessible from the Master Bedroom and ensuite, kitchen/lounge, and office via new metal frame sliding doors on their respective levels. The existing central deck and front courtyard at ground floor level are proposed to be refurbished, accessible via the living room sliding doors.

### **3.5 Access and Parking**

The site has pedestrian access from Bower Street, via an entry deck with gate, stairs, and stepping stones to the main entry door of the dwelling.

The proposal removes the existing driveway and garage to construct a new driveway and double garage with a green roof. The proposed garage will accommodate parking for two cars, and is accessible via the existing crossover and a new paved driveway adjoining Bower Street.

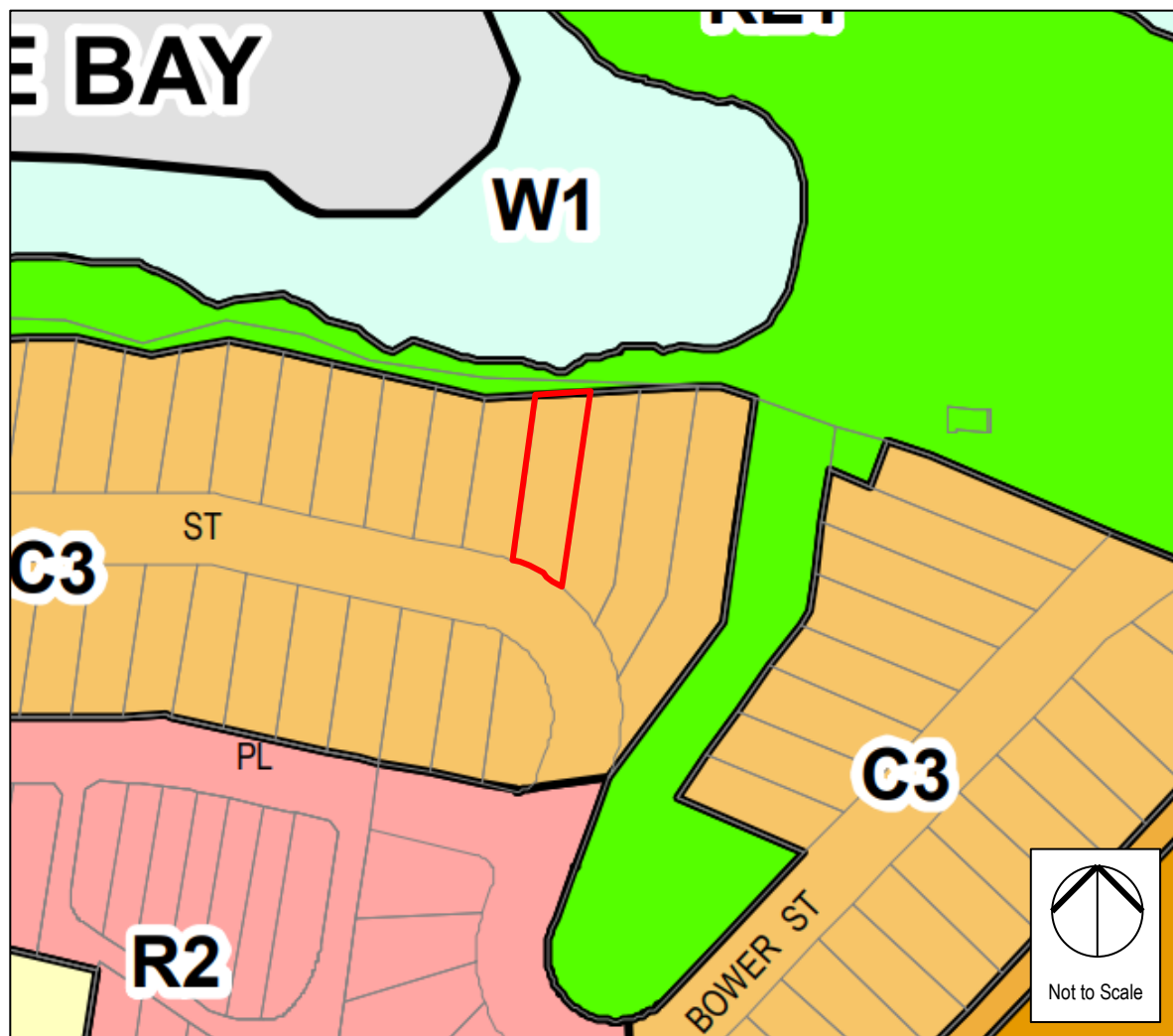
## 4.0 PLANNING CONTROLS

Pursuant to Section 4.15 of the EPA Act, this section assesses compliance with the planning instruments applicable to the site in accordance with the relevant matters for consideration. The relevant planning instruments include:

- Manly Local Environmental Plan (LEP) 2013;
- State Environmental Planning Policy (SEPP) BASIX – 2004;
- State Environmental Planning Policy (SEPP) – (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021;
- Manly Development Control Plan (DCP) 2013;

### 4.1 Manly Local Environmental Plan (LEP) 2013

The subject site is zoned C3 Environmental Management under the LEP, which commenced operation on 5 April 2013 (see **Figure 11**). The alterations and additions to an existing dwelling house is permissible with development consent. The site is not a heritage item, nor is it located within a heritage conservation area.



Source: Manly LEP 2013

**Figure 11: LEP Zoning Plan**

Subject Site

#### 4.1.1 Objectives

The LEP Land Use Table contains the objectives for the C3 Environmental Management Zone. The relevant objectives and our responses are as follows:

*Objective: To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*

**Response:** The proposal retains the low-impact residential character of the area, through the provisions of modest alterations and additions to the existing single residential dwelling. Given the continuing low density residential use and sensitive design, the proposal will maintain the ecological, scientific and cultural values of the locality, and enhance the aesthetic value of the site.

*Objective: To provide for a limited range of development that does not have an adverse effect on those values.*

**Response:** The proposed alterations and additions have carefully considered the unique values of the C3 Environmental Management Zone. The works retain the typical form of development in the locality, respecting the area's built and natural values. The development will not have adverse ecological impacts, by ensuring works are undertaken in accordance with the recommendations of the Geotechnical Report and runoff maintained in accordance with the Stormwater Plans (both separately submitted); and by maximising landscaping and infiltration on-site through the retention and provision of trees, lawns and garden areas. It will also enhance the aesthetic values of the site through contemporary alterations and additions which maintain a stepped and well-modulated built form; and uses materials, finishes and a colour palette which is compatible with the existing dwelling and the area's environmental character.

*Objective: To protect tree canopies for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*

**Response:** The site has a strong landscaped character at the rear, which includes terraced gardens with groundcover vegetation and trees, and dense vegetation. This landscaping ensures the built form does not dominate the natural scenic qualities of the foreshore. As the proposed works will not extend beyond the existing rear setback, with minor alterations to the rear landscaping including the addition of a small spa and joinery, the proposal will preserve the tree canopies near the foreshore.

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

**Response:** The proposed alterations and additions have considered the unique and sensitive natural environment of the site and surrounding area. The proposal will retain the landscaped setting to the rear with portions of semi-open fencing, which will preserve nearby geological and bushland features including wildlife corridors.

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

**Response:** As indicated, the proposal preserves native vegetation at the rear of the site which assists in filtering pollutants, along with the stabilisation of soil. Importantly, stormwater runoff will be managed in accordance with the Stormwater Management Plan, which is designed to maintain the ecological characteristics of the locality.

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

**Response:** The proposal will facilitate contemporary alterations and additions to the dwelling house on the site, which maintains a low-density use. The proposal is compatible with surrounding development along Bower Street and complies with the majority of the key development standards and controls prescribed in the LEP and DCP. It will maintain a stepped built form which responds to the challenging topography, preserves the landscaped character and will not adversely affect the amenity of surrounding development.

Accordingly, in our opinion, the proposal satisfies the relevant objectives of the LEP.

#### 4.1.2 LEP Compliance

A summary of our assessment of the proposed development against the LEP is following (see **Table 2**).

TABLE 2: PROJECT COMPLIANCE – MANLY LEP 2013			
Site Area: 825.30m <sup>2</sup>			
Development Standard	Requirement	Proposal	Complies
Building Height (Max)	8.5m	Maximum 9.866m	Appropriate on Merit (see Section 4.1.3)
Floor Space Ratio (Max)	0.45:1	0.44:1	YES
LEP Provisions			Complies / Comments
Permissibility		C3 Environmental Management	Proposal is permissible within the zone
Heritage Item		NO	N/A
Conservation Area			
Terrestrial Biodiversity (Clause 6.5)		YES	YES (see Section 4.1.4)
Landslide Risk (Clause 6.8)		YES	YES (see Section 4.1.5)
Foreshore Scenic Protection Area (Clause 6.9)		YES	YES (see Section 4.1.6)
Development Below the MHWL (Clause 5.7)		N/A	Site not below MHWL
Limited Development on Foreshore Area (Clause 6.10)		N/A	No works below Foreshore Building Line

The proposal satisfies the relevant objectives of the LEP, is permissible in the Zone and complies with the FSR development standard contained in the LEP. The proposal exceeds the development standard relating to building height. This will be discussed in the following paragraph and in an Application to Vary a Development Standard (Clause 4.6 Variation) which is separately submitted.

#### 4.1.3 Building Height

The LEP height provisions are contained in Clause 4.3 and the accompanying height map. Council's LEP prescribes a maximum height of 8.5m for the building, with the existing roof and terraces proposed to be replaced or refurbished exceeding this development standard by 1.366m (16.07%).

An Application to Vary a Development Standard (Clause 4.6 Variation) has been submitted for the Height non-compliance which, in our opinion, is well founded. The key arguments contained in the Clause 4.6 Application are stated, inter alia:

- The proposal will facilitate a built form that is compatible in height and scale with nearby and future development;
- The areas of non-compliance will not be readily discernible when viewed in the streetscape; and
- The height non-compliance is a result of the existing built form to which alterations and additions are proposed.

#### 4.1.4 Terrestrial Biodiversity

As per clause 6.5(2), the land is identified as 'Biodiversity' on Council's Terrestrial Biodiversity Map. Pursuant to clause 6.5(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 avoid that impact, or*
- (c) *if that impact cannot be minimised – the development will be managed to mitigate that impact.*

The proposed works are predominantly contained within the existing building envelope and largely retain or enhance the existing landscaping across the site. The sympathetic design will maintain ample soft landscaped areas with a mix of native plant species, and will also maintain portions of existing semi-open metal fences along the side boundaries within the rear setback. This will assist in providing landscaped area and through site access for the endangered local Long-nosed Bandicoot population for foraging, nesting and resting.

The preservation of generous landscaping; retention of trees on-site; and addition of new vegetation suitable to the site and surrounding environment ensures that the alterations and additions will maintain environmental amenity.

#### 4.1.5 Development on sloping land (Landslide Risk)

As per clause 6.8(2), the land is identified as 'Landslide risk' on Council's Landslide Risk Map. Pursuant to clause 6.8(4), development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development will appropriately manage wastewater, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and that –

- (a) *The development is designed, site and will be managed to avoid any landslide risk or significant adverse impact on the development and land surrounding the development, 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 risk or impact, or*
- (c) *if that impact cannot be minimised – the development will be managed to mitigate that risk or impact.*

The landslip risk has been assessed by AssetGeoEnviro in a Geotechnical Investigation, as the site is identified in Council's Landslip Risk area. The consultant report provides the following observations and recommendations, inter alia:

*Where development does take into consideration the possible failure mechanisms and adopts the good engineering practice for hillside development, it is envisaged that the outcome of such a development would be a **Low** risk assessed with respect to property and the risk with respect to life would be **Acceptable**. Further geotechnical input is considered essential to ensure that these risk outcomes are achieved.*

*The existing boundary stone landscaping retaining walls distributed throughout the northern part of the site are assessed to be non-engineered walls. The existing condition of the walls show some deterioration with mortar between sandstone blocks flaking off. Further, no weep holes were observed within the wall and drainage condition behind the wall is unknown. We have assessed the likelihood of those sandstone as "Possible". However, the risk to property is assessed as "Acceptable" given the distance from the existing dwelling. In terms of the risk to life, since the access to the rear yard is limited to few people leading to low vulnerability and the potential impact of the small retaining (<1m height) is minimal, the risk to life is assessed as "Acceptable" (see Table B). Notwithstanding, we recommend installation of weep holes*

*on sandstone walls to control the seepage and to improve the existing condition of stone retaining wall with respect to potential toppling.*

*The development should be carried out in accordance with good engineering practice that is described in the attached GeoGuides, and in accordance with the general recommendations in the following sections.*

Therefore, the proposal is classified as low risk and acceptable. Further details can be found in the Geotechnical Investigation (separately submitted).

#### **4.1.6 Foreshore Scenic Protection Area**

The site is in a foreshore area under the Manly LEP. Clause 6.9(1) of the LEP contains the objective of the foreshore area which 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'. Clause 6.9(2) states:

- (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.*
- (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 potent for conflict between land-based and water-based coastal activities.*

The proposal maintains the visual amenity of the coastal foreshore at Shelly Beach. Given the existing built form and vegetation, and the site slope, there do not appear to be significant views from a public place to the foreshore that would be impacted by the extent of works. The chosen materials and design of the proposed alterations and additions will provide a contemporary built form that enhances the scenic qualities of the locality. Through maintaining the dense vegetation at the rear of the site, and thoughtfully incorporating a variety of landscaping features at the front and side setbacks and surrounding the proposed spa area, the built form will not dominate the landscape when viewed from the foreshore and Marine Parade.

## **4.2 State Environmental Planning Policy (SEPP) BASIX – 2004**

SEPP (Building Sustainability Index: BASIX) 2004 was gazetted on 26 June 2004, and applies to the subject site. SEPP BASIX requires all alterations and additions in NSW to meet sustainability targets for energy and water use. In considering the merits of the proposal, it is appropriate to refer to the sustainability targets of the SEPP.

A BASIX Report prepared for the proposed development (separately submitted) shows the proposed alterations and additions can satisfy the relevant water and energy reducing targets.

## **4.3 State Environmental Planning Policy (SEPP) – (Biodiversity and Conservation) 2021**

SEPP (Biodiversity and Conservation) 2021 was gazetted on 1 March 2022 and applies to the site. The provisions relating to Regulated Catchments are further discussed below.

### **4.3.1 Development in Regulated Catchments**

The provisions of Chapter 6.2 of SEPP (Biodiversity and Conservation) 2021 apply to the subject site, which is identified as being within a regulated catchment (Sydney Harbour Catchment area).

In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management.

The proposal has been designed, sited and will be managed to avoid any adverse effects on the following:

- Waterways, natural waterbodies, water table, ground water and environmental impacts on the Sydney Harbour Catchment;
- Terrestrial, aquatic or migratory animals or vegetation, aquatic reserves and wetlands;
- Erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody;
- Water quality of a natural waterbody if flooding were to occur;
- Natural recession of floodwaters into wetlands or other riverine ecosystems;
- Recreational land uses or public access to and around foreshores; and
- The Sydney Harbour Catchment area overall.

The proposal is also considered to satisfy the provisions of Chapter 6.2 by implementing the proposed Stormwater Management Plan.

Clause 6.28 requires the consent authority to consider whether development consent should be granted to development in Foreshores and Waterways Area as follows, inter alia:

*(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.*

With regard to Clause 6.28 the modification proposal for alterations and additions has been designed, sited and will be managed to minimise or mitigate any adverse effects on the unique visual qualities foreshore area by proposing a similar built form and massing to the existing dwelling, maintaining existing trees (with the exception of removing one exempt tree), and by providing improvements to landscaping across the subject site.

#### **4.3.2 Sydney Harbour Foreshores Regional Environmental Plan and Waterways Area DCP 2005**

We note that Council's Coastal Assessment Report requirements call for consideration of the Sydney Harbour Foreshores Regional Environmental Plan and Waterways Area DCP 2005. This DCP acted in conjunction with the SREP (Sydney Harbour Catchment) 2005, which has since been consolidated into SEPP (Biodiversity and Conservation) 2021. As the subject SREP has been repealed and this DCP is not referred to in the new SEPP, it is less applicable.

#### **4.4 State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021**

SEPP (Resilience and Hazards) 2021 came into effect on 1 March 2022 and consolidated the previous Coastal Management, Remediation of Land and Hazardous and Offensive Development SEPPs as Chapters 2, 3 and 4 within the new SEPP. The coastal management and remediation of land provisions are relevant in this instance.

##### **4.4.1 Coastal Management**

Clause 2.10 requires the consent authority to consider whether the proposal is likely to cause an adverse effect within the coastal environment area; however as the site is land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, this clause does not apply.

Similarly, Clause 2.11 requires the consent authority to consider whether the proposal is likely to cause an adverse effect within the coastal use area; however as the site is land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, this clause does not apply.

Finally, Clause 2.12 applies to development within the coastal zone, generally. 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 alterations and additions are not considered likely to increase risk of coastal hazards on the subject site or other land.

##### **4.4.2 Remediation of Land**

Section 4.6(1) requires the consent authority to consider whether land is contaminated prior to the consent of development on that land.

The owners have advised that as the long term use of the site has been residential, the site is unlikely to be contaminated. On this basis, further investigation is not considered necessary.

#### **4.5 Manly Development Control Plan (DCP) 2013**

The DCP came into force on 19 April 2023 and applies to the site and the proposed development.

##### **4.5.1 DCP Compliance**

A summary of our assessment of the proposed development against the DCP is following (see **Table 3** on the following page).

**TABLE 3: PROJECT COMPLIANCE - MANLY DCP 2013**

Provision	Requirement	Proposal	Complies
<b>Part 4.1: Residential Development Controls</b>			
Front Setbacks	Relate to the front setback of neighbouring properties and the prevailing building lines.	Minor reduction in front setback distance of garage, but existing minimum front setback to the main dwelling is retained. Proposal continues to relate to the building line of adjacent dwelling at No. 40 Bower Street and dwellings further west.	YES
	Where the street front building lines of neighbouring properties is varied, a min. 6m front setback generally applies.	Principal dwelling remains setback >6m from front boundary.	YES
Side Setbacks	Side setback min. 1/3 of the adjacent external wall height. <b>East:</b> 2.00m – 2.80m <b>West:</b> 1.617m – 2.310m	Side setbacks are retained as existing – no reduction to existing. Garage reconstructed on boundary as existing.	As Existing
	All new windows are to be min. 3m from side boundaries.	New windows replace existing within 3m of side boundaries.	As Existing
Rear Setbacks	Min. 8m.	>8m.	YES
Wall Height	Max. wall height 8m	Max. wall height 9.866m. Area of new extension at first floor level complies. Other areas of wall height non-compliance retained as existing, with some new works to walls and roof areas.	Appropriate on Merit (see Section 4.5.2)
	Buildings must not exceed 2 storeys	Proposed works do not increase the existing number of storeys on site. The new first floor addition facilitates a 2 storey built form at that portion of the site.	As existing
Open Space	<b>Open Space Area:</b> 453.75m <sup>2</sup> (min. 55% of site area)	<b>Open Space Area:</b> 556.40m <sup>2</sup> (67.44%)	YES
	<b>Above Ground Open Space:</b> 139.1m <sup>2</sup> (Max. 25% of total open space)	<b>Above Ground Open Space:</b> 102.7m <sup>2</sup>	YES
	Min. dimension of 3m and area of 12m <sup>2</sup>	Open space areas min 3m with areas of 12m <sup>2</sup> result in compliant open space area.	YES
Landscaped Area	<b>Landscaped Area:</b> 194.74m <sup>2</sup> (min. 35% of open space)	<b>Landscaped Area:</b> 273.23m <sup>2</sup> (49.10%)	YES
	Min. 3 native trees (site area between 500-800m <sup>2</sup> )	>3 native trees proposed or will be retained	YES
	Driveway setback 0.5m from side boundary for landscaped area	No side setback proposed to garage, as existing.	As Existing
Private Open Space (POS)	Min. 18m <sup>2</sup>	>18m <sup>2</sup>	YES
Parking Design and the Location of Garages	The design and location of garages must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired future character.	The garage structure is consistent in the streetscape with many nearby dwellings having double garage structures at the front boundary addressing Bower Street.	YES
	Garage structures forward of the building line must be designed and sited as not to dominate the street frontage.	The proposed double garage is predominantly contained within the existing garage footprint. Proposed landscaping in the front setback as well as the garage green roof minimises dominance of the garage.	YES

	The max. width of a garage is 6.2m.	7.7m wide garage proposed	Appropriate on Merit (see Section 4.5.3)
Vehicular Access	All vehicles should enter and leave in a forward direction.	Vehicles able to utilise the proposed adjoining hardstand area to turn and exit the site in a forward direction	YES
	Separate pedestrian entries and vehicular crossings for safety.	Pedestrian and vehicular entry separate	YES
First Floor and Roof Additions	FF additions must complement the architectural style of the GF and where possible retain roof forms. May follow GF wall setbacks, provided there is no adverse overshadowing, view loss or privacy issues.	The addition at the front portion of the first floor complements the architectural style of the existing dwelling and other proposed alterations. The roof extension is consistent with the existing slanting roof form and utilises sympathetic materials. Walls inset from the lower levels to minimise overshadowing and potential view loss, with no windows to side elevations to maintain privacy.	YES
	The dwelling and the form of alterations and additions must retain the existing scale and character of the street and should not degrade the amenity of surrounding residences or aesthetic qualities of the former Manly Council area.	The alterations and additions do not add unacceptable bulk to the built form, noting the first floor extension aligns with the front building line below and remains compliant with the LEP height standard. The proposal retains the existing two storey scale and character of the street.	YES
Development on Sloping Sites	The design of development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.	The design is sensitive to the sloping topography of the site and maintains public and private views.	YES
Fencing	Freestanding walls and fences between the front street boundary and the building are to be no more than 1m high above ground level at any point.	Proposal will replace existing metal battens with new timber battens, noting the rendered component of the front wall is to be retained. The proposed vertical battens do not exceed the height of the rendered structure.	As existing
<b>Part 3: General Principles of Development</b>			
Landscape Character	In low density areas open space should dominate the site. Setbacks of buildings from open space should also be maximised to enable open space to dominate buildings, especially when viewed to and from the Ocean and the foreshore.	Open space and landscaping continue to dominate the subject site. The design of the proposal maximises open space within all setbacks of the site, and enhances front gardens whilst including a green roof to the garage. Retained dense landscaping at the rear will continue to dominate the site.	YES
	In areas of habitat for the long-nosed bandicoot, landscape design must include native plant species to provide new and/or improved low dense clumping habitat to provide for potential foraging and nesting.	Proposal retains existing vegetation at the rear with some new native shrubs. New native species and low dense clumping plants are included in the front and side garden areas.	YES
Planting Criteria	Landscaped areas must be capable of support new native tree species that are typically expected to reach a mature height of 10m.	Landscaped areas will continue to support existing and new native tree species with mature heights of 10m.	YES
Preservation of Trees	Development sited and designed to minimise the impact on remnant native vegetation.	Minimal impact to native vegetation through retaining existing dwelling footprint.	YES

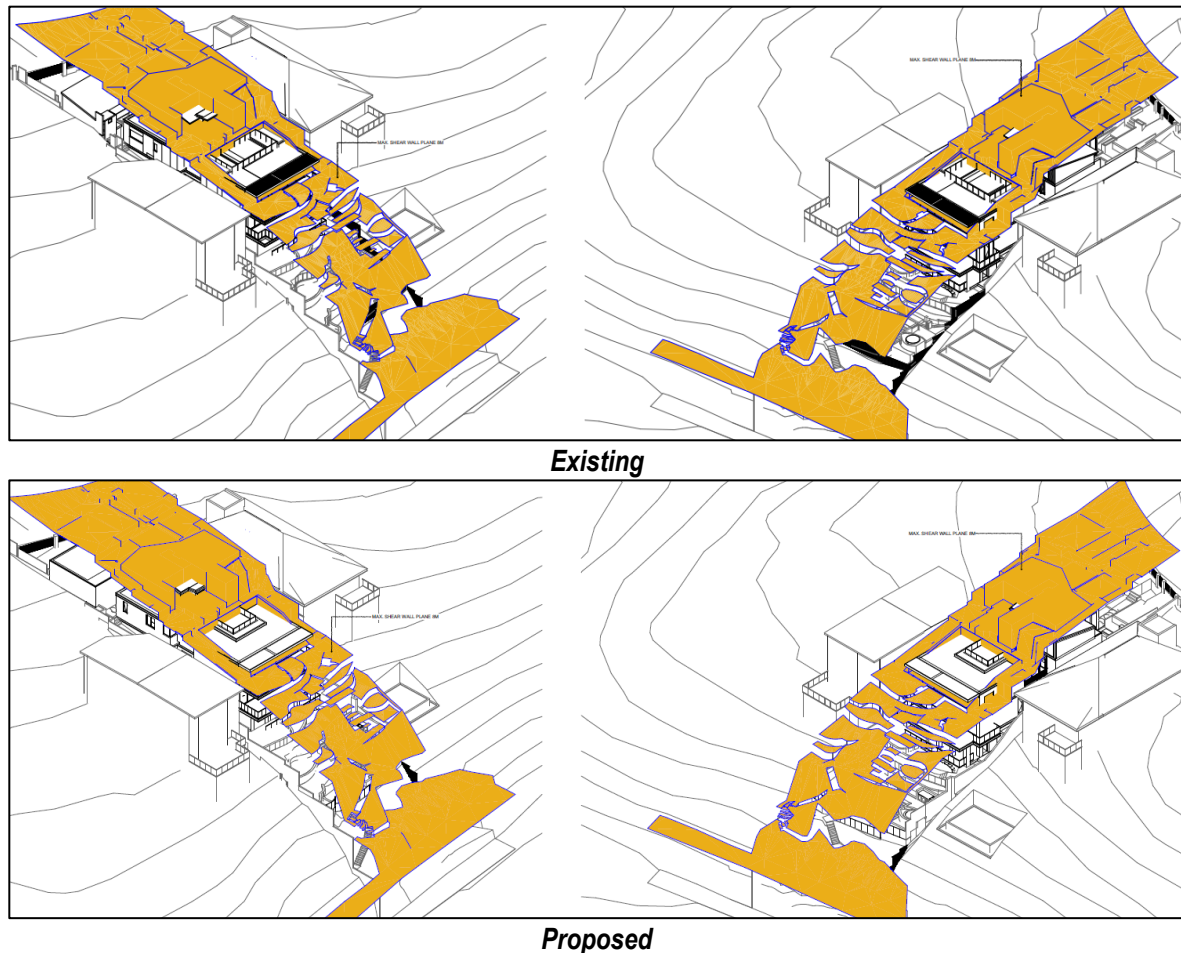
	Development must avoid any impact on trees on public land.	No impact on trees on public land resulting from proposed alterations and additions.	YES
Amenity	Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private viewpoints.	The bulk and design of alterations and additions do not detract from the streetscape value of the area, or the scenic amenity when viewed from the rear.	YES
	The use of materials 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.	Non-reflective roofs proposed. Reflective exterior finishes and materials on vertical surfaces are minimised to maintain neighbours' amenity.	YES
Sunlight Access and Overshadowing	New development (including alterations and additions) must not eliminate more than 1/3 of the existing sunlight accessing the POS of adjacent properties from 9am to 3pm at the winter solstice (21 June).	Proposal has been sympathetically designed to retain over 1/3 of existing sunlight to POS of adjacent properties between 9am-3pm.	YES
	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 min. 4 hours from 9am to 3pm on the winter solstice (21 June)	No additional impact to windows/glazed doors of neighbouring living rooms compared to existing.	YES
	For all adjacent buildings no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours above.	No additional impact to neighbouring windows.	YES
	A minimum of 6 hours solar access to be retained to suitable clothes drying area.	Proposal will not impact solar access to clothes drying areas.	YES
Privacy and Security	Use narrow, translucent or obscured glass windows to maximise privacy where necessary.	New windows to side elevations are offset from neighbouring windows to maximise privacy.	YES
	When building is close to boundaries, windows must be off-set from those in adjacent buildings.		
	Architectural or landscape screens must be provided to balconies and terraces to limit overlooking to nearby properties. Architectural screens must be fixed in position and suitably angled to protect visual privacy.	Balconies and terraces include glass balustrade to match the existing balustrading.	YES
	Recessed design of balconies and terraces can also be used to limit overlooking and maintain privacy.	Rear balcony sizes and setbacks retained. First floor terrace has increased setbacks to enhance privacy.	YES
	Consideration must be given to the protection of acoustical privacy in the design and management of development.	Design maintains acoustic privacy for residents and neighbours. Proposed spa is positioned adjacent to neighbour's POS, to limit acoustic impacts to neighbouring living areas.	YES
Maintenance of Views	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 public spaces.	The mature street tree in front of the existing first floor level obscures north-facing views from footpaths and neighbouring development on the southern side of Bower Street. The first floor extension, which remains below the LEP height, therefore minimises loss of views.	YES

	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.	Zero setback to garage will not obscure views between building given it replaces the existing garage which is also built to the boundary.	YES
<b>Part 5: Environmentally Sensitive Lands</b>			
Foreshore Scenic Protection Area	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.	i) The proposal retains the dense landscaping and tree canopy at the rear of the site, and includes new landscaping to minimise the contrast between built and natural environment. ii) The natural environment remains the dominant site feature. iii) Tree canopies, street trees and wildlife corridors/habitats retained. iv) N/A v) Rooflines generally remain below the tree canopy. vi) The proposed built form will remain similar in appearance to existing when viewed from the harbour and surrounding areas. vii) Neutral materials and finishes incorporated into the alterations and additions.	YES
	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.	No changes to existing rear setback.	YES
<b>Schedule 3 – Part A1 – Parking Rates and Requirements for Vehicles</b>			
Dwelling Houses	2 spaces per dwelling	2 car parking spaces provided.	YES

The proposal satisfies the relevant objectives of the DCP and complies with the majority of controls contained in Council's DCP. The proposal exceeds Council's controls relating to wall height and garage width which will be discussed below. The proposal complies with the DCP provisions for aural and visual privacy; solar access; and views; and these will be discussed more thoroughly in Section 5.3.

#### 4.5.2 Wall Height

The DCP prescribes a maximum wall height of 8.0m to the subject site. The proposal retains the existing wall heights to majority of the dwelling, with new façade works resulting in minor technical areas of non-compliance. Important to note is the first floor wellness room extension complies with the 8m control, having a maximum wall height of 6.7m (see **Figure 12** on the following page). As demonstrated below, the proposal has wall heights that are generally consistent with existing breaches, and considered reasonable to accommodate the proposed alterations and additions



Source: Alexander & Co.

**Figure 12: Existing & Proposed Built Form with 8m DCP Wall Height Plane Overlayed**

The proposal's mix of slanting and flat roof forms and the retention of a stepped design has utilised the existing topography of the site, which has a significant fall from front to the rear. Despite the areas above the wall height control, the proposal will maintain generous levels of amenity to neighbouring development. There are no new windows in the areas above the wall height control plane, ensuring visual privacy to neighbours is retained. Similarly, additional overshadowing is minimised (discussed further in Section 5.3.2 of this report), with the proposal providing compliant levels of solar access to neighbouring windows and primary private open space areas. Lastly, given the areas of additional wall height are positioned away from the first floor extension at the front of the dwelling, coupled with an existing mature street tree obstructing views across the site from neighbours on the opposite side of Bower Street, the areas of additional wall height are not anticipated to impact on water views from surrounding dwellings.

The wall height non-compliance will not be obtrusive in the street, given the breaching areas are located towards the centre and rear of the dwelling which retains generous side setbacks, and the front facade remains below the LEP height of buildings standard. This will minimise the bulk and scale when viewed from the street, and given its distance from Shelly Beach the non-compliances will not be readily visible.

In our opinion, the proposed departure from the numerical wall height control is appropriate in this circumstance, and the objectives for height under the LEP have been achieved by the proposal (also refer to Clause 4.6 Variation for Building Height, separately submitted).

### 4.5.3 Garage Width

The DCP prescribes a maximum garage width of 50% of the frontage, up to 6.2m wide. The proposed garage is 7.7m wide which results in a 1.5m departure from this control. However, the additional width allows for enhanced storage within the garage space, and the garage door itself is approximately 6.2m in width which takes cues from the numeric control.

Despite the departure from this control, the proposal will achieve the relevant objectives for parking and vehicular access which are as follows:

*Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).*

**Response:** The proposed garage will provide accessible and adequate parking on site relative to the dwelling.

*Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.*

**Response:** The proposed garage will provide a compliant 2 car parking spaces, which will minimise pressure for on-street parking.

*Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.*

**Response:** The proposal will retain the existing crossover and re-surface the driveway, with the wide driveway entry allowing for appropriate sightlines to the footpath. This ensures pedestrian safety is retained. The garage structure remains integrated with the dwelling, through providing covered access from the rear garage door to the dwelling entry, and using sympathetic materials that blend with the dwelling design. A new green roof above the proposed garage will ensure that the structure blends with the landscape character of the front setback and streetscape.

*Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.*

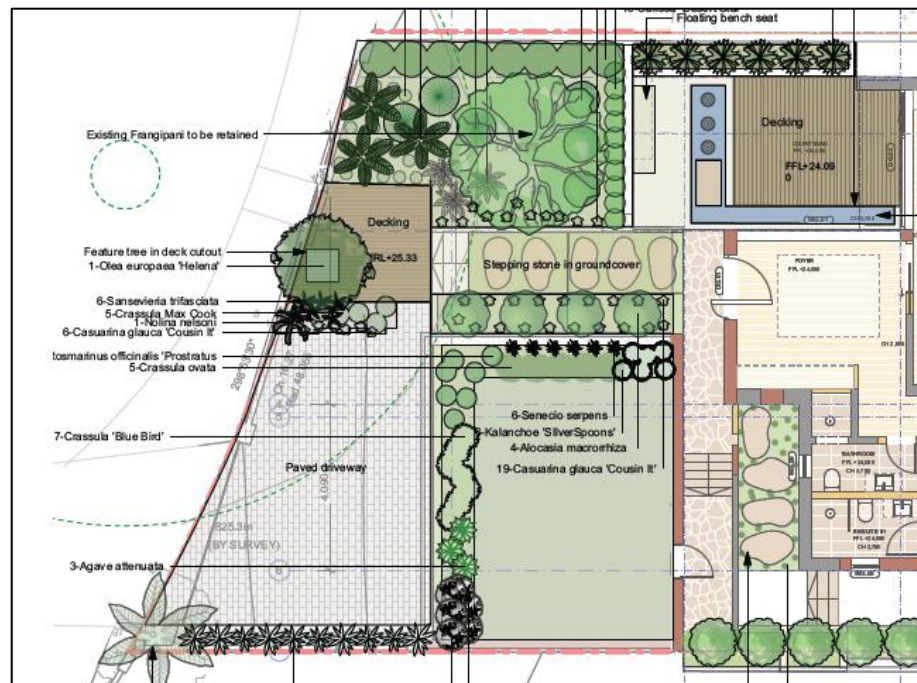
**Response:** The parking spaces within the reconstructed garage only requires minimal excavation to remove the existing slab and replace with a new concrete slab with a raised finished floor level. No excessive excavation for a basement parking area is proposed.

*Objective 5) To ensure the width and number of footpath crossings is minimised.*

**Response:** Only one footpath crossing is proposed, as existing.

*Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.*

**Response:** The access and garage has been well-integrated with the landscaped front setback, and minimises impervious surfaces. The proposed green roof to the garage ensures that the appearance of this built form element is softened when viewed from the street (see **Figure 13** on the following page).



Source: Edwina Stuart Landscape Design

**Figure 13:** Proposed Front Setback and Garage Roof Landscaping

**Objective 7)** *To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.*

**Response:** N/A – site not within a centre.

Accordingly, in our opinion, the proposed garage width is appropriate for the site and locality, and has been well-integrated within the front setback.

## 5.0 PLANNING ASSESSMENT

This section will consider the following: The Assessment of the Natural Environmental Impact; the Built Environment Impacts; the Site Suitability and the Public Interest in accordance with Section 4.15 of the EPA Act.

### 5.1 Assessment of Natural Environmental Impacts

This section will assess the topographic and scenic impacts as well as the water and air quality impacts of the proposed development.

#### 5.1.1 Topography & Scenic Impacts

Excavation will be undertaken in accordance with Council's standard conditions of consent and the Geotechnical Report, prepared by AssetGeoEnviro (separately submitted). The recommendations pertain to vibration management, subgrade preparation, filling, batter slopes, footings, groundwater control, and excavation support. The proposed extent of excavation is relatively minor.

The proposal will retain existing trees on site, with the exception of a Yucca tree in the rear yard. This tree removal is supported in the Arboricultural Impact Appraisal and Method Statement, prepared by EziGrow (separately submitted). The Arborist's report provides the following recommendation:

*The proposed development will necessitate the removal of one tree (Tree 8) of low retention value. This tree is not considered significant or worthy of special measures to ensure its preservation. It should also be noted that this tree (Tree 8) and Trees 1, 2, 5, 6, 7, 9, 10, 11, and 12 are exempt from Northern Beaches Council's Tree Preservation Order.*

All new landscaping has been addressed in the Landscape Plans, prepared by Edwina Stuart Landscape Design (separately submitted). The proposed landscaping includes various native species which will retain or improve the scenic amenity and biodiversity of the site and locality.

#### 5.1.2 Water & Air Quality Impacts

With implementation of the proposed Stormwater Management Plan, the proposed development is unlikely to result in any adverse effects on the locality in terms of water and air quality. Stormwater and runoff will be managed in accordance with the Stormwater Engineer's recommendations and any Council conditions of consent.

### 5.2 Assessment of Built Environmental Impacts: Character and Context

This section will address the effects of the proposed development on the character and context of the area.

#### 5.2.1 Impact on the Area's Character

The surrounding area has a steep fall from street level at Bower Street to Marine Parade and Shelly Beach at the rear. The area is characterised by a mix of predominantly two to three-storey dwellings that respond to the sloping topography of the locality. The subject site is no exception with a steep drop towards the foreshore area.



spiral stair adjoining the central deck is positioned adjacent to frosted windows to the neighbour, therefore no sightlines to these neighbouring rooms are anticipated. The first floor terrace has been reconfigured and includes a perimeter landscape planter with generous setbacks to the side boundaries, which will enhance privacy to neighbours.

The proposed spa at the rear has been thoughtfully positioned at a lower elevation to the neighbouring swimming pool. This ensures there are no downward views from the spa to the neighbour's pool area. The new joinery accommodating an outdoor bar adjacent to the proposed spa includes an adjoining solid wall, to ensure that when standing, sightlines to the neighbouring pool are obscured.

Given the continuing residential use, and the location of the spa away from neighbouring windows, it is unlikely that there would be significant additional noise generation associated with the proposal.

### 5.3.2 Solar Access

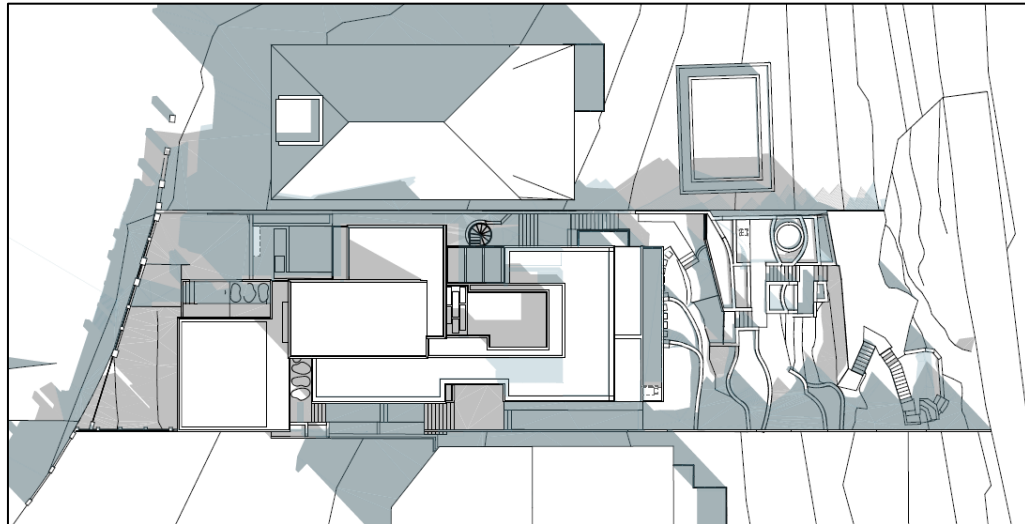
To assess the effect of the proposed development in terms of solar access, shadow diagrams have been prepared for 9:00 am, 12 noon and 3:00 pm for the winter solstice (June 21). These diagrams indicate that the proposed development will retain compliant levels of solar access to neighbouring dwellings (see **Figure 15** on the following page).

At **9:00am**, the proposed additional shadow falls largely within the subject site, with minor overshadowing to the rear private open space and pool area and negligible overshadowing to the front setback of No. 40 Bower Street. There are also some areas of reduced shadows to the front setback and roof of this dwelling. There is minor overshadowing to the footpath and carriageway along Bower Street, and no additional impact to No. 36 Bower Street.

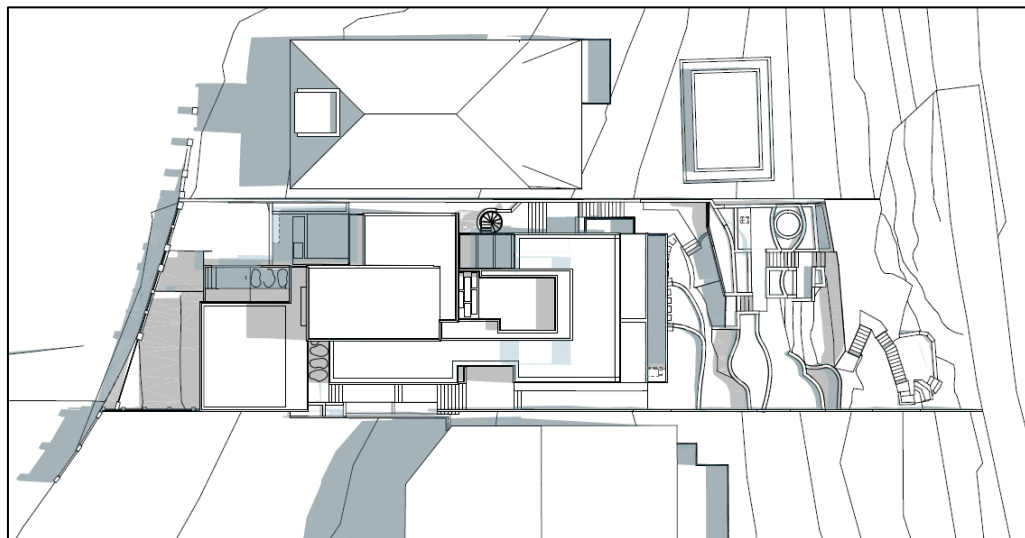
At **12noon**, the proposed additional shadow again falls largely within the subject site, with a very negligible portion of overshadowing to the front setback (adjacent to the side boundary) of No. 36 Bower Street. There is also negligible overshadowing to the footpath along Bower Street. There is no impact to No. 40 Bower Street.

At **3:00pm**, the proposed additional shadow again falls largely within the subject site, with a minor portion of overshadowing to the hardstand area within the front setback and part of the rear setback of No. 36 Bower Street. There are also some areas of reduced shadows to the front and rear setback of this dwelling. There is no additional loss of solar access to No. 40 Bower Street or the footpath and carriageway along Bower Street as a result of the proposal.

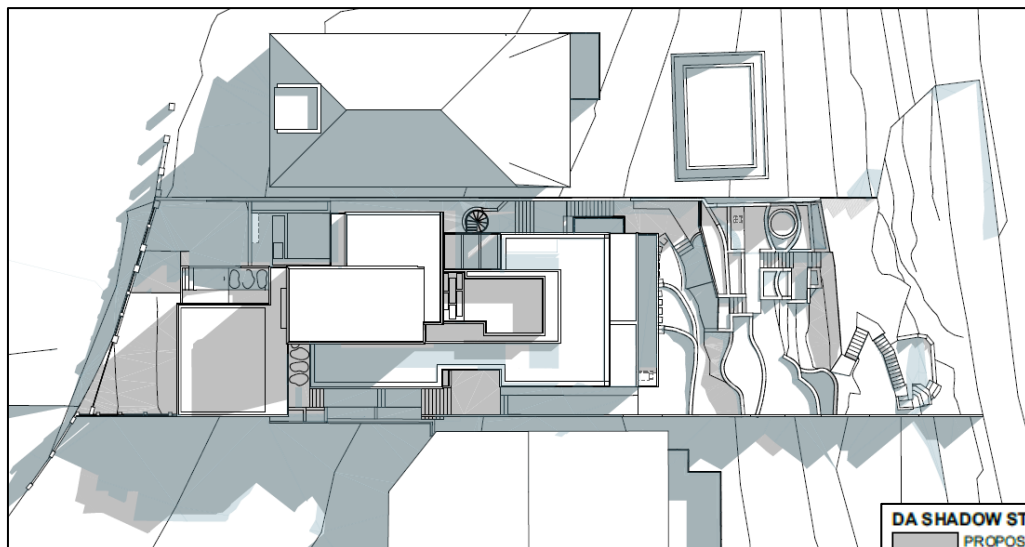
Accordingly, in our opinion, the sympathetic proposal retains compliant levels of solar access to neighbouring windows and primary rear private open space.



**9:00am**






**12noon**



**3:00pm**

Source: Alexander & Co.

**Figure 15: Proposed Shadow Diagrams, 21 June**

DA SHADOW STUDY	
	PROPOSED SHADOW
	EXISTING SHADOW
	NO LONGER SHADOW

### 5.3.3 View Sharing

In the assessment of development applications relating to view issues, the NSW Land and Environment Court rely on the principle of the *Tenacity v Warringah Council* [2004] NSWLEC 140. Our assessment of the proposal against this planning principle is included below. The four steps in assessing view affectation are considered as follows:

- *Assessment of the Views Affected*
- *From What Part of the Property are the Views Obtained?*
- *The Extent of the Impact*
- *The Reasonableness of the Proposal*

As we have not yet had the opportunity to inspect neighbouring sites, our view analysis is on the basis of aerial imagery, real estate photography available online, and an inspection of the subject site. It appears that existing oblique water and land-water interface views are obtained across the subject site from neighbours at No. 36 and 40 Bower Street. These views are obtained from their rear balconies and private open space. As the proposal retains the existing building envelope, with the only discernible extension to the external envelope being the extension at the front portion of the site and a minor extension at lower ground level, we do not anticipate that there would be any additional view impacts to these neighbours at Nos. 36 and 40 Bower Street. Furthermore, glass pool fencing adjoining the proposed spa will allow for retention of oblique views across the site towards the north-east from the rear private open space of No. 40 Bower Street.

The neighbour directly the opposite the site at No. 43 Bower Street appears to have views across the site heavily obscured by the mature street tree in front of the subject site (see **Figure 16**). Therefore, the first floor extension is unlikely to impact any existing water views from this dwelling. In any case, this component of the proposed works complies with the existing front and side setbacks, and the height of building standard. Any negligible areas above the wall height standard would only potentially impact outlooks to the sky.



**Figure 16:** Photograph from the opposite side of Bower Street (outside No. 43 Bower Street), looking towards the subject site

Therefore, in our opinion, the proposal maintains equitable view sharing for surrounding properties and is reasonable in accordance with the *Tenacity* principles.

## 5.4 Assessment of the Site Suitability

This section will consider the proximity of the site to services and infrastructure; traffic, parking and access issues; and hazards.

### 5.4.1 Proximity to Services and Infrastructure

This site is well located in terms of public transport. The nearest bus stop is located approximately 800 metres away on Darley Street and Addison Road and services route No. 161 which provides a loop service to Manly Wharf. The Manly ferry wharf provides regular services between Manly, Watson Bay and Circular Quay. This connects to the wider Sydney train network.

As the site is within an established area, electricity, telephone, water and sewerage are also readily available.

### 5.4.2 Traffic, Parking and Access

The proposal provides two car spaces, which complies with Council's maximum car parking requirements and complies with parking dimensions listed in AS2890.1 – 2004 for off-street parking.

The proposed development will retain the existing crossover and reconstruct the existing driveway. The width, gradient and design of this driveway complies with the recommended geometry and is therefore suitable in terms of size and design.

As the proposal complies with the required number of spaces and geometry of Council's DCP and AS 2890.1:2004, will satisfy the likely parking demand for the proposal, it is therefore suitable from a traffic and parking point of view.

### 5.4.3 Hazards

The site is not in an area recognised by Council as being subject to flooding, bushfire or any other particular hazards. The proposed development will not increase the likelihood of such hazards.

The Geotechnical Assessment Report prepared by AssetGeoEnviro concludes that the proposed development, on designated landslide prone land, is to be constructed in accordance with the report's recommendations. Provided that the alterations and additions are constructed in accordance with those recommendations, the consultant considers that the proposed development will mitigate that risk or impact.

## 5.5 The Public Interest

This section will consider the social and economic effects of the proposal and the public interest.

### 5.5.1 Social and Economic Impact

The proposal will have social and economic benefits in the area with the construction of a well-designed, contemporary alterations and additions. This will contribute to meeting the demand for high-quality, low-density housing in the LGA.

The proposed works to the existing dwelling will be constructed from visually recessive materials and will include landscaping which will soften its appearance when viewed from the street, foreshore and surrounding development. The proposal will reduce water and energy consumption through efficient fixtures, fittings and insulation; and provide upgraded off-street parking for residents. This will reduce water consumption and parking congestion in the area.

The proposal will provide employment during demolition and construction and in the provision of maintenance services once the dwelling is occupied.

### **5.5.2 The Public Interest**

The proposal has been designed with consideration of the adjoining residents' amenity and the streetscape. Importantly, the proposal meets the zone objectives of the C3 Environmental Management zone. The proposal is a sympathetic design which retains compliant levels of solar access, privacy and ample views from the public and private domain.

It will provide a contemporary, well-designed dwelling and associated works which is a contextually appropriate scale and form for the area. The building has been designed to maintain neighbours' and local amenity and contribute positively to the streetscape and local character. The proposal is a quality development which is in the public interest.

## 6.0 CONCLUSION

The proposed alterations and additions to a dwelling at No. 38 Bower Street, Manly has been assessed in accordance with Section 4.15 of the EPA Act and Council's planning instruments. The proposal is permissible in the C3 Environmental Management Zone under the LEP and in our opinion achieves the relevant objectives of the Zone. In our assessment, the proposal is also consistent with the provisions and objectives related to landslip risk, terrestrial biodiversity and foreshore scenic protection in the LEP.

This SEE demonstrates the proposal for contemporary alterations and additions will achieve the desired character of the locality and maintain the relationship with surrounding development. The dwelling's external building envelope is largely retained as existing, with the only increase restrained to a small area at the lower ground floor to accommodate the new walk-in robe, and the first floor extension at the front of the site. The proposal continues to provide consistency in scale, form, proportions, setbacks and materials. This design approach ensures that the proposal will enhance the local streetscape character.

Proposed new landscaping in the front setback, including to the garage roof, will soften the built form and enhance the character of the site within Bower Street. At the rear, dense vegetation is retained with some new landscaping surrounding the proposed spa area, which will maintain the transition between the dwelling and the foreshore at the rear. The retention of semi-open fencing along portions of the side boundaries allows for movement of local fauna through the site.

While there is an area of non-compliance in the maximum building standard of the LEP, this has been fully justified in the accompanying Clause 4.6 Application to Vary a Development Standard. The Clause 4.6 Application demonstrates the proposal satisfies matters for consideration and achieves the objectives of the planning controls. In our opinion, the application is considered to be well-founded.

The proposal achieves compliance, or otherwise does not alter the existing level of compliance, for setbacks, landscape area, open space, first floor additions, and amenity controls of Council's DCP. While the proposal does not comply with the wall height and garage width controls, in our opinion the development is consistent with the objectives of those controls.

Compliance with the FSR and setback controls of the LEP and DCP ensures the new building envelope is unlikely to cause significant overshadowing or loss of privacy to nearby properties. The proposal is also unlikely to significantly affect outlook or views from surrounding properties and the public domain.

The SEE is accompanied by survey, arborist, architectural, landscape, geotechnical, BASIX, waste management, quantity surveyor, and stormwater consultant documentation. These reports have informed our assessment and the consultant reports confirm the proposal is suitable in the locality.