

Planning Report
Section 8.2 Review DA2022/2270 –
Alterations and Additions to Semi-Detached Dwelling
166 Pittwater Road
Manly, NSW

EVOLUTION PLANNING



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Alterations and Additions to Semi-Detached
Dwelling
166 Pittwater Road
Manly, NSW

Prepared for:

B & C Laws

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1 Introduction

This Planning Report accompanies an application to Council for the review of DA2022/2270 (the DA) under Section 8.2 of the Environmental Planning and Assessment Act 1979 (the Act).

The DA which is the subject of this review is for alterations and additions to a semi-detached dwelling at 166 Pittwater Road, Manly, specifically a first-floor rear addition and internal alterations, was refused by Council on 6 June 2023.

The DA was refused for the following reason:

“1. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the Development Application does not comply with the provisions of Clause 23 of the EP&A Regulation 2021 and must be refused as the application does not constitute a legitimate Development Application.

Particulars:

i). The application is not accompanied by sufficient information in the form of owners consent from No. 168 Pittwater Road for the works on and over the common boundary and those subject to the existing easement for support of the party (or common) wall between the two properties.”

Despite prolonged and extensive efforts to attain the consent of the neighbouring owners to carry out works on the party wall and almost achieving such consent, the DA was refused before such consent was attained.

To remove this obstacle and directly address the single reason for refusal, the current application involves an amendment to the design which was the subject of Council's final determination (noting that the design had been amended from the point of lodgement to determination to address other matters raised by Council, in particular by Council's Heritage Specialist). The proposed amended development proposal, which is the subject of this application, no longer includes works to the party wall which would require the consent of the neighbouring owners.

The proposed development does not constitute *designated development* or *integrated development*.

The application has been prepared with the assistance of a number of specialists who have informed design development and this assessment. The project team includes:

ViewThru Architects	Project management; Architecture; Shadow Diagrams, BASIX, Waste Management Plan, Sediment Control
Evolution Planning	Town Planning.
David Scobie Architects	Heritage
Geoff Hopkins & Associates Pty Ltd Civil & Structural Engineers	Structural Engineering
SurvPlan	Land Survey
Moises Lopez	Cost Report

Reports and other related material prepared by these specialists accompany the application and are referred to throughout this SEE.

1.1 Background

The following provides a summary of the assessment of the DA and actions by the applicant.

DATE	ACTION
1 March 2023	RFI issued requesting: <ul style="list-style-type: none">• An acoustic assessment.• Amended plans to comply with the FSR development standard and minimise the bulk and scale of the first-floor addition from a heritage perspective.
17 March 2023	Additional information provided including: <ul style="list-style-type: none">• Amended plans to reduce GFA by 0.5sq.m; reduced scale of home office at first-floor level; and, changes to the finishes and colours;• Amended SEE to include an assessment of Section 2.120 of SEPP (Transport and Infrastructure) 2021.
13 April 2023	RFI issued requiring land owner's consent from the owners of 168 Pittwater Rd or amended drawings. At this juncture, the applicant elected to seek the neighbouring owner's consent.
15 May 2023	Additional information provided to support the ceiling height of the home office in response to the recommended heritage conditions
25 May 2023	Second RFI issued requesting neighbouring owner's consent.

For completeness, this report provides an assessment of the proposed amended development as a whole to also address the previous matters raised by Council which have been resolved as a result of earlier amendments.

2 Site

The site, 166 Pittwater Road, Manly, is located on the eastern side of Pittwater Road within the Northern Beaches LGA (formerly Manly Council) and has an area of 244.5sq.m. It is legally described as Lot 107 in DP1176623 and is trapezium in shape with a diagonal frontage to Pittwater Road of 7.91m. It has a northern side boundary length of 33.26m, a southern side boundary length of 31.06m and a rear boundary length of 7.615m. The site is generally level with a very minor fall towards Pittwater Road.

The site is the subject of easements for services and support, (as shown on the Survey Plan, prepared by Survplan), which will be unaffected by the proposed works.

Refer to the site location plan and aerial context and site plans below.

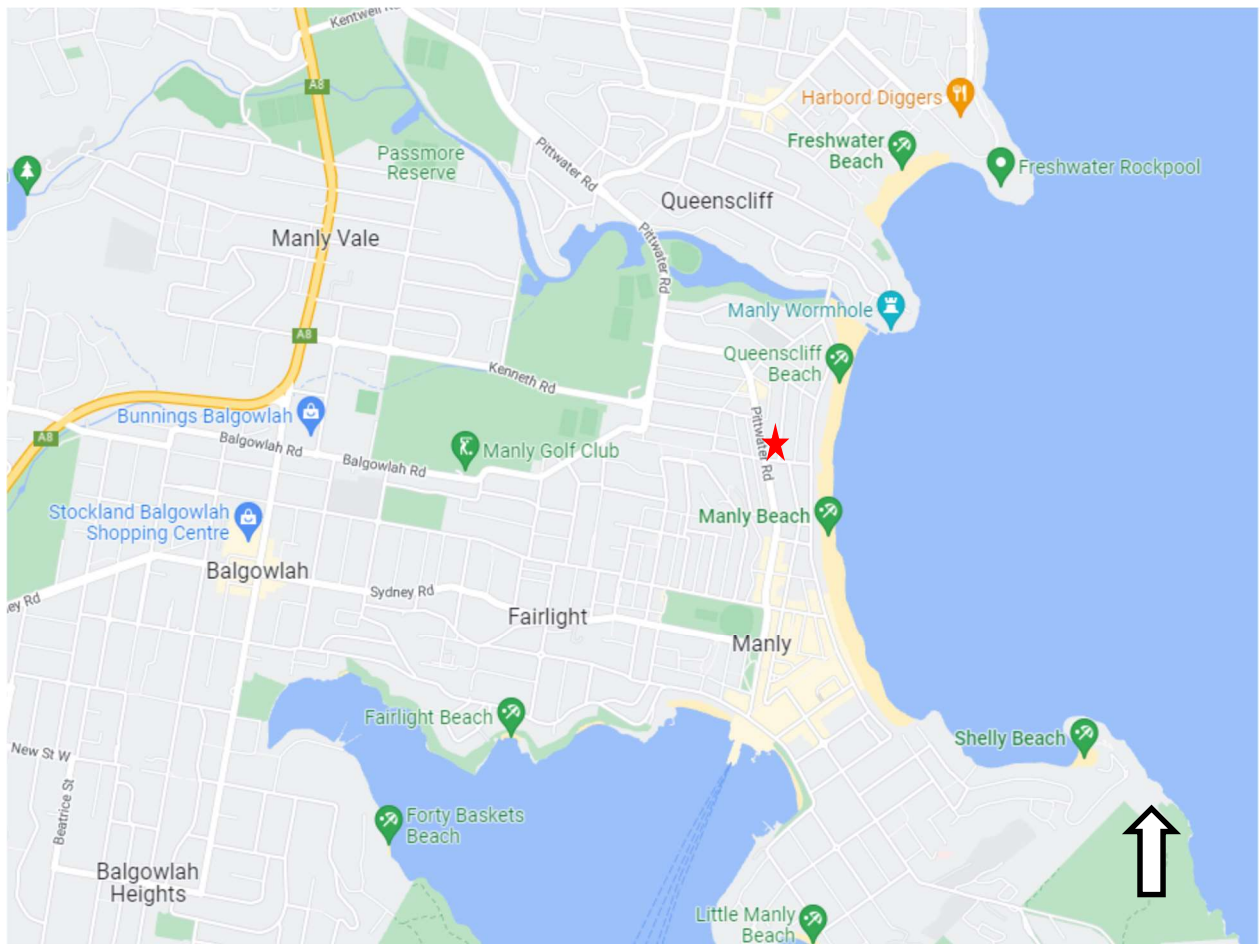


Figure 1: Site Location Plan

SOURCE: GOOGLE MAPS



Figure 2: Aerial Context Plan

SOURCE: SIX MAPS

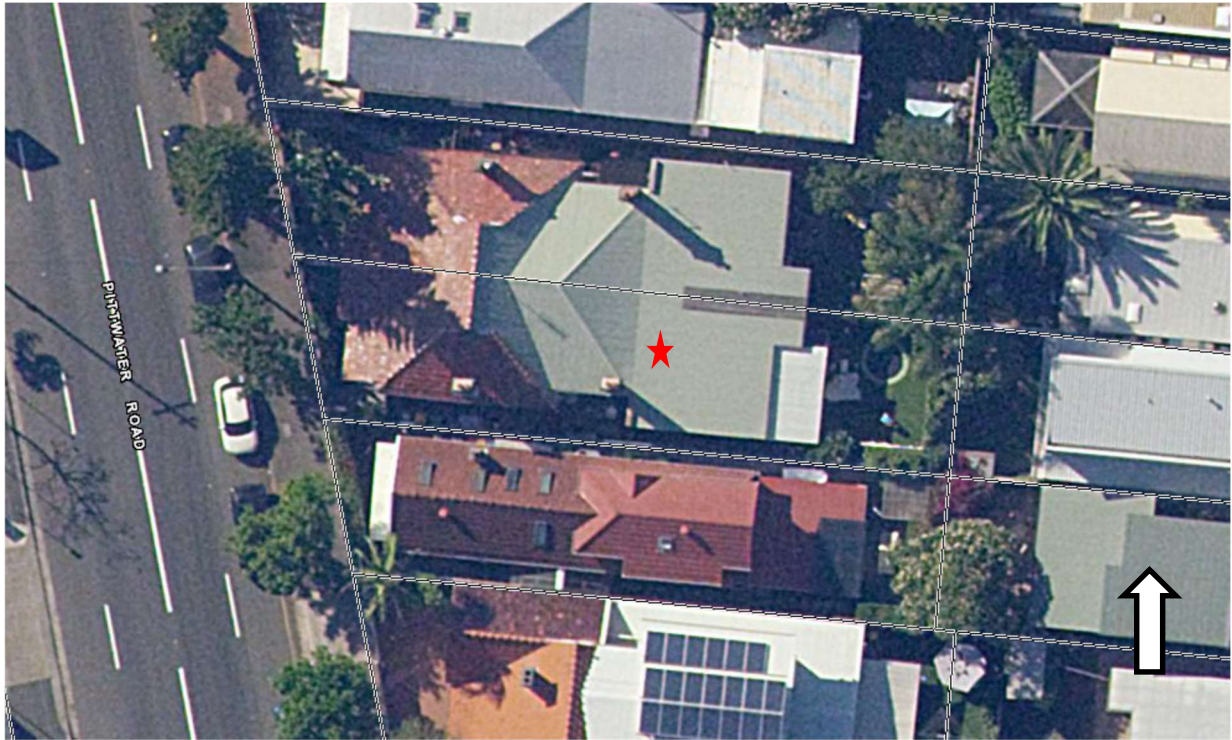


Figure 3: Aerial Site Plan

SOURCE: SIX MAPS

The site presently accommodates one side of a pair of semi-detached dwellings of single storey form with private open space, including a plunge pool at the rear. No vehicular access is available to the site. There is no significant vegetation present on the site.

Pittwater Road is the main throughfare carrying vehicles from the northern suburbs of the Northern Beaches to Manly Town Centre. The side of the street on which the site is located is characterised by low density attached and detached dwellings of one and two storeys. Opposite the site lies a strip of land zoned as a Neighbourhood Centre. Directly opposite the site lies a commercial car wash. The land to the immediate east of the site comprises attached and detached dwellings of one and two storeys with higher intensity residential development, such as residential apartment development, further to the east towards the beach.

Refer to the photographs of the site and surrounds below.

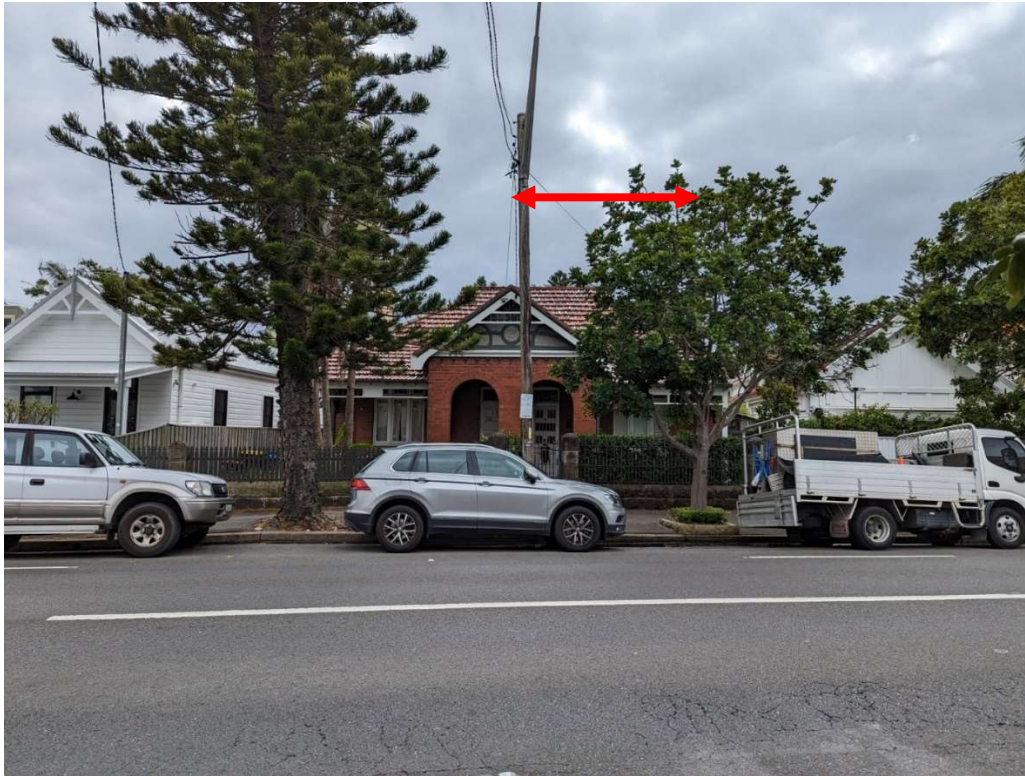


Figure 4: Front elevation from opposite side of Pittwater Road



Figure 5: Dwellings with first floor additions at rear of site



Figure 6: Rear of dwellings with first floor additions to south as viewed from the rear of the site



Figure 7: Street view of 170 Pittwater Road showing rear first floor addition



Figure 8: Non-residential development opposite site

The site is not identified as being on bushfire prone land nor is it flood affected, prone to landslip of any particular biodiversity value.

As discussed further in this SEE, it is identified as having a scenic protection affectation; and is located within the Pittwater Road Conservation Area.

3 Amended Proposal

The proposed amended development is the same as that refused by Council except now the current proposal does not involve works to the party wall which would necessitate the consent of the neighbouring owner. Refer to the accompanying sketches prepared by the project structural engineer demonstrating how the proposed works may be carried out without amending or adding any load on the party wall.

As shown below in the extract of the accompanying photomontage, the proposed development sits comfortably in the streetscape and is of a scale which is sympathetic to the built form character of the locality.



Figure 9: Extract proposed streetscape perspective



Figure 10: Extract proposed rear perspective

Development consent is sought as follows:

Preparatory Works

- Demolition:
 - Internal walls with rear portion of dwelling;
 - Fireplaces within existing living room and bedroom;
 - Windows at rear of north elevation;
 - Wall facing deck.

Ground Floor

- Adaptively re-use centrally located living room to a bathroom and a laundry;
- Adaptively re-use rear part of the ground floor (presently containing a bedroom, dining room, study, kitchen and bathroom) as an open plan dining; living and kitchen area;
- New internal stair.

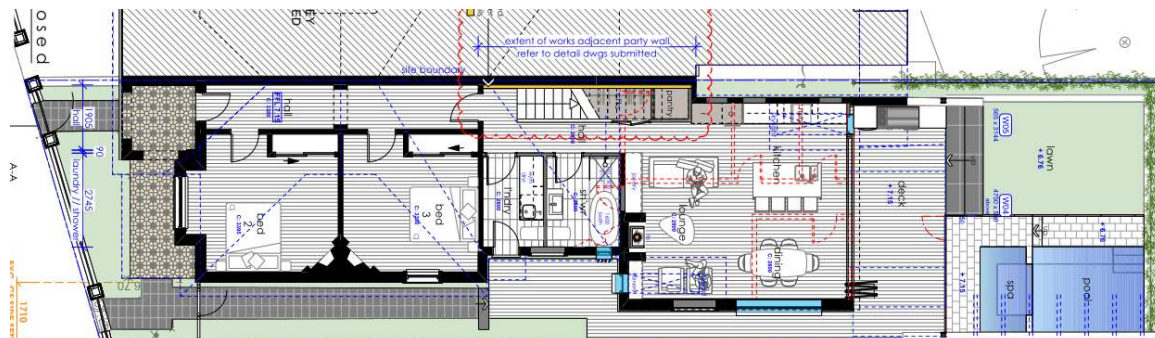


Figure 11: Extract proposed ground floor

First Floor

- First-floor rear addition to include:
 - Master bedroom;
 - Bathroom; and
 - Home office;
 - Storage space.

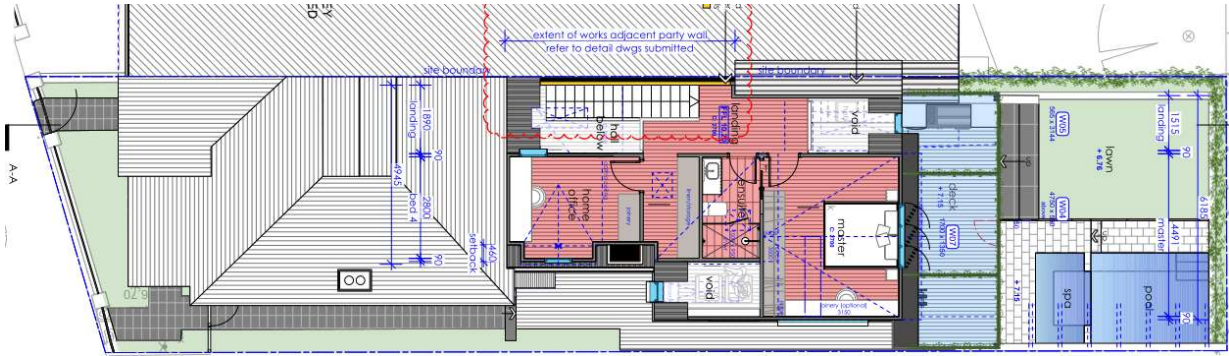


Figure 12: Extract proposed first-floor plan

Roof Addition

- Pitched roof with twin gables on the southern side and a single gable on the northern side;
- Five skylights

Materials

The addition to the building will comprise contemporary materials contrasting with the original dwelling. The external walls will comprise timber cladding painted in a 'Windspray' colour or similar; the roof will be metal roof sheeting in a 'Windspray' colour or similar and the windows will be powder coated aluminium. Refer to the southern perspective below.



Figure 13: Extract southern elevated perspective showing proposed materials

Stormwater

No changes are proposed. Stormwater will continue to be collected and discharged by gravity towards Pittwater Road to the existing Council stormwater system.

Refer to the accompanying drawings prepared by ViewThru Architects providing details of the scope of works for which consent is sought.

4 Statutory Assessment

4.1 Environmental Planning and Assessment Act 1979

The proposed development does not constitute *designated development* or *integrated development*.

This DA is made in accordance with Section 4.12 of the Environmental Planning and Assessment Act 1979 (the Act) and is assessed within this SEE pursuant to Section 4.15 of the Act.

4.2 Relevant Environmental Planning Instruments and Planning Policies

The following Environmental Planning Instruments and Planning Policies have been considered as part of this assessment:

- *Manly Local Environmental Plan 2013*;
- *State Environmental Planning Policy (Resilience and Hazards) 2021*;
 - *Chapter 2 - Coastal Management*;
 - *Chapter 4 - Remediation of Land*;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*;
- *Manly Development Control Plan 2013*.

4.2.1 Manly Local Environmental Plan 2013

4.2.1.1 Permissibility and Zone Objectives

The principal environmental planning instrument affecting the land is Manly LEP 2013, under which the land is zoned R3 Medium Density Residential. Refer to the zoning extract below.

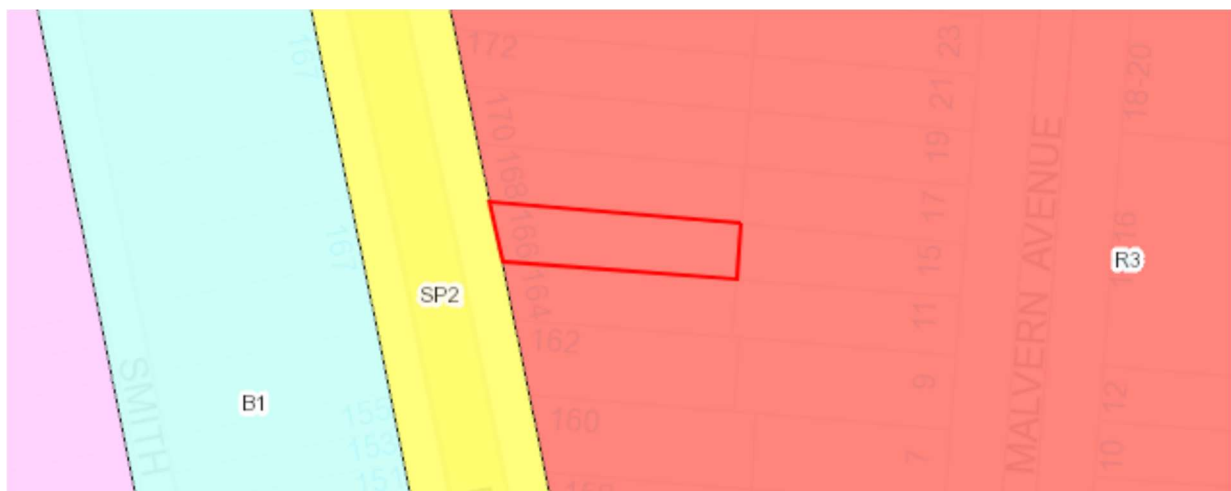


Figure 14: Zoning Extract

The proposed development is permitted with consent.

The objectives of the R3 zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*
- *To encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination*

The proposed development is consistent with the related zone objectives since it provides for the housing needs of the family residing there and it contributes to the variety of housing available in the zone.

4.2.1.2 Height

A development standard related to building height of 8.5m applies to the land.

The proposed development has a maximum height of 6.59m and complies with the standard.

4.2.1.3 FSR

A development standard related to FSR of 0.6:1 applies to the land.

The proposed amended development has a slightly reduced FSR of 0.59:1 and complies with the standard.

4.2.1.4 Heritage

Upon assessment and input from Council's Heritage Specialist, the DA (as originally submitted) was amended to retain the rear chimney and make changes to the proposed materials and finishes. Additional information was provided by View Thru Architects (which accompanies this application) to demonstrate the limits of any additional setbacks of the first-floor addition in the vicinity of the proposed study due to the floor to ceiling height being compromised.

We understand that the refused development was deemed satisfactory from a heritage perspective and that the current proposed amendments have no significant implications in terms of heritage assessment.

4.2.1.5 Acid Sulphate Soils

The site is identified as Class "4". Consent in this respect and a preliminary assessment is required where: *"Works more than 2 metres below the natural ground surface. Works by which the water table is likely to be lowered more than 2 metres below the natural ground surface."*

No works are proposed more than 2m below existing ground level and no further investigation is required in this respect.

4.2.1.6 Earthworks and Landslip Risk

The site is not identified as constituting a potential landslip hazard. No groundworks are proposed.

4.2.1.7 Foreshore Scenic Protection Area.

The related considerations under the LEP are addressed as follows:

- (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,*

Comment: There is no visual connection between the foreshore and the site/proposed building. The proposed development will not create any overshadowing to the foreshore area nor will it impede any public views to the foreshore.

- (b) *measures to protect and improve scenic qualities of the coastline,*

Comment: The proposed development will not be visible from the coastline.

- (c) *suitability of development given its type, location and design and its relationship with and impact on the foreshore,*

Comment: The proposed development is considered to be entirely suited to the foreshore scenic protection area by limiting the height of the addition so as not to exceed the existing roof ridge; minimising the massing of the addition so that it is barely visible from the street; and, by retaining the original chimney stack at the rear of the building.

- (d) *measures to reduce the potential for conflict between land-based and water-based coastal activities*

Comment: There is no risk for conflict between land-based and water-based activities.

The proposed development is considered to satisfy the related provisions of Manly LEP 2013.

4.2.2 State Environmental Planning Policy (Resilience and Hazards) 2021

4.2.2.1 Chapter 2 – Coastal Management

The site is located with a Coastal Environment Area under Chapter 2 of this SEPP. It is not zoned or identified as having any particular environmental significance under this SEPP. The proposed development is considered to satisfy the related provisions at Section 2.10 of the SEPP for the following reasons:

- The proposal will not introduce any significant adverse biophysical, hydrological, or ecological impacts on the environment;
- The coastal environmental values and processes will be unaffected by the proposal;
- No adverse water quality issues are anticipated as a result of the proposed works;
- Marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms will not be affected as a result of the proposed development;
- the proposal will not impede safe access to any areas of public open space of the foreshore area;
- The proposal will have no impact on areas of aboriginal cultural heritage or the surf zone

4.2.2.2 Chapter 4 - Remediation of Land

The subject site has historically been used for residential purposes and has not been known to have hosted any potentially contaminating activities nor has it been declared a significantly contaminated site.

No change of use or groundworks are proposed, and it is therefore considered that consent may be granted in accordance with Clause 4.6 of the SEPP.


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

The DA is accompanied by a BASIX certificate in accordance with the Regulation.

4.2.4 Manly Development Control Plan 2013

The related guidelines under Manly DCP 2013 are addressed below:

DCP	Proposal	Compliance
<u>Part 3</u>		
Streetscapes and Townscapes	<p>The proposed development is considered to be consistent with the relevant streetscape principles for the following reasons:</p> <ul style="list-style-type: none"> • The front portion of the building and fencing remains unchanged; • The proposed rear addition is not visually dominant and is only visible from the street via a limited view slot; • The proposed roof forms are consistent with the existent roof; • The proposal retains both chimneys; • The height of the addition does not exceed the height of the front portion of the building; • The choice of materials have been deemed acceptable by Council's Heritage Specialist, although we understand a condition may be imposed to make a minor change to the tone of the proposed external cladding; • No changes are proposed to setbacks. Potential amenity related impacts are discussed below. 	✓
Landscaping Design	No change is proposed to the building footprint or site landscaping.	✓
Views	No significant views to or from private or public spaces will be unreasonably obstructed by the proposed development.	✓
Solar Access / Overshadowing	<p>The DA is accompanied by shadow diagrams prepared in plan and elevation in terms of shadowing to the property directly to the south of the site.</p> <p>The proposed development does not create any significant additional overshadowing to windows to the property to the south than would be introduced by an entirely compliant building. The most significant impact is upon a small window to an attic room at 9am. The shadow to the attic room will pass by approximately 10m and it will have full solar access for the rest of the day and thereby comply with the DCP, (although it should be noted the attic window is not one serving a principal living area).</p>	✓

	<p>In terms of any additional shadow impacts introduced by the minor non-compliances with the wall height and side setback guidelines, it is our opinion that a strictly numeric compliant design would have a similar degree of overshadowing.</p> <p>No additional shadow is cast on neighbouring open space.</p>	
Privacy	<p>There are two windows proposed at the first-floor level serving habitable rooms.</p> <p>The south facing window serving the home office is setback 2.5m from the side boundary and does not have the potential to overlook any neighbouring windows or open space areas. The other elevated window serves the master bedroom and faces towards the rear. No significant privacy related impacts are anticipated from this room given that the window is centrally located, (setback from each side boundary by 3.5m and 2.25m) and is treated with 3 x angled louvre panels.</p>	✓
<u>Part 4</u>		
Density and Dwelling Size	<p>On the basis of the proposed development containing 3 bedrooms and 2 bathrooms, the minimum area guideline is 95sq.m. The proposed dwelling has a minimum area of 147sq.m.</p>	✓
Wall Height 6.5m	<p>6.59m measured at the southern side elevation including the side ground floor wall, side first floor wall and incorporated roof gable on the same plane. Refer to Figure 15 below.</p>  <p>Figure 15: Extract south elevation (wall height)</p> <p>The minor variation to this guideline is considered to be acceptable given the proposed development is consistent with the objectives of the height standard under the LEP, (being of satisfactory bulk and not introducing any unreasonable adverse overshadowing impacts, as discussed above), and satisfies the guidelines under this Part related to First Floor and Roof Additions as discussed below.</p>	✓
No. of storeys -2	2	✓

Setbacks		
Front – Prevailing/6m	No change	✓
Side – 1/3 rd wall height	<p>No change at ground level.</p> <p>The first-floor level follows the same setback as the ground floor below but does not numerically comply with the side setback guideline of 1/3rd wall height.</p> <p>The relevant objectives of the guideline are discussed below:</p> <p><i>1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.</i></p> <p>The proposed development is consistent with other dwellings in the vicinity of the site where rear first floor additions have occurred in terms of its relationship with the streetscape and the spatial relationship between buildings where side setbacks are limited.</p> <p><i>2) To ensure and enhance local amenity by:</i></p> <ul style="list-style-type: none"> <i>• providing privacy;</i> <i>• providing equitable access to light, sunshine and air movement; and</i> <i>• facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.</i> <i>• defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and</i> <i>• facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection</i> <p>The proposed first floor setbacks will not introduce any significant adverse amenity related impacts on neighbouring properties and the rhythm of buildings is maintained.</p> <p><i>3) To promote flexibility in the siting of buildings</i></p> <p>The variation to this guideline allows for flexibility in the siting of buildings.</p>	<p>✓</p> <p>Satisfactory</p>
Rear – 8m	No change at ground level. First floor – 9.010m	✓
Open Space (55%) and Landscaped Area (35% of open space)	No change to the footprint or landscaping/open space is proposed.	✓

Parking 2	Nil. The provision of parking is not feasible on this site.	✓
First Floor and Roof Additions	<p>The proposed first floor addition complements the architectural style of the ground floor and has a roof which is sympathetic to the roof form at the front being retained.</p> <p>The addition is of an appropriate scale so as not to dominate the existing building or to create any significant adverse impacts on the streetscape.</p>	✓
Waste Management	The DA is accompanied by a Waste Management Plan	✓

4.3 Likely Impacts and Other Key Assessment Considerations

In summary, the proposed development is not considered to introduce any significant adverse biophysical, social or economic impacts on the environment or any adverse privacy, view or shadowing impacts on neighbouring properties as discussed above in response to the DCP.

4.4 Suitability of the site

There are no natural or man-made site affectations that would hinder the proposed development. The site is considered to be suited for its intended purpose.

4.5 Submissions

The application will be notified in accordance with Manly DCP 2013. Any submissions received are required to be considered under Section 4.15 of the Environmental Planning and Assessment Act 1979. Evolution Planning will be happy to provide any further responses to any potential submissions, where necessary.

4.6 Public Interest

The proposed development does not raise any significant matters of public interest.

5 Conclusion

The reason for the DA being refused related to the absence of neighbouring owners consent due to works to the shared party wall. The necessity for such consent has been removed by modifying the design so that no works are proposed to the party wall and so that no additional load will be imposed on it. Otherwise, the current proposed amended development remains the same as refused (which was amended throughout the DA assessment process to address the concerns of Council's Heritage Specialist).

The proposed development has been assessed against Section 4.15 of the Environmental Planning and Assessment Act 1979 as satisfactory.

The proposed development complies with all relevant State Environmental Planning Policies and fully satisfies LEP 2013.

The proposal is considered to be entirely consistent with the related provisions of DCP 2013, except for strict numeric compliance with the guidelines related to wall height and the side setback. The proposed variation to these guidelines are fully justified in light of the satisfaction of the related objectives of these guidelines in accordance with Section 4.15(3A)(b) of the Act. Furthermore, Council has previously considered these minor variations to be acceptable.

The proposed development is considered to be an appropriate response the desired characteristics of the Pittwater Road Conservation Area and will result in an acceptable streetscape outcome.

No significant adverse visual, privacy, view or shadowing impacts are anticipated on neighbouring properties.

It is therefore recommended that upon review under Section 8.2 of the Act that consent be granted subject to appropriate consent conditions.

