

STATEMENT OF ENVIRONMENTAL EFFECTS

Proposed dwelling
house

20 Beatty Street,
Balgowlah Heights

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20 Beatty Street, Balgowlah Heights



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1 Introduction

This statement has been prepared in support of a Development Application proposing the demolition of the existing site structures and the construction of a new dwelling house with detached garage accommodation and a swimming pool. The application also proposes the implementation of an enhanced site landscape regime.

The architect has responded to the client brief to design a dwelling house which takes advantage of the sites superior locational attributes whilst responding to the established built form characteristics of adjoining and nearby development. Although a new build, the proposed dwelling generally maintains the building footprint and setbacks established by the existing dwelling house and to that extent maintains a complimentary and compatible spatial arrangement with surrounding development.

The outcome is a dwelling house of exceptional design quality affording superior levels of amenity to future occupants whilst maintaining appropriate residential amenity to adjoining properties in relation to views, solar access and privacy. In particular, the dwelling has been designed to avoid adverse impacts to views currently enjoyed by upslope properties. In addition to this Statement of Environmental Effects, the following documents also accompany the application:

- Architectural Plans by BJB Architects
- Survey by Rygate & Company
- Landscape Plan by Site Design Studios
- Geotechnical Report by Core Geotech
- Stormwater Management Plans by Taylor Consulting
- Arborist Report by Jacksons Nature Works
- BASIX Certificate by Newton Fisher Group
- Waste Management Plan by Trumen
- Quantity Surveyors Report by Newington Fisher Group

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

- Environmental Planning and Assessment Act, 1979 (EP&A Act),
- Manly Local Environmental Plan 2013 (MLEP 2013),
- Manly Development Control Plan 2013 (MDCP 2013),
- State Environmental Planning Policy (Sustainable Buildings) 2022,

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The site is assessed as suitable for the proposal, having regard to the relevant land use and planning requirements.
- Whilst the proposal requires the consent authority to give favourable consideration to a variation to the building height and FSR development standards, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the development's ability to achieve the objectives of the development standards notwithstanding the variations sought. Sufficient environmental planning grounds exist to support the variation including the topography of the land and the attainment of an appropriate contextual fit with the accompanying clause 4.6 variation requests are well founded.
- The identified non-compliances with the MDCP 2013 controls have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standard for dealing with that aspect of the development.

2 Site Analysis

1.1 Site Description and Location

The subject property is legally described as Lot 2 in DP554948, No 20 Beatty Street, Balgowlah Heights. The site is irregular in shape having irregular splayed frontage to Beatty Street of 24.83m, depth of between 44.495m and 59.605m, rear boundary length of 13.736m and an area of 846.5m². An aerial photograph is provided at Figure 1 below.



Figure 1: Site Location Map
(Source: SIX Maps)

The site experiences a fall of approximately 4m from the street to the rear boundary of the property. An existing two storey dwelling with integrated parking is located on the site with an inground swimming pool in the front yard. The site contains a number of trees as detailed on the survey extract at Figure 2 and within the accompanying arborist report prepared by Jacksons Nature Works.

Development adjoining the property predominantly comprises large multi-storey residential dwellings orientated to the east to take advantage of harbour views. A driveway providing access to the dwellings at 22A and 22B Beatty Street is located immediately adjacent to the northern and eastern boundaries of the property.

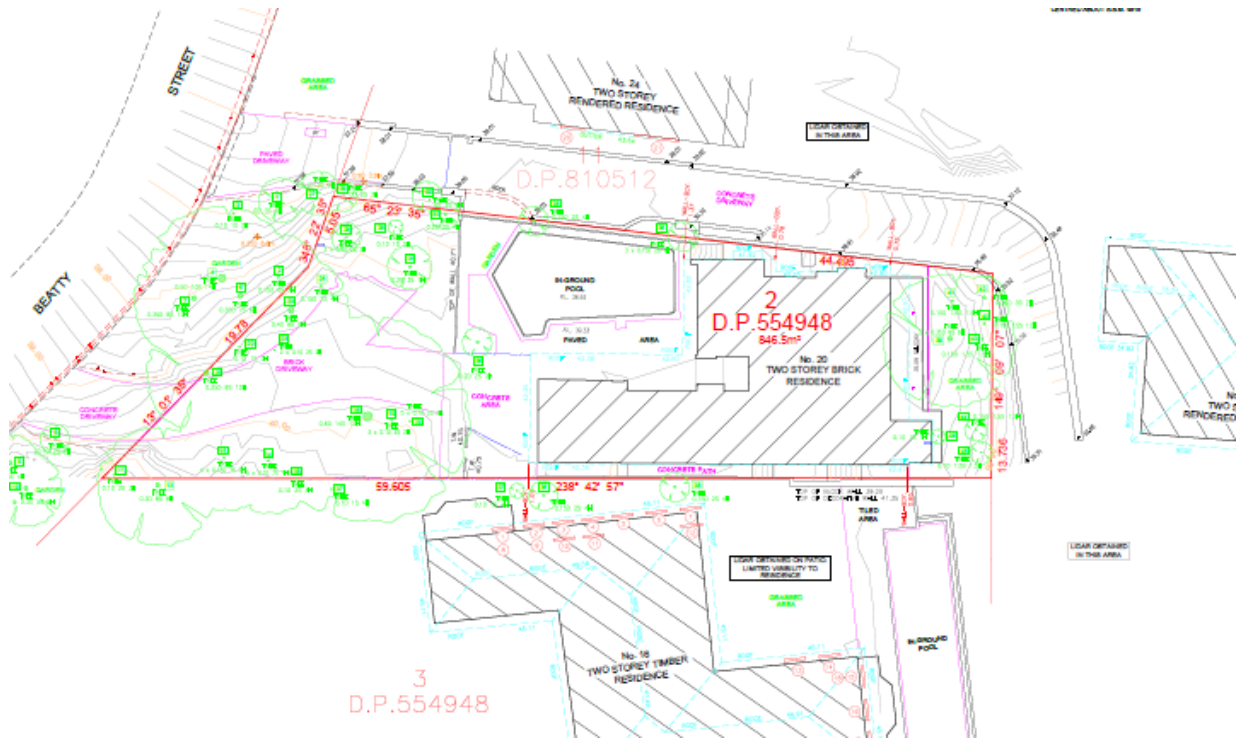


Figure 2: Survey plan extract



Figure 3: The subject site as seen from Beatty Street

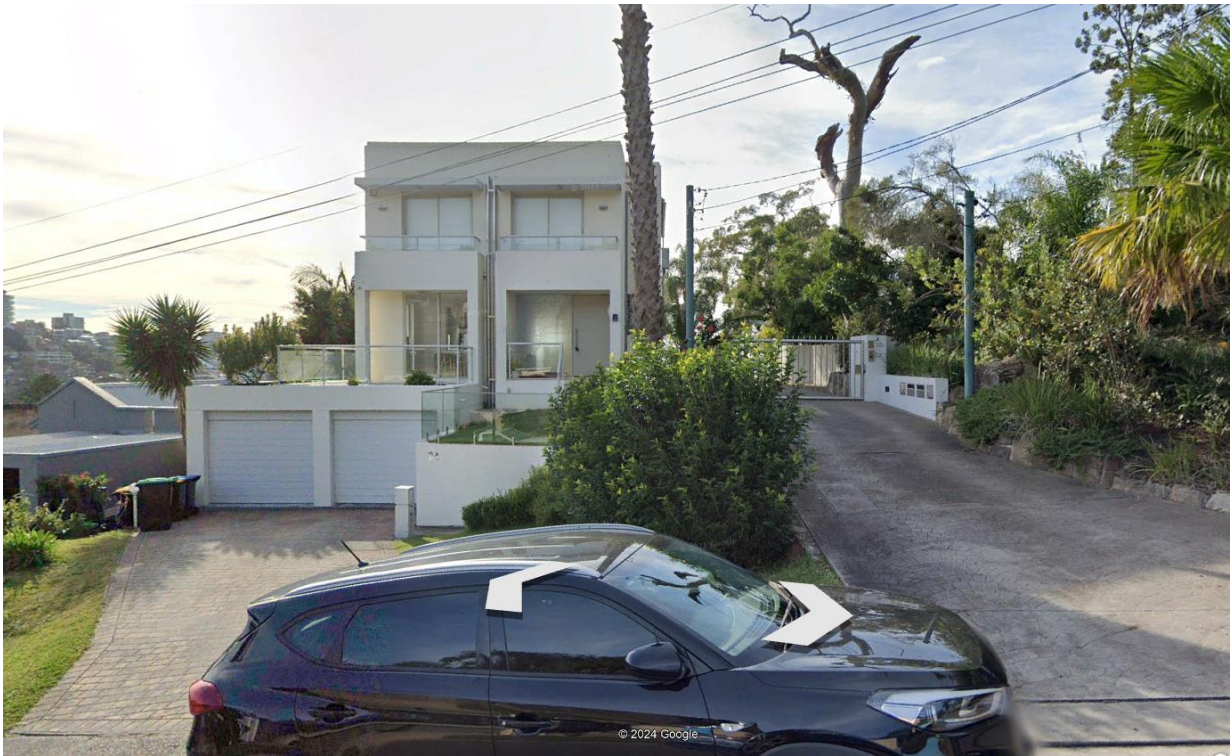


Figure 4: The adjoining property to the north No. 24 Beatty Street and the access driveway to 22A and 22B Beatty Street

3 Description of Development

3.1 Details of the Proposed Development

The development application proposes the substantive demolition of the existing site structures and the construction of a new dwelling house incorporating retained building fabric. The application also proposes the construction of swimming pool. The proposed development is depicted on Architectural plans Revision C prepared by BJB Architects. The resultant floor plate arrangement is as follows:

Lower Ground Floor

- Bedroom
- Living area opening onto a rear landscape garden with spa
- Store room
- Plant room
- Internal stair access to levels above

Upper Ground Floor

- Detached double garage accessed via a new driveway from Beatty Street.
- Garden store/bin storage area
- Formal pedestrian entry
- Open plan kitchen living and dining area opening onto a north-east facing terrace
- Family room
- Powder room
- Laundry
- Internal stair access to the levels above and below

Forst Floor Plan

- Master bedroom with walk in robe and ensuite opening onto a north-east facing terrace
- Home office
- Three additional bedrooms each with ensuite

External Works

- Covered pedestrian entry structure with green roof
- New driveway crossing
- New internal driveway
- Swimming pool
- Landscaping
- Infrastructure

Whilst proposal requires removal of a number of trees located immediately adjacent proposed garage structure as detailed within the accompanying arborist report prepared by Jacksons Nature Works the location of the proposed garage significantly enhances the safety and utility of the driveway access from Beatty Street given the topography of the land and geometry of the driveway relative to the road alignment. Such tree loss is appropriately compensated for through the implementation of the enhanced site landscape regime as detailed on the accompanying landscape plans prepared by Site Design Studios.

The acceptability of the proposed excavation as detailed in the company geotechnical report prepared by Core Geotech with stormwater appropriately disposed of as detailed on the accompanying plans prepared by Taylor Consulting.

4 Statutory Planning Framework

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential environmental impacts are discussed below.

1.1 Manly Local Environmental Plan 2013

1.1.1 Zoning and Permissibility

The subject site is Zoned R2 Low Density Residential under the provisions of MLEP 2013. In accordance with the Land Use Table of MLEP 2013, dwelling houses (and associated ancillary development) are permitted with consent.

1.1.2 Height of Buildings

Pursuant to clause 4.3 of MLEP 2013, the height of any building on the land shall not exceed a height of 8.5 metres. The objectives of the control are as follows:

- a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- b) *to control the bulk and scale of buildings,*
- c) *to minimise disruption to the following:*
 - i. *views to nearby residential development from public spaces (including the harbour and foreshores),*
 - ii. *views from nearby residential development to public spaces (including the harbour and foreshores),*
 - iii. *views between public spaces (including the harbour and foreshores),*
- d) *to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*
- e) *to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses*

Whilst the vast majority of the proposed development is maintained at or below the 8.5m height plane, an area at the north-eastern end of the building protrudes above the height plane, with a maximum building height of 10.11m. The non-compliance is limited to an area located above an area of historical excavation. The non-compliance is representative of a maximum 1.611m or 18.8% variation of the 8.5m building height prescribed. The extent of non-compliance is demonstrated in the following images.

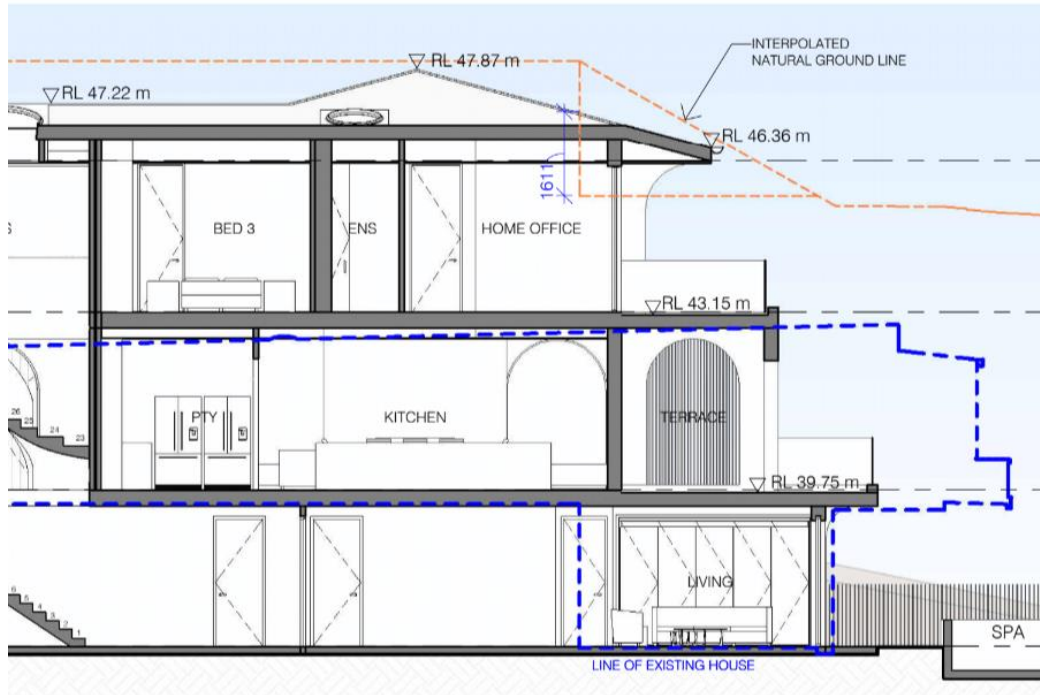


Figure 1 Plan extract showing building height breach in section

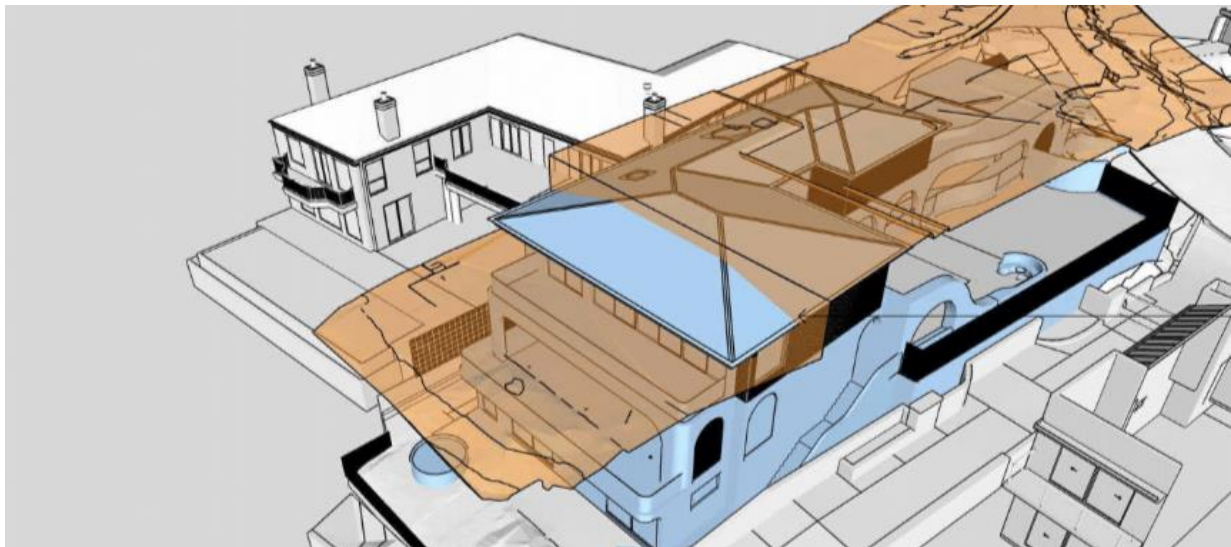


Figure 2 Height blanket diagram (ground level existing)

The portion of the building that breaches the height plane is located in an area where the natural ground levels immediately below have been modified during the construction of the existing dwelling house contributing to the extent of building height variation proposed.

Clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Having regard to these provisions, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the ability to satisfy the objectives of the zone and the objectives of the development standard, the attainment of an appropriate contextual fit and general paucity of streetscape impacts. Sufficient environmental planning grounds existing to support the variation proposed with the accompanying clause 4.6 variation request well founded.

1.1.3 Floor Space Ratio

Pursuant to clause 4.4 in the LEP, the site has a maximum floor space ratio (FSR) control of 0.4:1. The objectives of the FSR control are as follows:

- a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
- b) *to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*
- c) *to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*
- d) *to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*
- e) *to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

The accompanying plans nominate a gross floor area of 430.4m², resulting in a FSR of 0.5:1, representative of a variation to the development standard of 91.8m² or 27%.

Clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied. Having regard to these provisions, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the ability to satisfy the objectives of the zone and the objectives of the development standard, the attainment of an appropriate contextual fit and general paucity of streetscape impacts. Sufficient environmental planning grounds existing to support the variation proposed with the accompanying clause 4.6 variation request well founded.

1.1.4 Earthworks

The application is supported by a Geotechnical Report by Core Geotech which provides a series of recommendations to ensure that the proposed excavation can be undertaken safely. The consent authority can be satisfied that the degree of excavation proposed will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, consistent with the provisions of clause 6.2 of MLEP 2013.

1.1.5 Stormwater Management

Stormwater will be collected appropriately disposed of as detailed on the accompanying stormwater management plans prepared by Taylor Consulting. The consent authority can be satisfied that the proposed development–

- (a) has been 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 on-site stormwater retention for use as an alternative supply to mains water, and
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

As such, the consent authority can be satisfied that the proposal is consistent with the provisions of clause 6.4 of MLEP 2013.

1.1.6 Scenic Protection Area

Pursuant to clause 6.9 of the MLEP 2013 the subject site is located within the foreshore scenic protection area. 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.

It is considered that the proposed development is consistent with the bulk and scale of development within the visual catchment of the site and the foreshore area. Development is characterised by multi storey residential dwellings that step down the sloping topography. The proposed dwelling will integrate with existing development along the streetscape and will not result in an unreasonable visual impact when viewed from public places or the foreshore.

1.1.7 Essential Services

Pursuant to clause 6.12 of MLEP 2013, development consent must not be granted to development unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required. As the subject property is currently occupied by dwelling house, the consent authority can be satisfied that all essential services will be available to the resultant development prior to the issuance of the occupation certificate.

1.2 Manly Development Control Plan 2013

The relevant provisions of the Manly Development Control Plan 2013 in relation the proposed works are detailed as follows:

Control	Requirements	Proposed	Compliance
<p>Streetscape (Residential Areas)</p> <p>3.1</p>	<p>Streetscape is defined and represents the inter-relationship between buildings, landscape and open spaces in the street scene. Local amenity and identity are closely linked to streetscape character. Development should recognise predominant streetscape qualities, such as building form, scale, patterns, materials and colours and vegetation which contributes to the character of the local area.</p>	<p>The proposal dwelling house will not be readily discernible in streetscape context due to existing screening within the road reserve and within the front setback of the development.</p> <p>The dwelling is highly articulated, steps down in response to the slope of the land and is to be screened and softened by at-grade and integrated planters/ green roof elements to contribute to the landscaped character of the locality.</p>	<p>Yes</p>
<p>Landscape Design</p> <p>3.3.1</p>	<p>To encourage appropriate tree planting and maintenance of existing vegetation.</p> <p>To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.</p>	<p>Detailed Landscape Plans prepared by Site Design Studios accompany the application and demonstrate a high-quality landscaped treatment for the site.</p>	<p>Yes</p>

Control	Requirements	Proposed	Compliance
<p>Preservation of Trees</p> <p>3.3.2</p>	<p>To protect and enhance the urban forest of the Northern Beaches.</p> <p>To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.</p>	<p>Whilst proposal requires removal of a number of trees located immediately adjacent proposed garage structure as detailed within the accompanying arborist report prepared by Jacksons Nature Works the location of the proposed garage significantly enhances the safety and utility of the driveway access from Beatty Street given the topography of the land and geometry of the driveway relative to the road alignment. Such tree loss is appropriately compensated for through the implementation of the enhanced site landscape regime as detailed on the accompanying landscape plans prepared by Site Design Studios.</p>	<p>Yes</p>
<p>Sunlight Access and Overshadowing</p> <p>3.4.1</p>	<p>New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from</p>	<p>The proposed development will not result in any unreasonable impacts with regard to overshadowing, as demonstrated in the shadow diagrams/ view from the sun diagrams</p>	<p>Yes</p>

Control	Requirements	Proposed	Compliance
	<p>9am to 3pm at the winter solstice (21 June).</p>	<p>prepared in support of the application.</p> <p>3 hours of solar access to the primary area of private open space and windows associated with living rooms of the adjoining dwelling at 16 Beatty Street will be maintained in strict accordance with the control.</p>	
<p>Privacy and Security</p> <p>3.4.2</p>	<p>To minimise loss of privacy to adjacent and nearby development by:</p> <ul style="list-style-type: none"> • appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; • mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings. 	<p>The majority of fenestration associated with principal living rooms and all private open space areas have been orientated to the front and rear of the site to minimise direct overlooking opportunities into the living areas and principal private open space areas of the two immediately adjoining properties. Adequate spatial separation is also maintained to the properties located down slope of the development to ensure the retention of an appropriate level of privacy. We note that the proposed elevated terraces generally align with the elevated deck area currently existing on-site.</p>	<p>Yes</p>

Control	Requirements	Proposed	Compliance
<p>Maintenance of Views</p> <p>3.4.3</p>	<p>To provide for view sharing for both existing and proposed development and existing and future Manly residents.</p> <p>To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).</p>	<p>Having inspected the site and surrounds to identify potential view corridors from surrounding development we are satisfied that the proposal will not result in adverse view affectation with a view sharing outcome maintained to all surrounding properties.</p>	<p>Yes</p>
<p>Stormwater Management</p> <p>3.7</p>	<p>To manage urban stormwater within its natural catchments and within the development site without degrading water quality of the catchments or cause erosion and sedimentation.</p>	<p>The application is accompanied by Stormwater Management Plans by Taylor Consulting which demonstrate the appropriate disposal of stormwater in accordance with these provisions.</p>	<p>Yes</p>
<p>Waste Management</p> <p>3.8</p>	<p>To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development (ESD).</p> <p>Encourage the ongoing minimisation and</p>	<p>The waste generated from the demolition will be sorted and disposed of appropriately. Materials will be recycled or reused where appropriate.</p>	<p>Yes</p>

Control	Requirements	Proposed	Compliance
	<p>management of waste handling in the future use of premises.</p> <p>To ensure waste storage and collection facilities complement waste collection and management services, offered by Council and the private service providers and support on-going control for such standards and services.</p>	<p>Bin storage is proposed within a dedicated bin storage area at the front of the property.</p> <p>A Waste Management Plan accompanies this application.</p>	
<p>Safety and Security</p> <p>3.10</p>	<p>To ensure all development are safe and secure for all residents, occupants and visitors of various ages and abilities.</p>	<p>The resultant dwelling will provide appropriate levels of safety and security for the future occupants.</p>	<p>Yes</p>
<p>Wall Height</p> <p>4.1.2.1</p>	<p>7.7m based on the slope of the land.</p>	<p>Variable wall height between 6.4m and 9.3m as the site falls away to the north-east.</p> <p>The non-compliance arises due to the topography of the land at its north-eastern end.</p> <p>The non-compliance does not attribute to excessive bulk and scale or any unreasonable impacts upon the amenity of adjoining properties. The development as a whole is of a height and scale that is consistent and compatible with</p>	<p>No</p> <p>Acceptable on merit.</p>

Control	Requirements	Proposed	Compliance
		<p>surrounding development.</p> <p>Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standard for dealing with that aspect of the development.</p>	
<p>Number of Storeys</p> <p>4.1.2.2</p>	<p>2 storeys</p>	<p>2-3 storeys</p> <p>The dwelling has been designed to step down the slope of the site.</p> <p>The majority of the dwelling is limited to two storeys above natural ground level with the three-storey element only discernible at the north-eastern end of the building.</p> <p>The three storey element is of a height and scale that is compatible with neighbouring buildings and will not give rise to any adverse streetscape or unacceptable residential amenity impact in terms of</p>	<p>No</p> <p>Acceptable on merit</p>

Control	Requirements	Proposed	Compliance
		<p>views, privacy or solar access.</p> <p>Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standard for dealing with that aspect of the development.</p>	
Roof Height 4.1.2.3	Max. parapet height: 600mm	NA	NA
FSR 4.1.3	0.4:1	0.5:1	No See Clause 4.6 Request.
Front Setback 4.1.4.1	Street front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.	<p>The front setbacks of the proposed development are appropriately responsive to the front setbacks of adjoining properties.</p> <p>Whilst proposal requires removal of a number of trees located immediately adjacent proposed garage structure as detailed</p>	Yes

Control	Requirements	Proposed	Compliance
		<p>within the accompanying arborist report prepared by Jacksons Nature Works the location of the proposed garage significantly enhances the safety and utility of the driveway access from Beatty Street given the topography of the land and geometry of the driveway relative to the road alignment.</p> <p>The proposed garage will be screened to a significant extent by retained vegetation within the road reserve such that it will not be perceived as inappropriate or jarring streetscape context.</p> <p>The front setbacks are appropriate under such circumstances.</p>	
<p>Side Setbacks 4.1.4.2</p>	<p>1/3rd Wall Height setback required</p>	<p>The proposal maintains a variable setback to the northern boundary of the property, where it adjoins the adjacent driveways, of between 1 and 2m with a 1m setback proposed to the southern boundary of the property.</p>	<p>No Acceptable on merit</p>

Control	Requirements	Proposed	Compliance
	<p>All new windows from habitable rooms of dwellings that face the side boundary are to be setback at least 3m from side boundaries.</p>	<p>We note that the L-shaped design provides a narrow façade length to the northern boundary.</p> <p>Although non-compliant with the 1/3rd wall height setback control the dwelling has been designed to maintain the side boundary setbacks established by the existing dwelling on the site which are considered to be contextually appropriate and facilitate the L-shaped designed dwelling house proposed given the narrowing/ tapering of the subject property width towards its north-eastern boundary.</p> <p>The northern side boundary setbacks are considered appropriate given their interface with the adjacent driveway with appropriate spatial separation maintained to the adjoining dwelling house such that the setbacks will not give rise to any adverse residential amenity impact in terms of views, privacy or solar access.</p>	

Control	Requirements	Proposed	Compliance
		<p>The southern side boundary setbacks are also considered appropriate given that they will not give rise to non-compliant view, solar access or privacy outcomes, will not be discernible in a streetscape context and accordingly are consistent with the objectives of the side setback control.</p> <p>Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standard for dealing with that aspect of the development.</p>	
<p>Rear Setback 4.1.4.4</p>	<p>8m</p>	<p>6m – 10.9m</p> <p>Although non-compliant with the 8m rear setback control appropriate spatial separation is maintained to the properties to the rear given the additional spatial separation afforded by the shared access driveway to these properties.</p>	<p>N/A</p>

Control	Requirements	Proposed	Compliance
		<p>The variable setback proposed provides for a stepped building form and substantially greater articulation modulation than a fully compliant 8m setback at each level.</p> <p>The proposed setbacks provide appropriately for landscaping and ensures that the building will not give rise to unacceptable residential amenity impacts in relation to views, solar access or privacy.</p> <p>Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standard for dealing with that aspect of the development.</p>	
<p>Open Space and Landscaping</p> <p>4.1.5.1</p>	<p>60% (min.) Total Open Space</p> <p>40% (min.) of TOS as Soft Landscaping</p>	<p>64.6% open space</p> <p>52.6% of required TOS landscaped area</p>	<p>Yes</p> <p>Yes</p>

Control	Requirements	Proposed	Compliance
<p>Parking Design 4.1.6.1</p>	<p>The design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality.</p>	<p>As indicated previously, the location of the proposed garage provides safe and convenient access to and from the site with existing vegetation retained within the road reserve and at the frontage of the property significantly screening the proposed structure such that it will not be perceived as inappropriate or jarring in the streetscape.</p>	<p>Yes</p>
<p>Development on Sloping Sites 4.1.8</p>	<p>The design of development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.</p> <p>Developments on sloping sites must be designed to generally step with the topography of the site; and avoid large undercroft spaces and minimise supporting undercroft structures by integrating the building into the slope whether to the foreshore or a street.</p>	<p>The proposed dwelling has been designed to follow the slope of the land.</p> <p>A Geotechnical Report by Core Geotech accompanies the application.</p>	<p>Yes</p>
<p>Swimming Pools 4.1.9</p>	<p>Swimming pools and spas must be built on or in the ground and not elevated more than 1m above natural ground level.</p>	<p>The swimming pool does not protrude above existing ground levels.</p>	<p>Yes</p>

Control	Requirements	Proposed	Compliance
	<p>Swimming pools and spas must not be located within the front setback. Consideration of any exception to the required location must demonstrate that any swimming pools and/or spa and their curtilage and/or concourse does not detract from the amenity or character of the neighbourhood.</p>	<p>The proposed swimming pool is not located within the front setback.</p>	<p>Yes</p>
	<p>The setback of the outer edge of the pool/spa concourse from the side and rear boundaries must be at least 1m, with the water line being at least 1.5m from the boundary.</p>	<p>The coping of the swimming pool is not within 1m from a side or rear boundary and the waterline is not within 1.5m from a side or rear boundary.</p>	<p>Yes</p>
	<p>Swimming pools and associated concourse areas must not comprise more than 30 percent of the total open space.</p>	<p>The footprint of the swimming pool satisfies this control.</p>	<p>Yes</p>

1.3 State Environmental Planning Policy (Resilience and Hazards) 2021

1.3.1 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. The site has been used for residential purposes for an extended period of time with no known prior land uses. In this regard, the potential for contamination is considered to be extremely unlikely.

The site is not identified as a contaminated site on the NSW EPA's list of notified sites, nor is it in the vicinity of any listed sites. The consent authority can be satisfied that the subject site is suitable for the proposed development.

As such, the proposed development is consistent with the provisions of Chapter 4 of this policy.

1.4 State Environmental Planning Policy (Sustainable Buildings) 2022

This SEPP applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX certificate accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

1.5 Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 as Amended

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended):

(i) The provision of any planning instrument

The proposal is permissible and generally in conformity with the provisions of MLEP 2013.

The proposal is also consistent with all applicable SEPPs, including the relevant provisions of SEPP (Building Sustainability Index: BASIX) and SEPP (Resilience and Hazards). The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the EP&A Act. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

N/A

(iii) Any development control plan

MDCP 2013 is applicable to this application and has been considered in detail in this report.

(iiia) Any Planning Agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and

N/A

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

N/A

(v) Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)

N/A

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

[The assessment considers the Guidelines (in italics) prepared by the Department of Planning and Environment in this regard].

*Context and Setting**i. What is the relationship to the region and local context in terms of:*

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

The height, bulk and scale of the resultant dwelling will be entirely commensurate with that established by adjoining development and development generally within the visual catchment of the site, with no adverse residential amenity impacts in terms of views, privacy or overshadowing to adjoining properties.

ii. What are the potential impacts on adjacent properties in terms of:

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*
- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

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

Access, transport and traffic:

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- *Travel Demand*
- *dependency on motor vehicles*
- *traffic generation and the capacity of the local and arterial road network*
- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*
- *Vehicular parking spaces*

The proposed development will not result in any adverse impacts upon access, transport and traffic.

Public Domain

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

Utilities

Existing utility services will be maintained to service the proposed dwelling.

Flora and Fauna

The proposal will not result in any adverse impacts upon flora and fauna.

Waste Collection

Normal domestic waste collection applies.

Natural hazards

The application is supported by a Geotechnical Report.

Economic Impact in the locality

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

Site Design and Internal Design

Is the development design sensitive to environmental considerations and site attributes including:

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*

- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

These matters have been discussed in detail earlier in this report. The potential impacts are minimal and within the scope of the general principles, desired future character and built form controls.

How would the development affect the health and safety of the occupants in terms of:

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

The proposed development will comply with the provisions of the Building Code of Australia. The proposal complies with the relevant standards pertaining to health and safety and will not have any detrimental effect on the occupants.

Construction

What would be the impacts of construction activities in terms of:

- *The environmental planning issues listed above*
- *Site safety*

The development will be carried out in accordance with the provisions of the Protection of the Environment Operations Act 1997. Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

(c) The suitability of the site for the development

The site is located in an established residential area. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause excessive or unmanageable levels of transport demand.

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

It is envisaged that Council will appropriately consider any submissions received during the notification period.

(e) The public interest

The proposed works are permissible and consistent with the intent of the LEP and DCP controls as they are reasonably applied to the proposed development. The development would not be contrary to the public interest.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes and controls contained within the adopted legislative framework. Accordingly, approval of the development would be in the public interest.

5 Conclusion

The architect has responded to the client brief to design a dwelling house which takes advantage of the sites superior locational attributes whilst responding to the established built form characteristics of adjoining and nearby development. Although a new build, the proposed dwelling generally maintains the building footprint and setbacks established by the existing dwelling house and to that extent maintains a complimentary and compatible spatial arrangement with surrounding development.

The outcome is a dwelling house of exceptional design quality affording superior levels of amenity to future occupants whilst maintaining appropriate residential amenity to adjoining properties in relation to views, solar access and privacy. In particular, the dwelling has been designed to avoid adverse impacts to views currently enjoyed by upslope properties.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The site is assessed as suitable for the proposal, having regard to the relevant land use and planning requirements.
- Whilst the proposal requires the consent authority to give favourable consideration to a variation to the building height and FSR development standards, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the development's ability to achieve the objectives of the development standards notwithstanding the variations sought. Sufficient environmental planning grounds exist to support the variation including the topography of the land and the attainment of an appropriate contextual fit with the accompanying clause 4.6 variation requests are well founded.
- The identified non-compliances with the MDCP 2013 controls have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standard for dealing with that aspect of the development.

Boston Blyth Fleming Pty Limited



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Director