

STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR THE CONSTRUCTION OF ALTERATIONS AND ADDITIONS TO
AN EXISTING DWELLING**

LOCATED AT

95 BOWER STREET, MANLY

FOR

BARRIE & IKUYO FELDMAN



**Prepared
May 2021**

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Appendix: Written Request - Clause 4.6 – Height of Buildings

1.0 Introduction

This Statement of Environmental Effects accompanies design details prepared on behalf of Barrie and Ikuyo Feldman by Your Beautiful Home to detail the proposed construction of alterations and additions to an existing dwelling at **95 Bower Street, Manly**.

The design plans prepared by Your Beautiful Home, Revision A dated 21 May 2021 comprise:

<i>Drawing No</i>	<i>Title</i>
➤ 01	<i>Site Analysis Plan</i>
➤ 02	<i>Site Plan</i>
➤ 03	<i>Basement</i>
➤ 04	<i>Ground Floor</i>
➤ 05	<i>First Floor</i>
➤ 06	<i>Roof Plan</i>
➤ 07	<i>North East Elevation</i>
➤ 08	<i>South West Elevation</i>
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➤ 10	<i>South East Elevation</i>
➤ 11	<i>Section A-A</i>
➤ 12	<i>Section B-B</i>
➤ 13	<i>Indicative Materials</i>
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➤ 18	<i>Setback Encroachment Diagrams</i>
➤ 19	<i>Site Calculations</i>
➤ 20	<i>Demolition + Waste Management</i>
➤ VS 01 – VS04	<i>View Study</i>
➤ MD 01-MSD04	<i>Existing Development</i>

This Statement reviews the proposed development by assessing the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, (as amended) including:

- *State Environmental Planning Policy No. 55 Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *Manly Local Environmental Plan 2013*
- *Manly Development Control Plan 2013*

A Pre-Lodgement Meeting was held on 28 January 2021 (No. PLM 2021/0003) to discuss the proposed development for alterations and additions to the existing dwelling. The concerns raised within the meeting have been addressed within the subject submission.

2.0 Property Description

The subject allotment is described as **95 Bower Street, Manly**, being Lot 81, within Deposited Plan 8076 and is zoned R1 General Residential under the Manly Local Environmental Plan 2013.

The site does not contain any heritage items, nor is it within a conservation area. The site is within the vicinity of a number of heritage items, and this matter will therefore be discussed further within the report.

The site is identified as being within the Coastal Environment Area and Coastal Use Area under the provisions of the State Environmental Planning Policy (Coastal Management) 2018. This matter will be discussed in further detail within the report.

The land is noted as being within a Foreshore Protection Area and a Terrestrial Biodiversity Area. Furthermore, the site is located within the Long-nosed Bandicoot Habitat Area. A Flora and Fauna Assessment has been prepared by GIS Environmental Consultants, Ref No. BS56TBR01, dated 6 May 2021 and accompanies this submission.

The site is noted as being within the Class 5 Acid Sulfate Soils Area. This matter will be discussed in further detail within the report.

The site is identified as Low and Medium Risk Flood Prone Land on Council's Mapping. As the proposed works are an addition to an existing building without any significant increase in the footprint of three development, no further investigation is considered to be necessary at this stage.

The site has not been identified as being affected by any further hazards.

3.0 Site Description

The site is located on the south-western side of Bower Street, with a secondary frontage to College Street.

The site has a primary frontage of 25.75m (by survey) to Bower Street, a secondary frontage to College Street of 17.455m (by survey) to College Street, excluding the arc-shaped splay corner. The south-western and north-western side boundaries measure 45.545m and 15.95m. The site has an area of 799.7m².

The site is currently developed by a one and two storey brick and sandstone residence with a tile roof.

Vehicular access is currently available to the site via a concrete driveway from Bower Street, with parking provided below the dwelling. Pedestrian access is available from Bower Street.

The details of the site are included on the survey plan prepared by Waterview Surveying Services, Project No. 1196, dated 18 September 2020, which accompanies the DA submission.

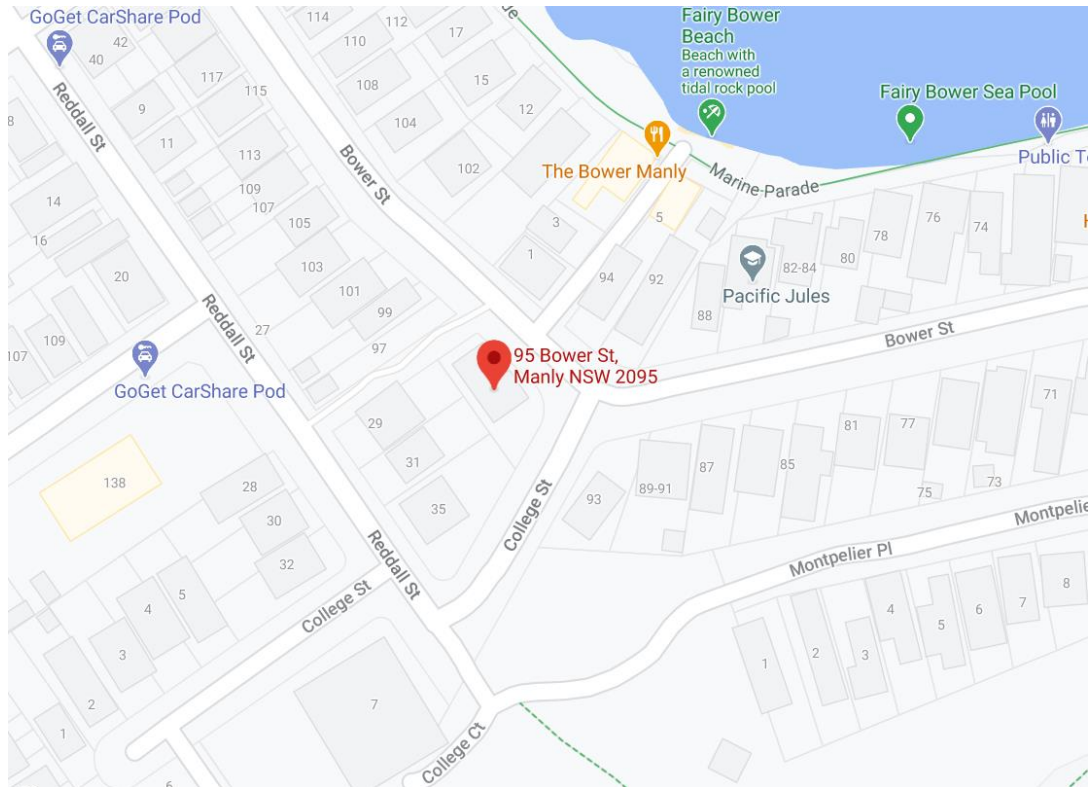


Fig 1: Location sketch
(Source: Google Maps)



Fig 2: View of the subject site, looking south from Bower Street



Fig 3: View of the subject site and adjoining development to the west, looking from Bower Street



Fig 4: View of the adjoining development to the west of the site, looking from Bower Street



Fig 5: View of the adjoining development to the west, looking south-west from Bower Street



Fig 6: View of the subject dwelling, looking east from the adjacent public walkway



Fig 7: View of the north-eastern corner of the site, looking south along the College Street boundary



Fig 8: View of the existing front boundary conditions and footpath adjoining the site, looking west from College Street

4.0 Surrounding Environment

The area surrounding the site is represented by a mix of development, including residential dwellings and residential flat development, together with low scale commercial development to the north along the foreshore.

The neighbouring properties to the south-west and north-west comprises similar dwellings between two and three storeys.

The area displays a mix of low, medium and high density development, with the proposed new works to complement the scale and form of other residential development in the immediate locality.



Fig 9: Aerial view of subject site
(Source: Google Maps)

5.0 Proposed Development

As detailed within the accompanying design plans, the proposed works include additions and alterations to the existing dwelling.

Specifically, the new works comprise:

Basement

- Alterations and additions to existing basement level to provide for double garage, bathroom, change room, stores, lift shaft and internal access stairs

Ground Floor

- Alterations and additions to existing ground floor level to provide for porch, foyer, three bedrooms, laundry, bathroom, powder, piano room, living room, decks and internal access stairs

First Floor

- New first floor addition to provide for open plan living, dining and kitchen with pantry, master bedroom with ensuite and walk in robe, wrap around balcony

External Works

- New pedestrian path
- New rear roof terrace

The proposed works have been designed with a form and external colours and finishes which complement existing surrounding development.

The development indices for the site are noted as:

Site Area	799.7m ²
Allowable Floor Space Ratio	0.6:1 or 479.8m ²
Proposed Floor Space Ratio	0.45:1 or 361.6m ²
Required Open Space (Area OS3) – 55% total/35% soft open space	55% or 439.8m ² /35% or 153.9m ²
Proposed Total Open Space	66% or 529.6m ²
Proposed Soft Open Space	59.1% or 313m ²

6.0 Zoning and Development Controls

6.1 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 – Remediation of Land and in particular Clause 7(1)(a) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

6.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been provided to support the proposed development.

6.3 State Environmental Planning Policy (Coastal Management) 2018

The subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is applicable to the proposed development.

The stated Aim of the Policy under Clause 3 is to:

The aim of this Policy 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.*

The Coastal Management Act 2016 states within **Clause 3**:

The **objects** set out in **Clause 3** of the Coastal Management Act 2016 are:

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss*

- of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and*
 - (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
 - (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*
 - (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
 - (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
 - (m) to support the objects of the Marine Estate Management Act 2016.*

It is submitted that the assessment detailed under the Statement of Environmental Effects suggests that the proposed development is consistent with the objects of the SEPP (Coastal Management) 2018, as set out in Clause 3 of the Coastal Management Act 2016.

The matters for consideration under Division 3, 4 and 5 of SEPP (Coastal Management) 2018 are:

13 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.*

The proposed development seeks to minimise the site disturbance, and erosion and sediment control measures will be carried out as necessary.

The new roof areas will be connected to the existing stormwater system, in accordance with the stormwater design prepared by Michal Korecky. No water quality impacts are anticipated.

The works are wholly contained within the subject site, and will not result in any adverse impacts on any native or marine vegetation or fauna. A suitable area of open space and landscaping is retained.

14 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.*

The proposed works are wholly contained within the subject site, and will not result in any loss of public access along the foreshore.

Due to the separation of the site from the foreshore and modest bulk and scale of the development, no problematic overshadowing of the foreshore or neighbouring properties is anticipated.

The proposed works are stepped to follow the sloping topography of the site, and utilise earthy colours and finishes. The works are modest in height and scale, and will not be visually prominent within the locality.

15 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 proposal provides for the construction of alterations and additions to an existing dwelling. The proposed works will be carried out in accordance with the recommendations of the consulting Structural Engineer, and are therefore not considered to increase the risk of coastal hazards for the subject property or adjoining land.

The assessment has concluded that the proposed development is consistent with the matters for consideration under the SEPP (Coastal Management) 2018.

6.4 Manly Local Environmental Plan 2013

The land is zoned R1 General Residential under the provisions of the MLEP 2013.



Fig 10: Extract of Manly Local Environmental Plan 2013

The development of and use of the land for residential purposes is consistent with the R1 zone objectives, which are noted as:

- *To provide for the housing needs of the community*
- *To provide for a variety of housing types and densities*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

It is considered that the proposed alterations and additions to the existing dwelling will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal largely maintains the existing built form of the dwelling and therefore maintains consistency with the existing varied residential within the locality.
- The proposed new works will provide for increased residential amenity for the dwelling's occupants.
- The proposal does not have any unreasonably impact on views, solar access or amenity for the neighbouring properties.
- The site is utilised as housing and will continue to maintain the residential use.

- The proposed alterations and additions will conserve the significance of the heritage items in the vicinity of the site.
- The proposed alterations and additions will maintain compatibility with the existing development in this portion of Bower Street.

Clause 4.3 provides controls relating to the height of buildings.

The dictionary supplement to the LEP notes building height to be:

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

The building height limit for development in this portion of Manly is 8.5m. The proposed new works present an overall height of approximately 8.9m which will present a minor variation to the statutory height limit. Accordingly, a written request to vary the development standard has been prepared pursuant to Clause 4.6 and accompanies this statement.

Clause 4.4 provides a maximum floor space ratio control of 0.6:1 for development in this locality. The proposed new works will provide a floor space ratio of 0.45:1 and therefore readily complies with this control.

Clause 5.10 relates to heritage conservation. The site does not contain any heritage items, nor is it within a conservation area. However, the site is within the vicinity of a number of heritage items, including street trees along Bower Street (Item No. I90) and St Patrick's Estate (Item No. I131).

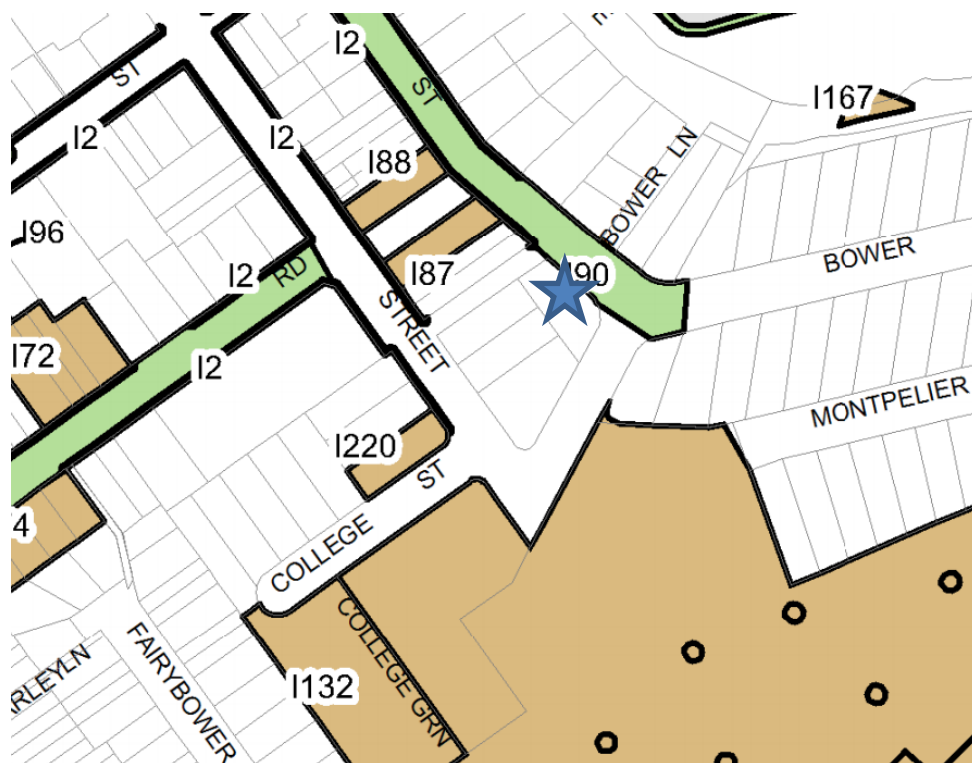


Fig 10: Extract of Manly Local Environmental Plan 2013 Heritage Map

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.*

The proposal is supported by a Heritage Impact Statement, prepared by Damian O'Toole Town Planning and Heritage Services, dated May 2021.

The heritage assessment concludes:

"This report has found that the proposed works will have a minor heritage impact only on the wider setting of identified heritage items.

The proposed works will retain key features of the extant site building and the setting and the proposed works are well designed to complement the existing building and allow for the continued interpretation of an Inter-war period bungalow.

It is recommended that consent be granted for the proposed development. The proposed works will provide significant improved residential amenity to the subject site.

There are no further recommendations".

Clause 6.1 addresses the impact of works in relation to acid sulfate soils. The site is identified as Class 5 Acid Sulfate Soil. The proposal will not see any major excavation to accommodate the proposed works, and it is not anticipated that any acid sulfate soils will be encountered.

Clause 6.5 relates to biodiversity. The site has been identified as being within Council's Biodiversity zone.

A Flora and Fauna Assessment has been prepared by GIS Environmental Consultants, Ref No. BS56TBR01, dated 6 May 2021 and accompanies this submission. The Assessment provides a comprehensive review of the site and the potential of the proposed works to affect the local biodiversity.

The assessment prepared by GIS Environmental Consultants includes recommendations to be observed during the construction works to ensure that the impact of the works does not adversely affect the local flora and fauna.

The proposal will be carried out in accordance with the recommendations of the Flora and Fauna Assessment.

Clause 6.9 relates to development within the Foreshore Scenic Protection Area and notes within (3):

- 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.*

The proposal provides for alterations and additions to the existing dwelling, which presents a bulk and scale which is compatible with the locality and will not be visually prominent within the locality.

The proposal will not see the removal of any significant vegetation and the existing vegetation will be retained and protected. The proposal is therefore considered appropriate in the foreshore scenic protection area.

There are no other clauses of the MLEP 2013 that are considered to be relevant to the proposed development. It is considered that the proposal achieves the requirements of the MLEP.

6.5 Manly Development Control Plan 2013 – Amendment 14

Council's DCP Development Control Plan 2013 – Amendment 14 provides the primary control for development within the area.

The DA submission will address the Council's submission requirements outlined in Part 2 – Process.

The primary areas which are applicable to the proposed works are detailed within Part 3 – General Principles of Development & Part 4 – Development Controls and Development Types.

Clause 3.1.1 – Streetscape (Residential Areas)

The proposal provides for alterations and additions to the existing dwelling.

The intended outcomes are noted as:

- i) 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*

The proposed alterations and additions provide a two and three storey scale, which is in keeping with the bulk and scale of existing surrounding development. The proposal is therefore not considered to result in a significant impact on the site as viewed from Bower Street.

The proposed works will not detract from the significance of the nearby heritage items, and the new works will not be overbearing within the Bower Street streetscape.

Clause 3.1.1.3 – Roofs and Dormer Windows

The proposal will provide a low profile roof form which assists with minimising the visual bulk of the development.

Clause 3.3 – Landscaping

No substantial indigenous planting is to be removed to accommodate the new works. The existing vegetation on site is to be retained and protected.

The proposal is supported by an Arboricultural Impact Assessment Report, prepared by Hugh The Arborist, dated 8 April 2021.

The Assessment considers the impact of the works on seven trees within the site and in the proximity of the proposed development.

The report recommends the removal of six of the trees however they are all noted as *Category z - Unimportant trees not worthy of being a material constraint*.

Additionally, the trees all have either low or medium amenity value.

In response to the tree removal, a comprehensive Landscape Plan has been prepared by Harrison's Landscaping, dated 12 April 2021 and which provides for the managed replanting of the site with a number of replacement plantings that can achieve a mature height of in excess of 8m in order to re-establish an appropriate tree canopy.

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

The objectives of the clause are noted as:

- | | |
|---------------------|---|
| <i>Objective 1)</i> | <i>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.</i> |
| <i>Objective 2)</i> | <i>To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.</i> |

It is suggested that the works will achieve these objectives as the proposal provides for the construction of alterations and additions to the existing dwelling, which will not result in any unreasonable impacts on the views, solar access, privacy or amenity currently received by neighbouring properties.

Properties are merely to the south-west of the proposal at No's 29 & 31 Reddall Street currently enjoys views over and past the existing dwelling. The sites have recently been the subject of proposals for the demolition of the structures and the consolidation of the sites for high-density development. At this stage, the buildings within the sites remain intact.

A detailed View Study (VS01 – VS04) has been prepared by Your Beautiful Home, which provides a comparison assessment of the views currently available to the adjoining units and indicates the views which will continue to be all available following the proposed works.

The View Study confirms that the existing ground and first floor apartments in the rear buildings at 29 & 31 Reddall Street enjoy views towards the north to Cabbage Tree Bay. The foreground views are currently restricted by the existing development opposite the subject site on the northern side of Bower Street.

The assessment concludes that the proposed works will result in some minor reduction in elements of the view of the water area, however the horizon views to the sky /water interface together with views of the existing development at the Marine Parade frontage and the land water interface to Shelly Beach will be retained.

The building will seek Council's consideration of a variation to the maximum building height control, however the minor breach which occurs at the northern gable over the first floor deck will not in itself contribute to view loss, with the views largely impacted by the southern façade of the dwelling which is currently complied with Council's maximum height control.

An assessment of the proposal in terms of the Land & Environment Court's View Assessment Principle ""Tenacity Consulting vs Warringah" and Commissioner Roseth's four step assessment of view sharing is provided.

In this instance, the development is considered to be reasonable when tested against the four-step assessment process as:

1. The views available to No's 29 & 31 Reddall Street comprise ocean, horizon and land/water interface views, which have been restricted by the existing development along Bower Street & Marine Parade. The design of the new works at the first floor level has been resolved with a low pitched roof form which as outlined in the building elevations within Sheets DA 07 – DA 10 confirms that a balance of the available view to the water area and land/water interface is retained. The available views comprise water views with the associated land/water interface views being more highly valued.
2. The area of view from the properties to the rear of the subject site is towards the ocean, horizon and Cabbage Tree Bay and it is reasonable for this view to be protected. The view assessment considers the view impacts resulting from the proposed development are more significant to the ground floor level however the first floor levels will continue to enjoy largely uninterrupted views and any future redevelopment of the sites can consider the subject proposal in the massing of new development.
3. An assessment of the view loss has been considered in view of the part of the property where the view is obtained. The first floor levels of each site continue to retain access to views, with the primary features of the available views to be maintained.
4. The works are considered to be reasonable in their approach, as they achieve the primary aim of maintaining an equitable share of the available views for the uphill properties and through modest floor to ceiling heights and a modest roof pitch, the neighbouring developments are properly considered and an appropriate level of outlook and amenity is retained for the southern neighbouring properties.

The proposed new first floor deck is orientated towards the street, and the development is considered to retain the existing privacy levels enjoyed by residents of the subject dwelling and neighbouring properties.

A secondary, roof terrace is located at the rear of the dwelling, with external stair access from the rear yard. The roof terrace allows for a private elevated sitting area which enjoys good solar access.

In order to protect the amenity of the properties located to the rear and uphill of the site, a privacy screen has been provided to the perimeter of the southern and eastern and western elevations of the proposed roof terrace. Uphill properties are well elevated above the subject property and are considered to retain their primary views over the proposed new roof form.

Clause 3.5 – Sustainability

A BASIX Certificate has been prepared to support the proposed development.

Clause 3.7 – Stormwater Management

The existing stormwater arrangements remain largely unchanged. The new roof areas will be connected to the street gutter in Bower Street, in accordance with the Site Drainage Concept Plan prepared by Michal Korecky, Drawing No 21035, Sheets SW1 & SW2 dated 22 April 2021.

Part 4 – Residential Development Controls

Site Area 799.7m² - Density Sub Zone D3 (250m² per lot)

Compliance Table

Control	Required	Proposed	Compliance
Clause 4.1.1 Residential Density & Subdivision	Density Area D3 – 1 dwelling per 250m ²	Site area is 799.7m ²	Yes – existing site and dimensions are unchanged
Clause 4.1.2 Height of Buildings	Maximum height – 8.5m Wall height – 7.3m	Maximum height of new works 8.9m Max proposed wall height approx. 7.4m, and therefore presents a minor variation to this control. Compliance with this control is constrained by the sloping topography of the site, and sloping topography of the site. The proposed alterations and additions present a bulk and scale which is consistent with that of existing surrounding development. The new works are not considered to result in any unreasonable adverse impacts for neighbouring properties. The proposal is in keeping with the desired outcomes of this clause, and is worthy of support on merit.	No – refer to Clause 4.6 submission Yes – on merit

	Max two storeys	Two storeys provided. The proposed garage and store level is located partly below natural ground level and the building retains a largely two storey height and scale.	Yes – on merit
	Roof height – 2.5m above wall height	<2.5m above wall height	Yes
Clause 4.1.13 Floor Space Ratio (FSR)	0.6:1	Proposed FSR 0.45:1	Yes
Clause 4.1.4 Setbacks (front, side and rear)	Relate to neighbouring sites or 6m	Existing front setback of the dwelling remains unchanged, with the proposed first floor addition to follow the existing ground floor setback.	N/A – remains unchanged
Secondary setback – side setback control of prevailing building line		The new works will stand a minimum of 9m from College Street and readily complies with the prevailing building line.	Yes
Side Boundary setback – 1/3 of wall height	Min permissible setback: North-western side min 2.24m (wall height 6.71m) South-western side boundary min 1.86m (wall height 5.6m)	North-western setback: 2.24m South-western setback: 1.86m The new works therefore largely comply with Council's side setback requirement.	Yes Yes

Clause 4.1.5 Open space and Landscaping	Area OS 3 Min 55%/35%	Proposed total open space 66% or 529.6m² and proposed soft open space 59.1% of total open space or 313m². The landscaped area readily complies with this control, however the open space area will present a minor variation to the requirement. Compliance with this control is constrained by the existing site conditions, and the available open space area remains largely unchanged. The proposal will not require the removal of any significant vegetation. The property boundaries are capable of accommodating new landscape plantings to further assist with softening the built form of the development. Suitable pervious areas are maintained within the site to minimise any potential impacts of stormwater runoff within the locality. The proposal is in keeping with the	Yes
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		desired outcomes of this clause, and is worthy of support on merit.	
Clause 4.1.6 Parking	2 spaces In relation to the provision of parking for dwelling houses, Council may consider the provision of only 1 space where adherence to the requirement for 2 spaces would adversely impact on the streetscape or on any heritage significance identified on the land or in the vicinity.	The proposal provides two car spaces within the garage and therefore complies with this control.	Yes
Clause 4.1.8 Development on Sloping Sites	<u>Area G4 – Potential Hazards and Requirements</u> Geotechnical assessment may be required depending on location and nature of development and man-made cut and fill. Residential footings are to be in accordance with AS2870. Potential hazards for this land include rock falls & minor slumping of soil and fill materials from top of unsupported cuts onto public and private pathways, roadways and building platforms. There is little to moderate typical consequences of failure involving damage of some or part of structures (for example, to a dwelling or roadway), with part of site requiring some stabilisation works. Large scale stabilisation works are unlikely to be required in Area G4.	The proposal will not require any substantial disturbance of the site in order to accommodate the new works. The works will be carried out under the guidance of a qualified Structural Engineer, and the proposal therefore satisfies the provisions of this clause.	Yes

Clause 4.4.5 Earthworks	To retain the existing landscape character and limit change to topography and vegetation within the MLEP 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 and waterways Limiting the height of retaining walls and encouraging the planting of native plant species to limit their impact	The proposal will not require any substantial disturbance of the site in order to accommodate the new works. Appropriate erosion and sediment controls will be carried out to ensure minimal site disturbance. The works will be carried out under the guidance of a qualified Structural Engineer. The proposal therefore satisfies the provisions of this clause.	Yes
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Part 5 – Special Character Precincts Areas and Sites

Compliance Table

Control	Required	Proposed	Compliance
Clause 5.4.1 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	The relevant provisions of the LEP are addressed within Clause 6.9 of the LEP above. The proposal provides for alterations and additions to an existing dwelling, which will maintain a modest height and scale. The proposal will not see the removal of any significant vegetation and the existing vegetation will be retained and protected. The proposal is therefore considered appropriate in the foreshore scenic protection area.	Yes

Clause 5.4.2 Threatened Species and Critical Habitat Lands	Any development of land with known habitat for threatened species must consider the likely impacts of the development and whether further assessment needs to be undertaken by a Species Impact Statement.	The proposal will not involve substantial site disturbance and provision has been made within the proposed front fence to allow for ground dwelling animals including bandicoots to move throughout the site. A Flora and Fauna Assessment has been prepared by GIS Environmental Consultants, Ref No. BS56TBR01, dated 6 May 2021 and accompanies this submission. The Assessment concludes: <i>The site survey found evidence of the Long-nosed Bandicoot using the front and rear garden at the site. It is likely that bandicoots use this and adjacent properties and nearby bushland areas for foraging and probably resting and breeding. Long-nosed Bandicoot have been recorded regularly in the locality.</i> <i>Other fauna that are likely to use the site include possums, Rainbow</i>	Complies
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		<i>Lorikeets, Noisy Minors, Garden Skinks and Brush Turkeys, Crested Pigeon, Grey-headed Flying-fox and Eastern Water Dragons.</i> <i>The site currently contains 355m² of bandicoot foraging habitat (44% of the site) in the lawn and garden areas at the front and rear of the site. The proposal will result in a loss of 77m² of foraging habitat from with the property. The proposal will provide 278m² (35% of the site) of potential foraging habitat in the form of landscaped areas in the front, rear and sides of the property (see before and after Green areas on Map 1).</i> <i>Access to the habitat will not change for birds or arboreal mammals such as possums that are using the site.</i> <i>Access to the habitat for bandicoots (See Dark Blue arrows on Map 1) will be decreased by the proposal. Proposals have been made to maintain some</i>	
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		<i>access from the existing site.</i> <i>No evidence was found of any other Threatened Species, Populations or Endangered Ecological Communities utilising this property.</i> <i>The development is unlikely to have a significant impact on the conservation of any Endangered Population, Threatened Species or Endangered Ecological Community. The proposal does not meet the BC Act Threshold Test. Further assessment of the impact of this proposal in the form of a Biodiversity Development Assessment Report (BDAR) not recommended in relation to this development application at this site. The ecological impact is not considered an unacceptable impact under section 4.15 (79C(b)) of the Environmental Planning and Assessment Act 1979 or a significant impact under Section 7.3 of the Biodiversity Conservation Act 2016.</i>	
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		<i>The proposal will not have a significant impact to terrestrial biodiversity and meets the requirement of clause 6.5 of the MLEP.</i> <i>We recommend that the ameliorative conditions and management recommendations in this report be followed to limit disturbance during construction and to further reduce the impact of the proposal on potential bandicoot habitat and access.</i> The proposed works will be carried out in accordance with the recommendations of the Flora And Fauna Assessment.	
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7.0 Matter for Consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979

7.1 Any environmental planning instrument

The proposal is subject to the provisions of the Manly Local Environmental Plan 2013 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

There are no other environmental planning instruments applying to the site.

7.2 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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

It is not considered that there are any draft environmental planning instruments applying to the site.

7.3 Any development control plan

The development has been designed to comply with the requirements of Manly Development Control Plan 2013 – Amendment 14.

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on:-

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.15(3A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

We request that Council applies considered flexibility where the application seeks variations to the numerical development controls in the DCP as justified in this report. In particular we consider that the variation to the open space and wall height controls is reasonable given the available open space is not substantially altered.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.

The development respects the streetscape character objectives of the DCP and will provide a cohesive and sympathetic addition to the site which will make a positive contribution to the area.

7.4 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

No matters of relevance are raised in regard to the proposed development.

7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),

No matters of relevance are raised in regard to the proposed development.

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

It is considered that the proposal, which seeks approval for the construction of alterations and additions to the existing dwelling, is reasonable. The development will maintain a favourable bulk and scale relationship with other development in the vicinity. It is considered that the resultant development is compatible with and will complement the character of the area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's LEP and Council's Codes and Policies.

7.7 The suitability of the site for the development

The subject land is currently zoned R1 General Residential under the Manly Local Environmental Plan 2013 and is considered suitable for the proposed development.

The subject site does not exhibit any significant constraint to the construction of the proposed new works.

7.8 Any submissions made in accordance with this Act or the regulations

This is a matter for Council in the consideration of this proposal.

7.9 The public interest

The proposal will not unreasonably impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

8.0 Conclusion

The principal objective of this development is to support the design of alterations and additions to an existing dwelling which satisfy the stated objectives of Council's Development Controls.

By maintaining our neighbour's amenity and by complimenting the scale and form of other development in the immediate locality, the stated objectives have been satisfied.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

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