

STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR THE PROPOSED DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF A
NEW DWELLING INCLUDING GARAGE, DRIVEWAY, SWIMMING POOL AND
ASSOCIATED LANDSCAPING**

LOCATED AT

38 HILLTOP CRESCENT, FAIRLIGHT

FOR

NATASCHA REZAI



**Prepared
September 2025**

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1.0 Introduction

This Statement of Environmental Effects accompanies architectural details prepared on behalf of Natascha Rezai by Paul Carrick and Associates, Project No. 1128, Drawing Nos. 1-24 dated July 2025, to detail the proposed demolition of an existing dwelling and construction of a new dwelling and ancillary works at **38 Hilltop Crescent, Fairlight**.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment, it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

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

- *The Environmental Planning and Assessment Act, 1979 as amended (EP&A Act)*
- *The Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Manly Local Environmental Plan 2013 (MLEP 2013)*
- *Manly Development Control Plan 2013 Amendment 14 (MDCP 2013)*

2.0 Property Description

The subject allotment is described as **38 Hilltop Crescent, Fairlight**, being Lot 113 within Deposited Plan 1729 and is zoned R1 General Residential under the provisions of MLEP 2013.

The site is identified is not identified as being within the Coastal Environment Area and is not subject to the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021.

The land is not identified as being within a Foreshore Scenic Protection Area, as shown on the Foreshore Scenic Protection Area Map of MLEP 2013.

The land is identified as being within the Sydney Harbour Catchment Area pursuant to State Environmental Planning Policy (Biodiversity and Conservation) 2021. This matter will be discussed in further detail within the report.

The subject dwelling is not listed as a heritage item, nor is it within a conservation area. Three heritage items (I5, I50 & I60) are in the vicinity of the site but are not within the visual catchment.

The site is within the Class 5 Acid Sulfate Soils area as shown on the Acid Sulfate Soils Map of MLEP 2013.

The site is not identified as Landslide Risk on the Landslide Risk map of MLEP 2013. However, the site is identified within area G4 on the Map of Geotechnical Areas of MDCP 2013. A Geotechnical Report prepared by Geo-Environmental Engineering, Revision 2 dated 5 August 2025 accompanies this submission.

No other hazards have been identified.

3.0 Site Description

The site is located on the northern side of Hilltop Crescent.

The site is irregular in shape with a frontage of 12.47m to Hilltop Crescent, a maximum depth of 53.365m and a surveyed area of 638.1m².

The site topography slopes approximately 5.5m from front (south) to rear (north).

The site is presently developed by a one and two-storey weatherboard-clad dwelling with a tile roof. An existing concrete car parking hardstand located within the front yard is accessed via Hilltop Crescent.

Landscaped and paved areas are located within the front and rear setbacks and accommodate two trees, both within the rear yard and proposed to be retained, and a variety of smaller vegetation.

The details of the site are included on the survey plan prepared by C&A Surveyors, which accompanies the DA submission.

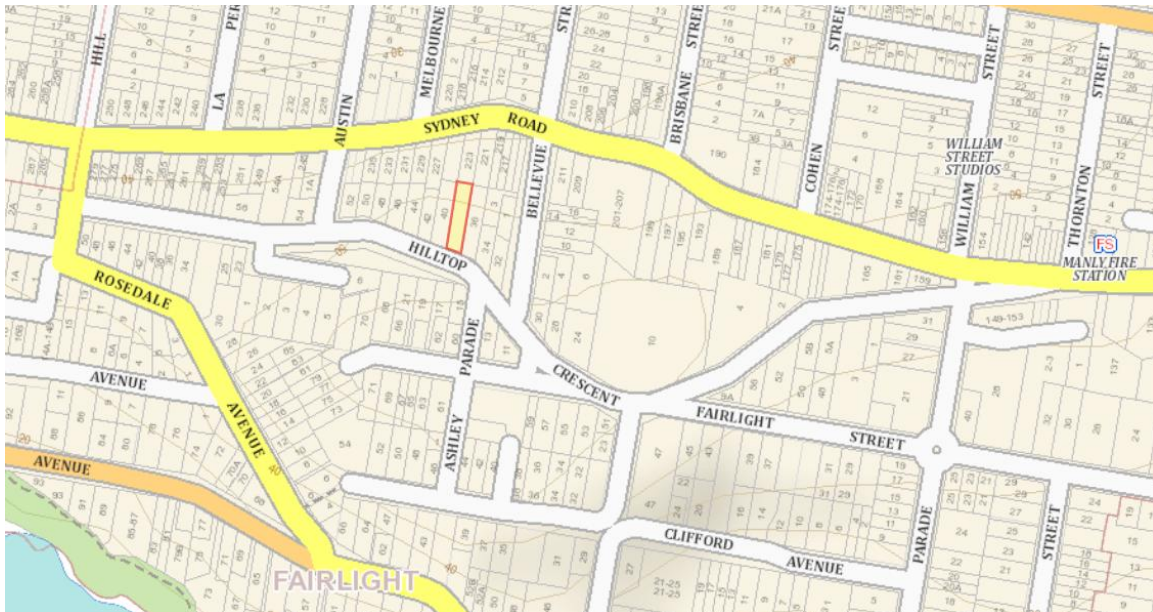


Fig 1: Location sketch
(Source: Six Maps)



Fig 2: View of the subject site, looking north from Hilltop Crescent



Fig 3: View of the existing development to the west of the site, looking north-west from Hilltop Crescent



Fig 4: View of the subject site (LHS of view) and adjoining dwelling at No 36 Hilltop Crescent, looking north-west



Fig 5: View of the existing development opposite the site on the southern side of Hilltop Crescent, looking south



Fig 4: View of the rear yard, looking west along the existing rear alignment of the dwelling



Fig 5: View of the existing rear yard and detached shed (to be demolished), looking north-west



Fig 6: View of the existing rear yard, looking east

4.0 Surrounding Environment

The subject site and surrounding properties are within the R1 General Residential zone.

The area surrounding the site is characterized by a mix of residential development, including detached and semi-detached dwellings, multi-dwelling housing and residential flat buildings up to three storeys in height, reflective of the R1 zoning of the locality.

The site is in the vicinity of the Fairlight and Manly centres, which both contain a diverse mix of retail, residential and public transport facilities that contribute to the locality. Proximity to Sydney Road and Manly Wharf provide public transport access to Circular Quay port, Sydney CBD, and the wider Sydney Metropolitan Area.

There are also a number of community and recreational open space areas nearby, including North Harbour Reserve to the south-west and Ivanhoe Park and Manly Oval to the east.

The site is adjoined by Nos. 36 and 40 Hilltop Crescent, both of which accommodate detached dwellings.

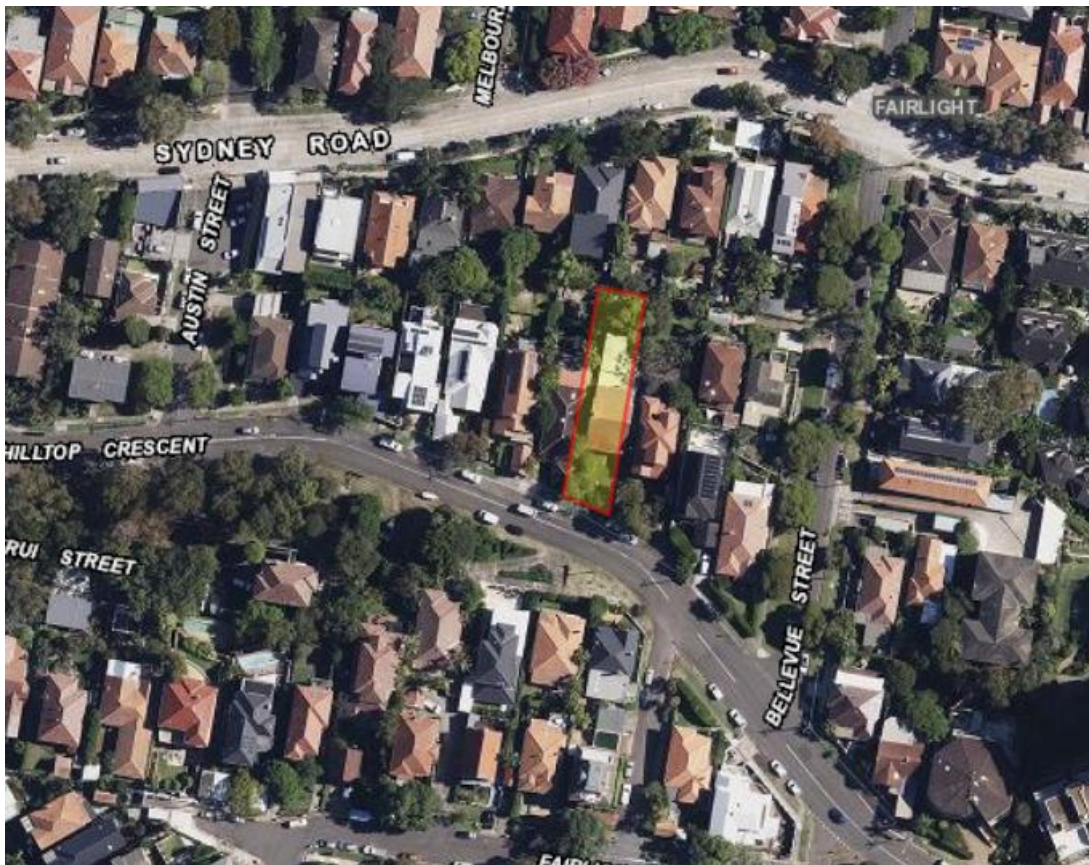


Fig 7: Aerial view of subject site
(Source: Six Maps)

5.0 Proposed Development

As detailed within the accompanying plans prepared by Lawton Hurley Architects, Paul Carrick and Associates, Project No. 1128, Drawing Nos. 1-24, dated July 2025, to detail the demolition of the existing dwelling and the construction of a new dwelling including garage, driveway, swimming pool and associated landscaping.

The new dwelling comprises the following:

Level 1

- Rumpus, beds 4 & 5 and bathroom
- Rear patio

Level 2

- Entry porch, foyer and stair, beds 2 & 3, bathroom & WC, laundry and open plan kitchen, living and dining
- Double garage
- Rear patio

Level 3

- Master bed with ensuite, robe & patio
- Guest bed

External Works

- New driveway and crossing
- New swimming pool and terrace
- New and existing retaining walls, paving, lawns and associated landscaping and planting
- Bin store
- Stormwater works including level spreader

The proposed new dwelling represents a high-quality architectural design solution that will provide a significant enhancement to the amenity and usability of the site when compared to the existing development. The resultant development is well-articulated and stepped in response to the topography, with a low-profile roof form and considered materiality to minimise visual bulk and maintain compatibility with the character of the streetscape.

The proposed side boundary setbacks will maintain appropriate spatial separation relative to the existing dwelling and maintain the rhythm of development and building setbacks within the street, while facilitating deep soil landscape opportunities, privacy, solar access and view sharing.

The internal design and arrangement will afford exceptional amenity to future occupants without unreasonably compromising the amenity of surrounding residential properties or the foreshore scenic attributes of the precinct.

The proposed external finishes have been detailed on the Schedule of Finishes (on Sheet No. 01) and comprise cladding with a colourbond roof which will reflect the existing range of finishes within the locality and complement surrounding development.

The proposed new swimming pool is located generally at ground level with adequate setbacks to minimise amenity impacts upon surrounding properties.

The proposal does not require the removal of any significant trees and includes new plantings to further assist in maintaining the privacy and amenity of both the subject site and neighbouring properties and soften the visual impact of the resultant development.

Stormwater from the roof areas will be directed to a level spreader within the rear yard in accordance with the Stormwater Management plans prepared by Development Engineering Solutions which accompany the DA submission.

The development indices for the site are:

Site Area	638.1m²
Permissible FSR	0.6:1 or 382.86m ²
Proposed FSR	0.48:1 or 309m ²
Maximum Building Height	8.5m
Proposed building Height	7.35m (Grid C on Sheet 11)
Required Total Open Space	55% open space – 351m ²
Proposed Open Space	47.2% or 301m ² (See DCP discussion)
Required Landscaping	35% landscaped area – 122.85m ²
Proposed Landscape	65% or 227.8m ²

6.0 Zoning and Development Controls

6.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The proposal does not impact on any trees or vegetation within the subject site, neighbouring properties or the surrounding public domain. The proposed landscape plan also includes new planting across the site. Accordingly, no further consideration of this chapter is required.

Chapter 6 Water catchments

Chapter 6 of this SEPP relates to Water Catchments to which Sydney Harbour Catchment is a part. The primary aim of the SEPP is to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained as an outstanding natural and public asset of national heritage significance for existing and future generations.

The SEPP also aims to achieve a high quality urban environment and provide a consolidated, simplified and updated legislative framework for future planning.

The site is located within the Sydney Harbour Catchment but is not identified as a strategic foreshore site, as land within the wetland's protection area or within the Foreshores and Waterways Area. The proposal satisfies the general provisions under Clauses 6.6-6.10 and no further consideration is required.

6.2 State Environmental Planning Policy (Resilience and Hazards)

Remediation of Land

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

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. 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.

Overall, the proposed development remains consistent with the relevant provisions of SEPP (Resilience and Hazards).

6.3 State Environmental Planning Policy (Sustainable Building) 2022

SEPP (Sustainable Buildings) 2022, commenced on 1 October 2023 and applies to the proposed development. In accordance with the provisions of the SEPP, a BASIX Certificate is submitted with the application and confirms that the proposal will comply with the water, thermal comfort, and energy efficiency requirements of the policy.

6.4 Manly Local Environmental Plan 2013

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



Fig 8: Extract of Manly Local Environmental Plan 2013 Zoning Map

The development of and use of the land for residential purposes is consistent with the objectives of the R1 General Residential, 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 new works will achieve the zone objectives and are consistent with the established character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing housing density and typologies within the locality.
- The proposed setbacks are compatible with the existing surrounding development.
- The proposed new works will provide for increased internal amenity and outdoor recreation spaces along additional off-street car parking and landscaping.
- The proposal does not unreasonably obstruct any significant views from private property or the public domain.
- As detailed in this report the proposal maintains appropriate solar access and privacy for the surrounding properties.

Clause 4.3 – 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 area of Manly is 8.5m. The proposed new dwelling has a maximum height of 7.35m which readily complies with this control.

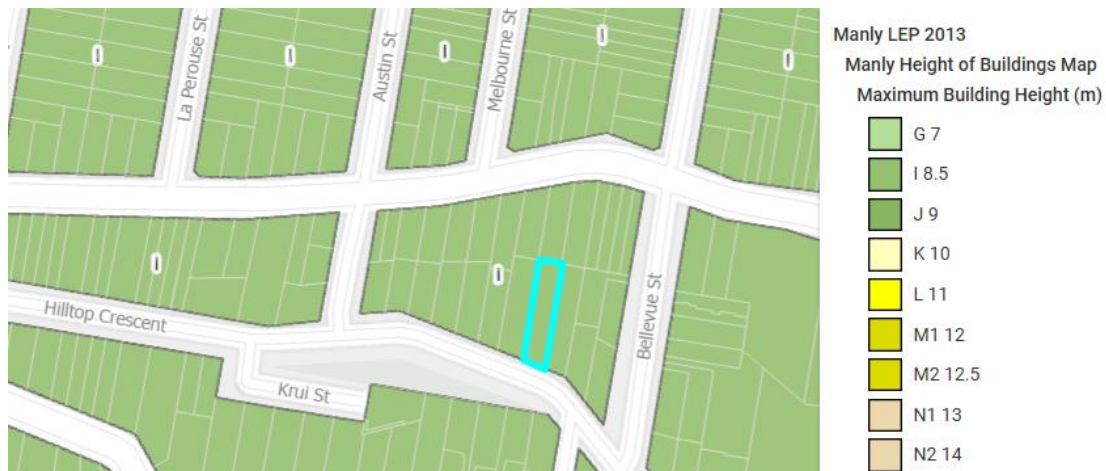


Fig 9: Extract Manly LEP Height of Building Map
(Source: NBC Planning Maps)

Clause 4.4 – Floor space ratio

A maximum floor space ratio control of 0.6:1 / 382.86m² applies to development in this locality. The proposal has a floor space ratio of 0.48:1 or 309m², which readily complies with this provision.

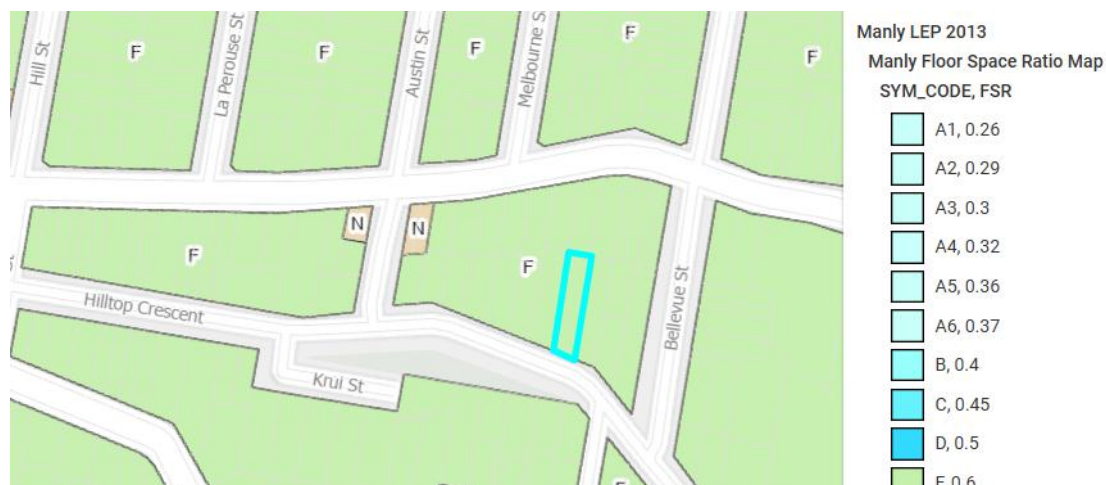


Fig 10: Extract Manly LEP Floor Space Ratio Map
(Source: NBC Planning Maps)

Clause 5.10 – Heritage Conservation

The subject dwelling is not listed as a heritage item, nor is it within a conservation area or in close proximity to any listed heritage items. The nearest listed items, I5, I50 and I60 are located some distance to the north, south and west respectively and have no direct line of site to the proposed dwelling.

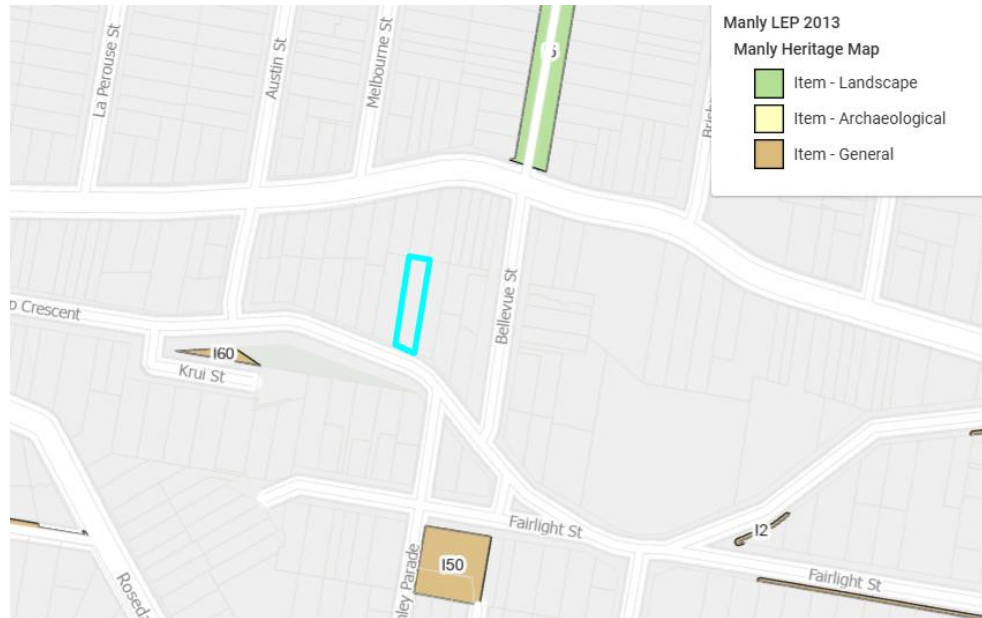


Fig 11: Extract Manly LEP Heritage Map
(Source: NBC Planning Maps)

Clause 6.1 relates to acid sulfate soils. The site is identified within the Class 5 Area. The accompanying Geotechnical Investigation Report prepared by Geo-Environmental Engineering advises that the proposed excavation will not intersect any Acid Sulfate Soils and that no further assessment or management plan is necessary. Accordingly, it is considered that no further investigation of the soil is warranted in this instance.



Fig 12: Extract Manly LEP Acid Sulfate Soils Map
(Source: NBC Planning Maps)

Clause 6.2 relates to earthworks. The proposal involves excavation to a maximum depth of 3m centrally within the building footprint, reducing to nil towards the front and rear.

A Geotechnical Investigation Report has been prepared by Geo-Environmental Engineering dated 5 August 2025.

The Investigation concludes *“that the proposed development is geotechnically feasible, with the underlying soil and rock strata capable of supporting the proposed structure, subject to implementation of the recommendations outlined in this report.”*

The works will be carried out in accordance with the recommendations contained within this report and the proposal therefore satisfies the provisions of this clause.

Clause 6.4 – Stormwater management

The proposal meets the objectives of the clause as stated below in that:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Stormwater from the proposed dwelling will be directed to a level spreader located within the rear yard of the site, in accordance with the drainage plans prepared by Development Engineering Solutions which accompany the DA submission.

The downstream neighbours were approached regarding the provision of an easement over the land, which has been denied (See letter accompanying DA submission) and accordingly the site will seek to rely on an on-site dispersal system, combining on-site detention and a level spreader.

A Report has been prepared by White Geotechnical Group, reference J6042A dated 16 May 2025 which confirms that the site conditions warrant the installation of a spreader pipe conjunction with an on-site detention system.

Clause 6.8 – Landslide risk

The site is identified on Council’s DCP mapping as being within Area G4 on the Landslip Hazard Map. The subject site displays sloping topography generally from front (south) to rear (north) and the proposal includes excavation of varying depths within the dwelling and pool footprints, to a maximum of 3m.

As discussed, a Geotechnical Investigation Report has been prepared by Geo-Environmental Engineering and accompanies this application. The works will be carried out in accordance with the recommendations contained within the report and the proposal therefore satisfies the provisions of this clause.

Clause 6.9 – Foreshore scenic protection area

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 site is not identified as being within Council's Foreshore Scenic Protection Area.

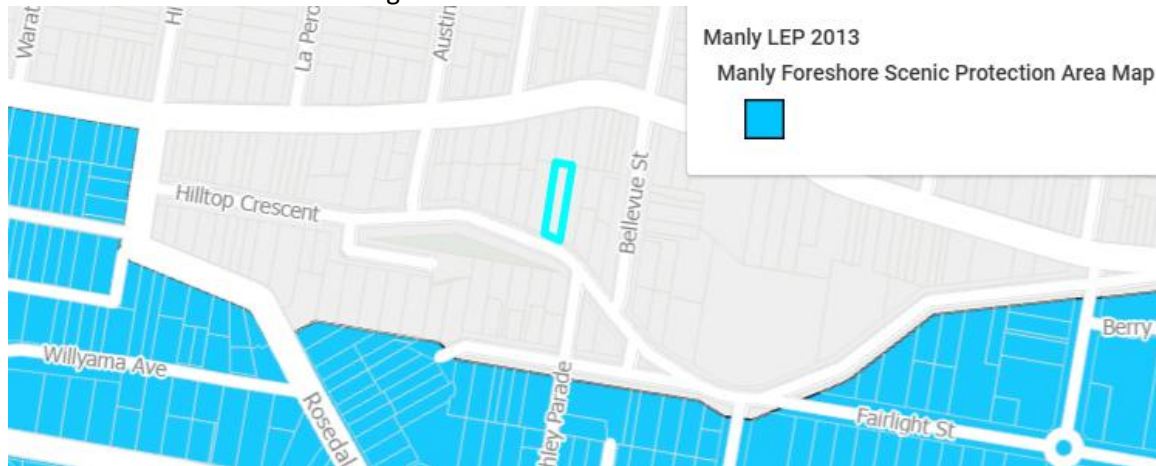


Fig 13: Extract Manly LEP Foreshore Scenic Protection Area Map
(Source: NBC Planning Maps)

Clause 6.12 – Essential services

The services available for the existing dwelling on site will be made available for the proposed new dwelling.

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

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)

It is suggested that the proposed additions will enhance the street view of the site and present a significant architectural contribution to the quality of the built form in the locality.

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 new dwelling is sited and designed to be consistent with other examples of contemporary dwellings in the surrounding area and compatible with development generally within the locality.

The proposed dwelling remains well below the prescribed building height and has appropriate regard for the scale of adjoining and surrounding dwellings. The dwelling is designed to respond to the sloping topography of the site and the positioning of the level 3 floor plate ensures that it is a maximum of two storeys at any one point.

The front setback generally aligns with the adjoining dwellings and is compatible with the prevailing building line within the visual catchment. Similarly, the proposed side and rear setbacks comply with the applicable requirements and provide adequate spatial separation to maintain reasonable levels of amenity for the adjoining properties.

The overall design, architectural style and finishes of the proposed dwelling are sympathetic to the existing streetscape and will enhance the scenic amenity/ built form quality of the area when viewed from surrounding public and private land. The proposed development will result in an enhancement of site landscaping to soften the visual impact of the development and enhance the landscape character of the area.

Clause 3.3 Landscaping

The proposal provides a compliant landscaped area of 227.8m² or 65% of the total open space area.

As noted above, the proposed dwelling siting is compatible with surrounding developments and the generous front, side and rear setbacks enable the maintenance of sufficient landscaped areas around the curtilage of the dwelling to accommodate planting that will soften the visual bulk of the development and offer supplementary screening to adjoining properties.

The proposed landscaping will be in accordance with the Landscape Plan that accompanies the DA submission.

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 will maintain a compliant level of solar access to the living areas and private open spaces of the adjoining dwellings, with the majority of the additional overshadowing falling on the front yards and adjacent road reserve.
- The proposed dwelling is well-designed in relation to privacy as the side-boundary facing windows are predominantly high light and/or obscured glazing and the level 2 & 3 patios incorporate 1.8m privacy screens.
- There are no significant view lines identified in the vicinity of the site and the proposal's compliant building height and reasonable bulk and scale ensure the reasonable maintenance of outlooks from surrounding properties.

Clause 3.5 Sustainability

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

A BASIX Certificate accompanies this application which confirms that the residential component of the development will exceed the NSW Government's requirements for sustainability.

Clause 3.7 Stormwater Management

Stormwater from the proposed dwelling will be directed to a level spreader located within the rear yard of the site, in accordance with the drainage plans prepared by Development Engineering Solutions which accompany the DA submission.

Part 4 – Residential Development Controls**Site Area 638.1m² - Density Sub Zone D2 (250m² per dwelling)****Compliance Table**

Control	Required	Proposed	Compliance
Clause 4.1.1 Residential Density & Subdivision	Density Area D2 – 1 dwelling per 150m ²	1 dwelling / 638.1m ²	Yes – existing site density and dimensions are unchanged
Clause 4.1.2 Height of Buildings	Wall height – East: 7m (gradient 1:12)	L2: 4.5m L3: 5.7m	Yes
	West: 7.4m (gradient 1:6.8)	L2: 6.25m L3: 6.8m	Yes
	Max two storeys	Max two storeys at any point	Yes
	Roof height – 2.5m above wall height	0.25m	Yes
Clause 4.1.4 Setbacks (front, side and rear)	<u>Front</u> a) Relate to neighbouring sites and the prevailing building lines or 6m	The proposed primary front setback of 6.4m complies with the numerical requirement and is consistent with the prevailing building line of adjoining properties.	Yes
	<u>East</u> L2: 1.5m L3: 1.9m	L2: 1.5m L3: 2m	Yes
	<u>West</u> L2: 2.1m L3: 2.27m	2.5m 4.65m	Yes

Control	Required	Proposed	Compliance
Rear setback	8.0m	The proposed side setbacks comply along the full length of the eastern and western elevations and provide sufficient separation to maintain privacy, sunlight access and view corridors. Pool: 12m Dwelling: 17.6m The proposed rear setback complies with the numerical control and has regard for the prevailing rear setbacks of surrounding properties.	Yes
Clause 4.1.5 Open space and Landscaping	Area OS 3 Open space: Min 55% site area (351m ²)	Proposed open space – 47.2% or 301m² (>3m width) In addition to the calculable total open space, the proposal includes a further 63m² of open space to the east of the driveway and within the western side setback with minimum dimensions of 2m (less than the required 3m to be included in the calculation) that contribute to the landscape outcome and recreational and service areas of the site. A variation is sought on the above grounds, noting that the proposal would comply with the 55% control subject to the inclusion of these additional areas.	Yes – on merit

Control	Required	Proposed	Compliance
	Landscaping: 35% of open space (122.85m ²)	Proposed soft landscaping – 65% or 227.8m ²	Yes
Clause 4.1.6 Parking	Min 2 spaces	2 spaces The proposal increases the supply of on-site car parking and is integrated into the dwelling design to minimise visual impacts upon the streetscape.	Yes
Clause 4.1.6.4 Vehicular Access	a) All vehicles should enter and leave the site in a forward direction. b) Vehicular access and parking for buildings with more than 1 dwelling is to be consolidated within one location unless an alternative layout/design would better reflect the streetscape or the building form. c) Vision of vehicles entering and leaving the site must not be impaired by structures or landscaping.	Based on the constrained site width it is not feasible to achieve forward entry and exit for vehicle access. The proposed vehicular access arrangement is generally consistent with those of the existing site and surrounding properties. N/A The proposed design facilitates appropriate visibility for vehicular access.	Yes – on merit. N/A Yes

Control	Required	Proposed	Compliance
	d) Particular attention should be given to separating pedestrian entries and vehicular crossings for safety.	The proposed vehicular and pedestrian entries are sufficiently separated.	Yes

Clause 4.1.8 Development on Sloping Sites	Subject site is within Area G4. <u>Area G4</u> i) Geotechnical assessment may be required depending on location and nature of development and man-made cut and fill. ii) Residential footings are to be in accordance with AS2870. iii) 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	The site topography slopes moderately from front to rear as demonstrated on the survey plan prepared by C&A Surveyors. All works will be conducted under the supervision and direction of a Structural Engineer and will be managed in accordance with the recommendations of the Geotechnical Investigation to ensure that the amenity and safety of the subject and neighbouring dwellings will be protected.	Yes
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	of site requiring some stabilisation works. Large scale stabilisation works are unlikely to be required in Area G4.		
Clause 4.1.9 Swimming pools, spas and Water features	Height above ground not more than 1m	0.7m	Yes
	Setback of outer edge of pool concourse from side and rear boundaries must be at least 1m with water line being at least 1.5m from the boundary	Coping 1m Water line 3.6m	Yes
	Pool not to exceed 30% of total open space	< 30%	Yes
Clause 4.1.10 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. Transparent fences permitted up to 1.5m in height.	No fence proposed.	N/A

Part 5 – Special Character Area and Site

The subject site is identified as being within any Special Character Area or site and therefore there are no applicable provisions under Part 5.

7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979

7.1 The provisions of 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

There are no draft instruments applying to the land.

7.3 Any development control plan

The development has been designed to comply with the requirements of Council's Manly Development Control Plan 2013.

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 numerical development controls in the DCP as justified in this report. In particular we consider that the variation to the total open space control is a reasonable alternative solution to compliance given that the shortfall occurs only due to the minimum required 3m dimension and

the proposal otherwise fully complies with the LEP development standards and DCP built form controls.

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.

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, and

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 consent for proposed construction of a new dwelling and ancillary structures, will not unreasonably impact upon the amenity of adjoining properties or the character of the surrounding area. It is considered that the resultant development is compatible with and will complement the residential character of the area.

The proposal is considered to be well-designed having regard to the relevant provisions of the Council's MLEP 2013 and Council's Codes and Policies, in particular the Manly DCP 2013.

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.

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 natural environment, the character of the locality or 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 provide for the proposed construction of a new dwelling and ancillary structures, which satisfies the stated objectives of MLEP 2013 and MDCP 2013.

The proposal is a site-specific design response which takes advantage of the property's superior locational attributes whilst respecting the environmental characteristics of the site and the amenity of adjoining development.

The outcome is a contemporary dwelling of exceptional design quality that displays a highly articulated building form, appropriately responds to the site's geometry and constraints and is sympathetic to the local character and the amenity of surrounding properties in relation to privacy, solar access and views.

The proposal is fully compliant with the building height and FSR standards. The building displays a complimentary and compatible building form when compared to other development located along the western side of Hilltop Crescent and within the site's visual catchment.

The articulated side boundary setbacks maintain the rhythm of development and building setbacks within the street and appropriately provide for spatial separation, landscape opportunity, privacy, solar access and view sharing.

The internal layout and swimming pool arrangement will afford exceptional amenity and functionality to future occupants without unreasonably compromising the amenity of surrounding residential properties or the foreshore scenic attributes of the precinct.

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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