

ABN 29 148 922 089

Statement of Environmental Effects

Description:	Demolition of a dwelling and detached garage, construction of a new two and part three storey dwelling and associated landscaping.		
Address:	Lot B in DP 360797 (30A) Addison Road, Manly, NSW.		
Applicant:	Chateau Architects & Builders		
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PART ONE: PREAMBLE

This Planning Statement supports the proposal for the demolition of a dwelling and detached garage, construction of a new two and part three-storey single dwelling and associated landscaping at Lot B in DP 360797 (30A) Addison Road, Manly NSW.

Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning and Assessment (Amendment) Act, 1979 No.203.

- (a) the provisions of:
 - (i) any environmental planning instrument, and
 - (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
 - (iii) any development control plan, and
 - (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
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
 - (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

that apply to the land to which the development application relates.

The following State and local planning instruments have relevance to the proposal:

- State Environmental Planning Policy No.55 Remediation of Land
- Manly Local Environment Plan 2013.
- Manly Development Control Plan 2013 Amendment 14.

Refer to the PART 2 – 'Discussion and Analysis' which contains the requirements of the various adopted and draft planning instruments.

(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.

Incorporated into the PART 2 – 'Discussion and Analysis'.

(c) The suitability of the site for the development

The site is zoned *E4 Environmental Living* for low density residential development and no change of usage is proposed.

(d) Any submissions made in accordance with this Act or the regulations

None made.

(e) the public interest.

The proposed development will have minimum potential visual impact upon the existing streetscape and public domain in that the existing dwelling and detached garage is to be demolished to allow for the construction of a new dwelling with similar bulk and scale. The various matters of consideration with regard to public interest are addressed within this Planning Statement that supports the application.

PART TWO: DISCUSSION and ANALYSIS

PROJECT DESCRIPTION

The Proposal is for the demolition of a dwelling and detached garage, construction of a new single dwelling and associated landscaping. The proposed works take the following form:

- Part two storey (at the north elevation) and part three storey (at the south elevation) single dwelling. The primary outlook is to the Little Manly Cove waterfront.
- The dwelling steps down the existing contours of the land from the north-western boundary towards the waterfront boundary (south-east).
- Basement level containing a cellar, media room and terrace.
- Ground floor level: double garage, main kitchen/living areas and terrace.
- First floor level: bedrooms, a private sitting room and balcony.
- Part of the roof level contains a small trafficable roof terrace.
- Existing swimming pool is to be retained.
- New external landscaping and paving.

The new dwelling has been designed largely within the footprint, height and setbacks of the existing dwelling and utilises the existing ground levels as far as practicable, with orientation of the primary living rooms and the rear Private Open Space, which includes the existing swimming pool to be foreshore aspect. Relevantly, it should be noted that the new dwelling is setback further from the side boundaries than that of the structure it replaces, offering a superior outcome for improved view corridors for neighbours over the existing condition.

The dwelling's contemporary architectural style, complimented by the formal landscape treatment and retention of the existing swimming pool pays due respect to the extant and developing neighbourhood character of the Little Manly foreshore precinct.

The proposed works are fully detailed on the architectural plans and other documentation prepared by the Applicant that accompanies the Development Application.

SITE DESCRIPTION

The general study area is the eastern side of the Smedley's Point peninsula with the subject site overlooking Little Manly Cove/Beach. This area of Manly is a long-established residential precinct mainly comprising large single dwellings and newer infill development of medium and higher density residential.

The site is a battleaxe lot with long access handle to the dwelling from Addison Road.

The lot has a frontage to the waterfront at the south-eastern boundary and sits in an elevated position upon the escarpment; the dwellings in this location are all visually prominent to the public realm of Little Manly Cove.

A residential apartment building adjoins the site to the north-east at 8 Bruce Avenue; the other neighbours are all large single dwellings on similar size lots.

The land is zoned *E4: Environmental Living* in the *Manly Local Environmental Plan 2013 (MLEP 2013).* 'Dwelling Houses' are a permissible use within the *E4 zone*.

The land is currently fully developed with an existing dwelling, detached garage, driveway, swimming pool, hard and soft landscaping; the dwelling, garage and existing paved surfaces are to be demolished to facilitate the new development, the swimming pool is to be retained.

There are no significant mature trees upon the land and no remnant native vegetation.

The natural ground levels across the building envelope have been extensively modified by the previous (existing) development with the site topography across the site proving somewhat problematic for design purposes; the land falls some 12 m across the building envelope from the north-west to the south-east pool level (ie beyond the rock escarpment and mean high water mark). This existing condition has closely informed the design solution for the land.

The land is also constrained by a sewer main that runs to the north-west of the basement level media room, traversing the site from north to south.

Details of levels, improvements and neighbouring properties are included with the detailed architectural plans. All normal utilities and services are available to the lot.

The total site area is 682.9 m² (by survey) and described in Figures 1 and 2.



Figure 1 - Location map (SIX Maps).



Figure 2 – Aerial photo (SIX Maps).

PRE-LODGEMENT MEETING

A pre-lodgement meeting was held on 13 May 2021 with Northern Beaches Council (the Consent Authority) with representatives of the proponent to discuss the project.

The valuable comments of Council's officers, as minuted, have been considered by the Applicant and incorporated into the proposal as and where relevant.

PROJECT DOCUMENTATION

This report considered the following documentation provided by the Applicant:

Document Title	Reference Number	Date	Prepared By
Architectural plans	DA 00, DA 01, DA 02, DA 03, DA 04, DA 05, DA 06, DA 07, DA 08, DA 09, DA 10, DA 11, DA 12 - all plans are Issue L	14/1/2022	Chateau Architects + Builders
Survey – level and detail	DETL/B	12/1/2022	Veris (Luke Skelton)
Concept Civil & Stormwater Plans	210258 C00.01D, 01.01D, 01.02D, 02.01D, 0202D, 02.03D, 02.04D, 02.05D	April 2021	Engineering Studio
Landscape Plan	DA L01L, L02L	14/1/2022	Horticultural Services Australia Pty Ltd
Arboricultural Impact Assessment Report	211118-30A Rev 1	18 Nov 2021	Urban Arbor (Bryce Claasens)
Flora and Fauna Assessment Report	Chat5	7/12/2021	Narla Environmental (Chris Moore)
Preliminary Geotechnical Assessment	6082-G1	14 Nov 2021	AssetGeoEnviro
Pre-lodgement Meeting Notes	PLM2021/0096	13 May 2021	Northern Beaches Council (Nic England)
Email confirming foreshore setback line	Email from Nic England (Council) to Parisa Soltani (Chateau)	15 June 2021 (9.16 am)	Northern Beaches Council (Nic England)

State Environmental Planning Policy No.55 – Remediation of Land

Note: Author's comments are in *blue italics and indented*.

7 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless:
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.
- (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
- (4) The land concerned is:
 - (a) land that is within an investigation area,
 - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
 - (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital land:
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge)

Response: The proposal is for a new single dwelling upon land that is zoned for that residential purpose, thus cl. 7(2) does not apply.

Regarding cl. 7(1)(a) as to whether the land is <u>likely</u> to be contaminated, historic aerial photographs dating 1943 show the subject land and the immediate vicinity has long been used as a low-density residential area. The predominant current and recent historical land use appears to be a residential precinct:



Photo 1 – 1943 aerial photo (source: SixMaps)

In the absence of any obvious historical land use that could potentially have caused contamination to the land, eg industrial, waste, landfills, service stations, piggeries, poultry farm, feedlots or other intensive agricultural use, we have therefore formed the opinion that the land is highly unlikely to be contaminated, and with negligible risk to human health.

As the proposal does not include a 'change of use' the Objectives of SEPP 55 are satisfied, and no further detailed investigation is warranted in the specific circumstances.

Manly Local Environment Plan 2013.

Note: Author's comments are in *blue italics and indented*.

Land Zoning



Figure 3 – E4 – Environmental Living (source: Planning Viewer)

Zone E4 Environmental Living

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Dual occupancies (attached); **Dwelling houses**; Environmental protection works; Flood mitigation works; Health consulting rooms; Home businesses; Multi dwelling housing; Oyster aquaculture; Pondbased aquaculture; Residential flat buildings; Roads; Secondary dwellings; Semi-detached dwellings; Tank-based aquaculture; Water supply systems

Response: Complies. New dwellings and ancillary structures are permissible development with Consent in the E4 Zone.

4.3 Height of buildings

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the <u>Height of Buildings Map</u>.



Figure 4 – Height of Building (source: Planning Viewer)

Response: Minor Non-Compliance. The site lies within an area which imposes a maximum height of 8.5 m.

The overall height of the proposed new dwelling is generally **<8.5 m** (the height line is shown on the architectural elevations and sections) with the exception of a minor breach of the roof overhang as shown on the east and south elevations.

A cl.4.6 exemption to the standard is sought on merit grounds – see below.

4.4 Floor space ratio

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the <u>Floor Space Ratio Map</u>.



Figure 5 - Floor Space Ratio Map (source: Planning Viewer)

Response: Complies. The site lies within the area which imposes a maximum FSR of 0.6:1. From the 'FSR calculations' on sheet DA 10K the proposed FSR is **0.599:1.**

4.6 Exceptions to development standards

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Response: Applies. A detailed submission under Clause 4.6 to vary the maximum building height standard is included with the Development Application as a separate document.

5.7 Development below mean high water mark

(2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

Response: The existing swimming pool that is partially located within the 'Mean High Water' alignment (by survey) is to be retained as is, the balance of the proposed new works is located outside of the MHW zone.

5.10 Heritage conservation

Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the <u>Heritage Map</u> as well as being described in Schedule 5.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.



Conservation Area - (ltem - General ltem - Archaeological ltem - Landscape

Figure 6 – Heritage Map 4 and 6 (source: MLEP), subject site marked with blue.

Response: Not Applicable. The site does not contain nor directly adjoin a heritage item that is listed in Schedule 5, nor is it within a Conservation Zone.

The site does not lie within the visual curtilage of the listed heritage items: 168, 169 *and* 176.

6.3 Flood planning

(2) This clause applies to land at or below the flood planning level.

Response: Not Applicable.

6.4 Stormwater management

(2) This clause applies to all land in residential, business, industrial and environmental protection zones.

Response: The Application is supported by a comprehensive Stormwater Management Plan prepared by Engineering Studio that details methods for rainwater, OSD and stormwater collection and re-use.

The scheme features a 5,000 litre sub-floor rainwater tank for re-use within the dwelling and landscaping.

An above-ground OSD tank of 17.22 m³ capacity is located in the foreshore setback area with the overflow discharging to Little Manly Cove.

The proposal does not result in any substantive alteration to existing overland flow patterns and no uncontrolled stormwater or overland flow is directed on to downstream neighbouring properties.

The proposed excavation for the dwelling and associated landscaping has negligible effect upon groundwater and no significant water table has been identified that is impacted by the works.

6.5 Terrestrial biodiversity

- (2) This clause applies to land identified as "Biodiversity" on the Terrestrial Biodiversity Map.
- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider—
 - (a) whether the development is likely to have ---
 - (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
 - (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
 - (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
 - (iv) any adverse impact on the habitat elements providing connectivity on the land, and

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.



Figure 7 – Extract from Biodiversity Map (source: Planning Viewer)

Response: Applicable. The land is mapped as for 'Terrestrial Biodiversity'.

The proposed development is supported by a comprehensive 'Flora and Fauna Assessment and Report' prepared by 'Narla Environmental' that has considered the potential impacts of the development against the relevant criteria of clause 6.5.

The various recommendations of the consultant have been adopted by the proponent and incorporated into the design for the new dwelling.

We rely upon the conclusion of the expert consultant that the potential impacts upon terrestrial biodiversity are not significant and that the project can be supported.

6.6 Riparian land and watercourses

Response: Not Applicable.

6.8 Landslide risk

- (2) This clause applies to land identified as "Landslide risk" on the Landslide Risk Map.
- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account the risk of landslide—
 - (a) site layout, including access,
 - (b) the development's design and construction methods,
 - (c) the amount of cut and fill that will be required for the development,
 - (d) waste water management, stormwater and drainage across the land,
 - (e) the geotechnical constraints of the site,
 - (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.



Figure 8 – extract from Landslide Risk Map (source: Planning Viewer).

Response: Not Applicable. The subject site is not identified as being prone to landslip, nonetheless the proposed works have been informed by a comprehensive geotechnical assessment and report that accompanies the application.

6.9 Foreshore scenic protection area

- (1) The objective of this clause is to protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore in Manly.
- (2) This clause applies to land that is shown as "Foreshore Scenic Protection Area" on the Foreshore Scenic Protection Area Map.
- (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.



Figure 9 – Scenic Protection Land Map (source: Planning Viewer)

Response: Applicable. The land is mapped as within the 'Foreshore Scenic Protection Area'.

The proposed development is of a height, bulk, scale, architectural style and with boundary setbacks that are entirely consistent with the immediate neighbours and the general development pattern of the neighbourhood. The relevant matters of consideration of this clause are discussed at length within this Planning Statement to demonstrate that the proposal can be well supported on both numerical compliance and a merit basis.

6.10 Limited development on foreshore area

- (1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.
- (2) Development consent must not be granted to development on land in the foreshore area except for the following purposes—
 - (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,
 - (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,
 - (c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).





Response: Applicable. The land is mapped as being constrained by a 'Foreshore Building Line' for development purposes.

The proposed new dwelling occupies a similar footprint as the dwelling it replaces, which lies substantially behind the foreshore building line. This is shown graphically on sheet DA 02K of the architectural set, with the outline existing dwelling shown hatched in yellow.





As can be seen from Figure 10 above, the modest breach of the proposed new dwelling into the foreshore area is largely confined to the south-east facing balconies at each level, as is the case with the balconies on the existing dwelling.

As the offending balconies are open, unwalled elements of the building there is no substantive additional impacts imposed upon any neighbour in terms of view loss, overshadowing or loss of privacy. In this respect there is <u>no substantive difference</u> <u>between the proposed new dwelling and the current condition</u>.

In my view, it is quite reasonable to consider that the proposed new dwelling takes the form of a '...rebuilding of an existing building wholly or partly in the foreshore area...' and is therefore consistent with cl.6.10(2)(a).

The building works to be undertaken within the foreshore zone are limited to the repair, replacement and/or reconfiguration of various landscape elements associated with the existing swimming pool, OSD, Private Open Space and private recreational areas and are thus permissible under cl.6.10(2(c).

Manly Development Control Plan 2013

(as amended 01 December 2019)

Note: Author's comments are in *blue italics and indented*.

Part 3 General Principles of Development

- **3.1 Streetscapes and Townscapes**
- 3.1.1 Streetscape (Residential areas)

3.1.1.5 Garbage Areas

Buildings with more than 1 dwelling require garbage storage enclosures which are:

- a) not visible off site;
- b) integrated into the building design;
- c) unobtrusive and blend in with the design of front fences and walls when forward of the building; and
- d) located and designed with consideration given to the amenity of adjoining properties.

Response: Not Applicable. The proposal is for a single dwelling.

3.1.1.1 Complementary Design and Visual Improvement

- a) Development in the streetscape (including buildings, fences and landscaping) should be designed to:
 - 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.

Response: The site does not present to the Addison Road streetscape but has a primary presentation to the public foreshore of Little Manly Cove.

As mentioned previously, the new dwelling has been designed largely within the footprint and setbacks of the existing dwelling and utilises the existing ground levels as far as practicable, which includes the retention of the existing swimming pool in its current position within foreshore setback zone.

It should be noted that the new dwelling is lower in height than that of the structure it replaces, offering a superior outcome for neighbours over the existing condition. The bulk, scale and presentation of the dwelling to the public realm is not dissimilar to that of its immediate neighbours, and arguably a more cohesive visual element than the structure it replaces.

The dwelling's contemporary architectural style, complimented by the formal landscape treatment and swimming pool pays due respect to the extant and developing neighbourhood character of the Little Manly foreshore precinct.

Setback Principles in Low Density Areas

b) In lower density areas including LEP Zones R2, E3 & E4, setbacks should be maximised to enable open space to dominate buildings, especially on the foreshore.

See also paragraph 3.3 Landscaping and paragraph 4.1.5 Open Space and Landscaping.

Response: The setbacks are consistent with the existing dwelling, with the primary 'Private Open Space' ideally located between the dwelling and foreshore zone.

Setback Principles in Higher Density Areas

c) In higher density areas (including LEP Zones R1 & R3), careful consideration should be given to minimising any loss of sunlight, privacy and views of neighbours. This is especially relevant in the design of new residential flat buildings adjacent to smaller developments. See also paragraph 3.4 Amenity.

Response: Not Applicable. The proposal is for a single dwelling.

3.1.1.2 Front Fences and Gates

See also paragraph 3.2.3 Fencing for Heritage Items and Conservation Areas.

See also paragraph 4.1.10 Fencing for height controls.

- a) Notwithstanding maximum height provisions for fencing at paragraph 4.1.10; the siting, height and form of boundary fences and walls should reflect the fencing characteristic of the locality, particularly those of adjacent properties. All fencing and wall materials must be compatible with the overall landscape character and the general appearance of the building and the streetscape.
- b) Boundary fences or walls must not be erected where they would conflict with the local character.
- c) Front fences and gates must be constructed in materials that complement the architectural style and period of the dwelling and improve the streetscape. In particular, fencing adjacent to a public road or place must not be constructed in metal cladding, powder coated or otherwise.
- d) Gates must not encroach on public land when opening or closing.

Response: There is no street fencing to Addison Road, nor to the public domain being the foreshore.

Side boundary fencing is as shown on the site plan and landscaping plan, generally to repair/replace existing fencing as required, in accordance with the DCP clause controls and the 'Dividing Fences Act 1991'.

A new vehicular sliding access gate is proposed to be installed to the driveway, which we note has been approved as part of a previous development application and is reproduced with this new scheme in the same form.

Relevantly, the boundary fencing and gates are designed to allow for bandicoot passage between the adjoining lots as per the recommendations contained in the 'Flora and Fauna Report'.

3.1.1.3 Roofs and Dormer Windows

See also paragraph 4.1.7.2 Habitable Rooms in the Roof Structure.

See also paragraph 3.4.3 Views regarding roof forms to minimise view loss.

- a) Roof forms should complement, but not necessarily replicate the predominant form in the locality and in particular those of adjacent buildings.
- b) Roofs should be designed to avoid or minimise view loss and reflectivity.
- c) Dormer windows and windows in the roof must be designed and placed to compliment the roof structure and reflect the character of the building. In particular, such windows are not permitted on the street frontage of the building where there is no precedent in the streetscape, especially on adjoining dwellings.

Response: The preferred roof form is for a flat concrete roof with extended overhangs, which offers the following advantages:

- It provides a partially lower building and overall height profile at the rear section than that of the current dwelling, improving view lines and solar access for neighbours.
- It provides for large overhangs to the balconies to the southern balconies at each level.

- A flat roof complements the contemporary architectural style of the dwelling and is consistent with the more modern in-fill development in the little Manly Cove precinct when viewed from the water.
- The topmost flat roof supports a small trafficable section, without breaching the height plane.
- There is minimal reflectivity from the concrete roof.
- Solar panels and skylights are readily accommodated on the flat roof and hidden from the public view via the perimeter parapet, enhancing the visual presentation from the water.
- There are no dormers or roof windows.

3.1.1.4 Garages, Carports and Hardstand Areas

- a) Garages, carports and hardstand areas must be designed and sited in a manner that does not to dominate the street frontage by:
 - i) its roof form, material choice and detailing by being subservient to the associated dwelling; and
 - ii) being compatible with the streetscape and the location in relation to front setback criteria.
- b) Exceptions to setback criteria referred to in this paragraph may be considered where parking structures are a positive element of the streetscape.

Response: Not Applicable. Due to the battleaxe lot configuration the two-car garage is attached to the dwelling and does not directly present to Addison Road.

3.1.2 Streetscape Improvement in LEP Zone B6 Enterprise Corridor

Response: Not Applicable.

3.1.3 Townscape (Local and Neighbourhood Centres)

Response: Not Applicable.

3.2 Heritage Considerations

3.2.1 Consideration of Heritage Significance

LEP Clause 5.10(4) requires that Council consider the effect of proposed development on heritage significance of a heritage item or heritage conservation area. LEP Clause 5.10(5)(c) further requires that the development of land in the vicinity of Heritage Items or Conservation Areas may require further assessment into the effect on the heritage significance of the item/area.

3.2.1.1 Development in the vicinity of heritage items, or conservation areas

- a) In addition to LEP listings of Environmental Heritage (LEP Schedule 5), this DCP requires consideration of the effect on heritage significance for any other development in the vicinity of a heritage item or conservation area.
- b) Proposed development in the vicinity of a heritage item or conservation area must ensure that:
 - i) it does not detract or significantly alter the heritage significance of any heritage items, conservation area or place;
 - ii) the heritage values or character of the locality are retained or enhanced; and
 - iii) any contemporary response may not necessarily seek to replicate heritage details or character of heritage buildings in the vicinity, but must preserve heritage significance and integrity with complementary and respectful building form, proportions, scale, style, materials, colours and finishes and building/street alignments.
- c) The impact on the setting of a heritage item or conservation area is to be minimised by:
 - i) providing an adequate area around the building to allow interpretation of the heritage item;
 - ii) retaining original or significant landscaping (including plantings with direct links or association with the heritage item);
 - iii) protecting (where possible) and allowing the interpretation of any archaeological features; and

iv) retaining and respecting significant views to and from the heritage item.

3.2.1.2 Potential Heritage Significance

If the property is assessed as having merit as a potential heritage item, the heritage controls and considerations in this plan will apply.

3.2.2 Alterations or Additions to Heritage Items or Conservation Areas

See also paragraph 4.1.7 First Floor and Roof Additions (Residential Development Controls)

3.2.2.1 Complementary Form and Scale that Distinguishes Heritage Significance

- a) Alterations or additions to heritage items or buildings within a conservation area will not necessarily seek to replicate, overwhelm, dominate or challenge heritage details or character of the building or structure of heritage significant buildings. However, a contemporary response which complements and respects the form and scale of the original buildings may be considered if the heritage significance is retained.
- b) Consideration should be given to whether making a house bigger will ruin its appearance. Additions to small houses can easily overwhelm them and use up garden space needed for private open space and impact the setting and pattern of development in the locality. Modest additions work best and can be organised as wings or pavilions to the existing house. All additions must be at the back of the house, not the front.

3.2.2.2 Retaining Significant Features and Landscape Setting.

Note: Significant features in relation to this paragraph include roofs, detailing, brickwork, colours and original windows (size, proportion and type).

Alterations or additions to heritage items or buildings within a conservation area must:

- a) retain original and traditional roof form, roof pitch with any alterations to the roofs to be sympathetic to the style of the heritage item or building within a conservation area;
- b) retain original architectural detailing such as barge board, finial trim, window awnings and front verandas. New detailing must be complementary to the character of the item or place;

- c) retain original wall treatments and original cladding (including slate). Modifications to face brick dwellings must use the original style of bricks, window heads, mortar joints and other building details;
- d) not render or paint original face brickwork. In particular face brickwork where already so treated should be restored, where practical, to its original un-painted state;
- e) where surfaces are not originally face brickwork:
 - i) any appropriate use of cement render is complementary to and consistent with the heritage architectural style and colour schemes and repainting must be articulated in the same manner as the original colour rendering of the building;
 - ii) external colour schemes are to be in keeping with the original character of the heritage building based where possible on physical or documentary evidence in keeping with the architectural style and period of the building;
 - iii) contemporary colours are not discouraged, but should be combined in a complementary way; and
 - iv) single colour solutions are not permitted;
- f) avoid removal of original fabric in order to retain the integrity of the heritage item or conservation area;
- **Note:** Given that the loss of any heritage item would likely reduce overall heritage values in Manly, the Council is unlikely to approve demolition unless the place is incapable of reasonable reuse or where it would not be technically feasible to make it useable. The Council is equally unlikely to approve demolition of a structure for the sole reason that it is in poor condition due to deferred maintenance or neglect.
- g) ensure that any new windows are to be inserted into the existing fabric of a heritage building and be of a size, proportion and type of window that is compatible with the building's architectural style/period as shown in Figure 7; and
- h) retain and maintain contributory landscape settings for heritage items and ensure new landscaping is sympathetic to the heritage significance of the item or place.

3.2.3 Fences for Heritage Items and Conservation Areas

3.2.4 Setbacks of Garages and Carports for Heritage Items and Conservation Areas

3.2.5 Exceptions to Parking Requirements and FSR Development Standards for Heritage Developments

Response: Clause 3.2 is Not Applicable. This matter has been dealt with elsewhere in this report.

3.3 Landscaping

3.3.1 Landscaping Design

Landscape Character

a) The design, quantity and quality of open space should respond to the character of the area. In particular:

b) Planting criteria including Native Plant Species and Amenity

- i) Landscaped Areas must be capable of supporting new native tree species that are typically expected to reach a mature height of 10m notwithstanding the minimum dimension requirements at paragraph 4.1.5.2 of this plan.
- ii) The use of locally occurring native plant species is preferred to assist in providing habitat for local fauna; and preserve threatened native plants.
- iii) Trees should be positioned in locations that minimise significant impacts on neighbours in terms of:
 - blocking winter sunlight to either living rooms, private open space or solar collectors; or
 - where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views.

Undercroft areas

c) Undercroft areas must be presented as a positive space and integrated into the design of the building by use of appropriate landscaping and/or the retention of natural features and vegetation where possible, having regard to the volume of the space and its orientation. In relation to sloping sites (see also paragraph 4.1.8) and in lower density areas, any supporting undercroft structures must be minimised.

Response: The criteria within this clause are noted and addressed within the 'landscape concept plans' prepared by 'HSA Landscapes' and also within the 'Flora and Fauna Report' prepared by 'Narla Environmental'.

The main features of the proposed landscape scheme are:

• Additional low shrub planting in the form of agapanthus to be provided along the common pedestrian access to Addison Road.

- New soft landscaping is provided the area formerly occupied by the detached garage and along the north-eastern side boundary.
- Enhanced soft landscaping is provided to former hardstand paved areas to the rocky area between the dwelling and the waterfront that contains the primary P.O.S. area.
- Tree species to be consistent with the local plant community that occurs within the 'Coastal Sandstone Foreshores Forest' category.

It should be noted that the existing dwelling and curtilage is predominantly consisting of hard paved surface with very limited soft landscaping. By any objective measure the new scheme is a demonstrable improvement upon the current degraded landscaping and serves to enhance the functionality of the P.O.S. and serves to soften the visual presentation of this aspect to the public viewpoint.

3.3.2 Preservation of Trees or Bushland Vegetation

This control applies all land, waterways and Bushland covered by the LEP.

3.3.2.1 Requirements for Vegetation Clearing Permits

Authority to clear a tree or other vegetation, is regulated in this plan in accordance with State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 i.e. 'Vegetation SEPP'. In particular, Part 2 of the Vegetation SEPP sets out the authority to clear vegetation and Part 3 provides for Council to declare under this DCP when a Vegetation Clearing Permit is required for clearing of vegetation.

3.3.2.2 Requirements for other DAs

When a DA is required for clearing vegetation, the following requirements apply:

a) Development is to be sited and designed to minimise the impact on remnant native vegetation, including canopy trees, understorey vegetation and remnant native ground cover species.

- b) Where the applicant demonstrates that no reasonable alternative design exists and a tree must be removed, suitable compensatory tree planting is required. Details including proposed species and the location of replacement planting are to be provided.
- c) Development must also avoid any impact on trees on public land.
- d) For DAs involving the construction of new buildings and works of Classes 2 to 9 (BCA), the information contained in Schedule 4 Part A2 of this plan is to be submitted.
- e) Where trees proposed to be retained may be affected by the construction of new buildings and works of Classes 1 and 10 (BCA), a Tree Protection Plan as per Schedule 4 Part A3 of this plan is to be submitted.

3.3.2.3 Exceptions to Requirements

- a) Council may consider a variation to the requirements where Council is satisfied a tree or other vegetation:
 - i) is dying or dead and is not required as habitat for native fauna; or
 - ii) is a risk.
- b) Trees can be removed or pruned without Council's authorisation of a Vegetation Clearing Permit which are:
 - i) in an area in which the Council has authorised their removal as part of a hazard reduction program, where that removal is necessary in order to manage risk;
 - ii) required to be removed under other legislation (including the NSW Rural Fires Act 1997 and the Environmental Planning and Assessment Act 1979);
 - iii) removed by Rural Fire Services because they pose or will pose a significant threat to access along required fire trails or to human life, buildings or other property during a bushfire;
 - v) a tree where the immediate removal is essential for emergency access or emergency works by the Council, the State Emergency Service or a public authority;
 - vi) a tree in a container, other than in a planter box that forms part of a building, or in a container that is permanently fixed to a structure; or
 - vii) a field-grown tree propagated as part of a commercial horticultural or agricultural enterprise.
- c) Council's authorisation of a Vegetation Clearing Permit is not required for:
 - i) the removal of any tree on the Exempt Tree Species List (see Figure 7A);

- ii) reasonable maintenance involving trimming and pruning of up to 10 percent of a tree's canopy within a 12 month period (all pruning works must be in accordance with Australian Standard AS 4373:2007 Pruning of amenity trees);
- iii) the pruning or removal of hedges (unless required by conditions of a development consent). "Hedge" means groups of 2 or more trees that:
 - are planted (whether in the ground or otherwise) so as to form a hedge, and
 - rise to a height of at least 2.5m (above existing ground level);
- iv) the removal of a tree, where the base of the trunk of the tree at ground level, is located within 2m of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building);
- v) the removal of deadwood from a tree;
- vi) removal of any species of parasite mistletoe or parasitic plant from any part of a tree to ameliorate the effects on the tree from such a parasite; or
- vii) the removal of trees which are considered a high risk / imminent danger to life and property by a Level 5 qualified arborist. These trees can be removed without Council consent by the owner of the tree subject to the owner obtaining written confirmation from the arborist that clearly states the following:
 - The arborists qualifications: AQF Level 5 Arborist or equivalent;
 - That the tree(s) is declared a 'high risk' or is an imminent danger to life and property;
 - That immediate removal of the tree(s) is recommended; and
 - A copy of the report must be sent to Council for record keeping purpose.

Notes: A "significant tree" is a tree that is over 5m in height and, that impacts on the streetscape by virtue of its size, appearance, type, age, condition and heritage/cultural significance. It includes hollow-bearing trees and/or trees of conservation significance or habitat value.

The cutting down, pruning or removal by persons other than the owner must have written permission from the owner.

All work must be carried out in accordance with the Australian Standards 4373-2007 "Pruning of Amenity Trees" and in accordance with the current NSW WorkCover Code of Practice – Amenity Tree Industry.

The submission of an arborist's report may be required to satisfy Council that a tree is dead or dying, or is a risk to human life or property.

The impact of development on native vegetation can be minimised by:
- locating buildings to minimise the amount of disturbance of vegetation and landforms;
- providing adequate distance between the drip line of the tree and development. This avoids destabilising and deoxygenating the tree, altering the drainage and helps ensure its preservation;
- avoiding strip footings and slab on ground construction due to the impact on trees in close proximity. Suitable footing alternatives are as follows:
 - $\circ~$ stump footings usually associated with lightweight construction on sloping sites; or
 - pier and beam footings as the beams are able to span the root systems and minimise tree root damage. Pier and beam footings also allow trees to be paved located closer to development where no other alternative exists;
- locating areas outside the drip line of trees and minimise paved area impact on the native understorey vegetation or native groundcover species;
- minimising hard surfaces to allow water infiltration to the root system; locating trenches outside the drip line of a tree;
- adequately protecting and managing trees and vegetation during construction; and
- protecting tree trunk bases with fencing or a tree barrier during construction.

For vegetation listed as threatened species, populations or ecological communities see the following for further information:

- Commonwealth legislation: Environment Protection and Biodiversity Conservation Act (1999) State legislation: Threatened Species Conservation Act (1995)
- Council does not encourage the following species to be planted: Chamaecyparis spp. (Cypress pine) and Cupressus spp. (Cypress pine).

3.3.3 Footpath Tree Planting

The installation of footpath trees is supported to satisfy the aims of the former Manly Council's Tree Management Policy 2011. Also, in relation to footpaths adjoining LEP Zone B6 in Condamine Street plantings will be in a manner which discourages parking on the footpath.

See also paragraph 9 of the Manly Tree Management Policy.

Response: The criteria within this clause are noted and addressed within the landscape concept plan prepared by 'HSA Landscapes'.

There is clearing required of approximately 105 m² of vegetation described as 'Urban Native/Exotic' to facilitate the proposed works. This matter has been addressed by the 'Arboricultural Impact Assessment Report' prepared by 'Urban Arbor' and the recommendations contained in the 'Flora and Fauna Report' prepared by 'Narla Environmental'.

We defer to the recommendations contained in these expert reports for the removal and/or protection of trees to be retained within and adjacent to the building envelope and along the common driveway.

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

3.4.1 Sunlight Access and Overshadowing

3.4.1.1 Overshadowing Adjoining Open Space

In relation to sunlight to private open space of adjacent properties:

- a) 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 9 am to 3 pm at the winter solstice (21 June); or
- b) Where there is no winter sunlight available to open space of adjacent properties from 9 am to 3 pm, the calculations for the purposes of sunlight will relate to the equinox in March and September from 9 am to 3 pm.

See LEP definition of private open space and paragraph 4.1.5.3 Principle Private Open Space.

3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties

In relation to sunlight to the windows or glazed doors to living rooms of adjacent properties:

- a) for adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9 am to 3 pm on the winter solstice (21 June);
- b) for adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 4 hours from 9 am to 3 pm on the winter solstice (21 June);

c) for all adjacent buildings (with either orientation) no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours specified above.

3.4.1.3 Overshadowing Solar Collector Systems

A minimum of 6 hours solar access be retained to solar collectors on neighbouring properties.

3.4.1.4 Overshadowing Clothes Drying Areas

A minimum of 6 hours solar access be retained to a suitable clothes drying area.

3.4.1.5 Excessive Glare or Reflectivity Nuisance

See also Council's Administrative Guidelines in relation to the lodgement of appropriate details of building material and finishes.

All external material and finishes incorporated into the development must consider and mitigate any excessive glare or reflectivity nuisance.

3.4.1.6 Sunlight Access to Communal Living Areas

See also paragraph 4.4.9 Boarding Houses

Communal Living Areas for residential accommodation involving more than 1 dwelling (including Boarding Houses) must receive a minimum of 3 hours direct sunlight between 9am and 3 pm in midwinter into at least 1 communal living room (where more than 1 communal living room area is provided).

Response: The shadow diagrams (Sheet DA 12K) indicate the following effects upon adjoining properties:

- The north-eastern neighbour at #8 Bruce Avenue is entirely unaffected by the proposal between 9.00 am and 12.00 pm on June 21. There is a minor partial overshadowing of the side setback zone at 3.00 pm.
- The south-western neighbour at #28A Addison Road is shadowed to the side of the building facing the common boundary and a portion of the front hard-paved yard/driveway and garage at 9.00 am on June 21, extending to a portion of the rear P.O.S. (<50% of the affected site area) by midday, and unaffected by 3.00 pm.
- The various neighbours lying to the north of the subject site are unaffected.

It should be noted from the shadow diagrams prepared by the Applicant that the overshadowing resulting from the proposed new dwelling is not substantively different than that of the existing building, as would be expected given that the new structure is largely sited within the same building envelope (but lower in height than the building it replaces and is also lower than both of the adjoining neighbours). From our site inspection and careful consideration of the shadow plans, it seems that the impacts upon neighbours from the proposed development are relatively modest and well within the Control.

Accordingly, we have not found it necessary to further consider the current Planning Principle for solar access as developed in the NSW Land & Environment Court (The Benevolent Society v Waverley Council [2010] NSWLEC 1082) as having relevance in this matter.

We have concluded that the design solution achieves a reasonable balance between the rights of the adjoining neighbours for solar access and the rights of the Applicant to achieve a realistic development outcome.

3.4.2 Privacy and Security

3.4.2.1 Window Design and Orientation

- a) Use narrow, translucent or obscured glass windows to maximise privacy where necessary.
- b) When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy.

Response: Generally, the windows in the side walls facing neighbours are set back sufficiently from the side boundaries to provide adequate visual privacy between the neighbours, with the exception of W18 in the Sitting Room at the first-floor level that has been specified with opaque glazing.

3.4.2.2 Balconies and Terraces

- a) Architectural or landscape screens must be provided to balconies and terraces to limit overlooking nearby properties. Architectural screens must be fixed in position and suitably angled to protect visual privacy.
- b) Recessed design of balconies and terraces can also be used to limit overlooking and maintain privacy.

Response: The balconies at each level present to the Little Manly Cove aspect (ie the foreshore) and offer little opportunity to directly overlook the neighbours' Private Open Space or otherwise impose an unacceptable loss of private amenity. The north-eastern neighbour #8 Bruce Avenue sits well behind the alignment of the subject dwelling and is not impacted by the position of the proposed balconies, and the south-western neighbour at #28A Addison sits further forward (ie towards the water). There would appear to be negligible impacts upon either neighbour in terms of direct overlooking from the balconies at each level.

With regard to the proposed roof terrace, this area has been limited to a modest 20 m^2 of floor area and is set well back from each side boundary to provide substantial spatial separation from the neighbours. Again, given that the primary viewline is towards the water it is difficult to see how this facility would cause any unacceptable impacts upon neighbours' amenity either in terms of noise impact or loss of privacy, and can be well supported on a merit basis for the quiet enjoyment of the proponent.

It should also be noted that there is already an extensive roof terrace in the existing building that has a much greater floor area and one that extends to the perimeter of the structure. The roof terrace in the new scheme, being smaller in footprint and set well back from the building edge has less overlooking impacts upon neighbours than the current situation.

3.4.2.3 Acoustical Privacy (Noise Nuisance)

See also Noise Guide for Local Government prepared by NSW Department of Environment, Climate Change and Water in 2010.

- a) Consideration must be given to the protection of acoustical privacy in the design and management of development.
- b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.
- c) Council may require a report to be prepared by a Noise Consultant that would assess likely noise and vibration impacts and may include noise and vibration mitigation strategies and measures. See particular requirements for noise control reports for licenced premises below at paragraph g) below.

Licensed Premises

See also paragraph 3.9.3 Noise from Mechanical Plant.

Response: Noise generating equipment eg air conditioning plant and the like, is located within the service court and set well back from the side boundary for appropriate noise attenuation.

3.4.3 Maintenance of Views

Relevant DCP objectives to be satisfied in relation to this paragraph include the following:

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

Objective 2) 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).

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

- a) The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.
- b) Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.

c) Templates may be required to indicate the height, bulk and positioning of the proposed development and to assist Council in determining that view sharing is maximised and loss of views is minimised. The templates are to remain in place until the application is determined. A registered surveyor will certify the height and positioning of the templates.

Response: From our site inspection and assessment of the architectural plans, there are no significant public or private view lines to or from the site that are unreasonably compromised by the proposed development, on the basis that:

- The new dwelling occupies an almost identical footprint but with a greater side boundary setback to the western side than that of the existing structure that it replaces, improving the view corridor down this western boundary.
- The overall height of the new building is largely compliant with the MLEP 8.5 m Control (excepting for the roof overhang over the uppermost balcony) and is marginally lower than the previous structure at the rear section.
- Both the subject property and the adjoining neighbours to the side boundaries have identical viewpoints, enjoying an expansive viewline to the foreshore over Little Manly Cove. The three dwellings impose similar constraints upon each other for view lines due to their relative orientation.
- The two dwellings located to the north-west of the subject property, being #30 and #28 Addison Road, have a substantially higher elevation than the subject property and are very likely to maintain their existing viewline.

The design solution achieves a reasonable balance between the rights of the adjoining neighbours for view sharing and the rights of the Applicant to achieve a realistic development outcome.

3.4.4 Other Nuisance (Odour, Fumes etc.)

Response: Not Applicable in the context of a single dwelling.

3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)

Section 5(a)(vii) of the Environmental Planning and Assessment Act 1979 encourages ecologically sustainable development. Council require that the principles of ecologically sustainable development be taken into consideration when determining development applications under section 79C of the Environmental Planning and Assessment Act 1979 and under this plan.

3.5.1 Solar Access

See also paragraph 3.4.1 Sunlight Access and Overshadowing, for provisions to minimise overshadowing of adjoining properties.

Response: This matter has been discussed previously at para. 3.4.1.

3.5.1.1 Building Form, Design and Orientation

The building and site layout is to maximise northern orientation to optimise solar access.

Achieving passive solar energy efficiency is an important consideration in design, but it must be balanced with responding to desired streetscape character; promoting amenity for both the proposed development and neighbouring properties (including views, overshadowing and noise considerations), retaining trees and responding to topography.

Response: The project architect has made a reasonable effort to design the dwelling for the principles of passive solar, natural ventilation and energy efficiency within the normal limits of lot orientation and topography.

3.5.1.2 Solar Shading Devices

Whilst the design of buildings should take advantage of winter sun, there is an equal need to provide protection from the severity of summer sun. There is a need to control summer sun penetration and prevent the overheating of the building. This can be achieved using appropriate solar shading devices. The most effective way of controlling overheating of a dwelling is to prevent summer sun from reaching glazed areas.

- a) The design of buildings may reduce summer sun penetration to north, east and west facing walls of buildings incorporated by the use of external solar shading devices, such as; awnings, external venetians, balconies, pergolas, eaves, overhangs, sails and the like.
- b) The minimum projection width for north facing overhangs, or shading devices, should be a width equivalent to at least 45 percent of the height of the shaded opening, measured from the bottom of the glass, to be shaded.

Response: Due to the north-south orientation of the lot, the building is well protected from the westerly aspect, and has provided substantial overhangs to the south-eastern aspect via the balcony and flat roof elements.

3.5.2 Energy Sources and Systems

See also paragraph 3.4.1.3 Overshadowing Solar Systems.

3.5.2.1 Photovoltaic solar cells

Electricity from solar power is an environmentally friendly alternative to electricity produced by other sources, such as coal, that produce greenhouse gases. Photovoltaic solar cells can be used with mains electricity to provide household electricity and pump surplus power back into the electricity grid. Where a development application is for multi-storey apartment buildings, a centralised system, with separate meters for each unit is encouraged.

The solar panels are typically mounted on the roof and face towards the sun (north) to absorb the energy from sunlight. There is an industry standard for the connection of rooftop photovoltaic systems to the grid. The use, location and placement of photovoltaic solar panels should take into account the potential permissible building form of adjacent properties.

Salt corrosion resistant panels are recommended for areas which are exposed to the sea air.

Response: The new dwelling has a substantial photo-voltaic system with solar panels appropriately located on the flat roof and concealed from the public and neighbour viewpoint by the perimeter parapet walls.

3.5.2.2 Solar Hot Water Systems

Note: Residential electric hot water systems typically comprise up to a third of overall residential energy use. Changing from an electric hot water system to solar hot water systems

is likely to be the single most effective action a residence can take to save energy and produce no greenhouse gas emissions. A solar hot water system can provide between 50 and 90 percent of your hot water needs (and with electric or gas boosters to provide the rest of your hot water needs).

- a) A solar hot water system is to be installed in all new residential buildings and in major renovations that require a new hot water system, except in situations where the applicant can demonstrate that a solar water heater is unsuitable. Where considerable difficulty is experienced Council will consider the use of a heat pump system in lieu of a solar water heater or a combination of both.
- b) Solar hot water systems must achieve a minimum energy performance of 60 percent solar gain as measured by the Australian Standard for solar hot water systems AS 4234-1994
 "Solar water heaters - Domestic and heat pump - Calculation of energy consumption".
- c) Hot water systems must have thermostatic controls and tanks and pipes should be insulated.

Note: Federal Government legislation prevents the installation of electric storage hot water systems in any existing detached or attached residential dwelling in favour of three alternative electric heat pump, solar or gas technologies. Working electric hot water systems do not have to be replaced until the unit fails. This legislation does not cover multi-unit residential or non-residential buildings.

Response: The hot water system is as specified on the BASIX Certificate.

3.5.2.3 Trigeneration and Cogeneration

<u>Cogeneration</u> means the use of a power generator (for example, gas turbines) to simultaneously generate both electricity and useful heat. The heat may be used for various applications such as space heating or water heating.

<u>Trigeneration</u> means use of the waste heat to provide cooling similar to cogeneration. If the demand for cooling is high, the waste heat of the electricity generation process can be transformed into cooling energy by an absorption chiller. Trigeneration can be a cost-effective option, for certain developments such as major data centres requiring both onsite electricity generation with large year-round cooling requirements.

Note: The advantage of cogeneration and trigeneration systems is that by generating electricity locally, they avoid transmission and distribution network losses which can be as high as 10 percent. Additionally, by using heat that would otherwise be wasted, a cogeneration system can make use of 70 to 75 percent of the energy in the original fuel, compared to 25 to 30 percent for a conventional coal-fired power station.

Cogeneration and trigeneration systems can vary in size from large scale power stations to modular units for individual buildings. The cost-effectiveness of cogeneration and

trigeneration varies greatly according to the specific power, heating and cooling requirement of the site or business.

- a) Ceiling fans can be used in summer or winter. In winder, fans move hot air from the ceiling area down to the floor especially in rooms with high ceilings. Reverse speed fans can be used as heat shifters in winter In summer fans provide cooling breezes cooling the body as air moves over the skin, increasing heat loss by convection and evaporation.
- b) In Manly, a well-designed house may not need the cost and installation of an air conditioning system for the few uncomfortably hot days we experience per year. All that may be needed for those days is a fan or ceiling fan. A well designed house can reduce cooling requirements and costs to a minimum and fans can provide a high level comfort on most hot days at a very low running cost.
- c) Passive methods of minimising heat gain include window shading; appropriate insulation; and weather seals preventing hot air infiltration and cross ventilation to provide natural cooling by opening windows and doors when the outside temperature is cooler than the inside temperature. See also paragraph 3.5.3 Ventilation.
- d) If a space cooling system is to be used, consideration needs to be given to the size and location of rooms to be cooled, health considerations (for example dust, noise, dry/ humid air), the location of the system and the environmental impact of the system on adjacent buildings.

Response: Not Applicable.

3.5.3 Ventilation

Building design that provides natural ventilation/cooling during summer is an important consideration in the design stage of new building works. Ventilation is also necessary for the good health of buildings by replacing internal air which may contain carbon dioxide, damp and contaminants with fresh outside air.

This paragraph provides passive solar design principles and measures to optimise natural ventilation through:

- a) building design and orientation to prevailing wind; and
- b) the location and area of permanent openings, windows and doors.

3.5.3.1 Building Design and Orientation to prevailing wind

- a) Buildings are to be orientated to benefit from cooling summer breezes (generally easterly/north easterly in Manly) where possible.
- b) Buildings are to provide for cross ventilation by locating windows and openings in line with both each other and the prevailing breezes.

3.5.3.2 Location and area of openings

- a) The area of unobstructed window opening should be equal to at least 5 percent of the floor area served.
- b) Locate windows and openings in line with each other, and with the prevailing breezes to assist ventilation so that air can pass through a building from one side to the other, replacing warm inside air with cooler outside air.
- c) Consider the use of solar or naturally activated exhaust fans to ventilate external walls. This also keeps living areas cool in summer and dry in winter.
- d) Rooms in residential flat buildings which access exposed balconies are to include a separate opening window as well as a door.

Response: As mentioned above, the project architect has considered the principles of passive solar, natural ventilation and energy efficiency within the normal limits of lot orientation and topography.

3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (nonresidential buildings)

Response: The criteria within this clause are noted and addressed within the BASIX and NatHERS certification that accompanies the Application.

3.5.5 Landscaping

3.5.5.1 Considerations in Plant Selection and Landscaping Design

- a) Matters to consider in selecting trees and vegetation best suited to conserving energy in buildings include:
 - i) adaptability to site conditions i.e. size of block, soils, microclimate (wind, sun and shade pattern, slope, proximity to existing vegetation, building services, water requirements);
 - ii) canopy density for shading/cooling;
 - iii) seasonal character i.e. deciduous species;
 - iv) growth patterns height and spread of canopy and root spread. Make sure you find out the heights of trees when buying from nurseries and try to choose trees that grow to approximately 6m to10m in height and that have low maintenance requirements;
 - v) choosing plant material with low water requirements, and plants that are fire retardant if you live in a fire hazard area;
 - vi) weed invasion near bushland can be prevented by choosing plant and landscaping materials carefully; and
 - vii) the relationship between the building and the garden landscaping needs to be considered at an early stage in the design process. Where possible provide direct access from the principal indoor living areas to those outside. These considerations need to be carried out in conjunction with the architect/ builder.

b) Landscaping should generally contribute to energy efficiency by:

- i) controlling sun to reduce summer heat gain, by shading the house and outdoor spaces, without reducing solar access in winter;
- ii) controlling winds to reduce both heat loss, (by providing protection from unfavourable winds) and heat gain (by funnelling cooling summer breezes);
- iii) improving outdoor comfort levels in summer, through shading, absorbing heat and funnelling breezes.

See Schedule 4 - Tree Removal for suggested landscaping plant suggestions for enhancing the energy efficiency of buildings. This Schedule includes selection of plants for shading, ventilation and the like.

Response: The criteria within this clause are noted and addressed within the landscape concept plan prepared by 'HSA Landscapes' and further informed by the 'Flora and Fauna Assessment Report'.

3.5.6 Energy efficiency/conservation requirements for non-residential developments

Response: Not Applicable.

3.5.7 Building Construction and Design

Building design is to apply fundamental principles in achieving energy efficiency in terms of the following:

- environmentally sound building materials;
- thermal mass;
- glazing;
- wall and roof colour; and
- insulation.

3.5.7.1 Environmentally Sound Building Materials

- a) Where possible, reuse existing site materials and materials that have a low embodied energy. That is, materials that have the least impact on the environment in production.
- b) Building materials should be selected to increase the energy efficiency of the building, and to minimise damage to the environment. In particular, the use of plantation and recycled timber is encouraged and no rainforest timbers or timbers cut from old growth forests are to be used in Manly. Building Specification for timber should specify plantation or regrowth timbers, or timbers grown on Australian farms or State Forest plantations, or recycled timbers. Recommended building timbers are located at Schedule 8 of this plan.

Note: Whilst the commercial considerations of choice of building materials are generally influenced by availability, economy and market considerations, greater energy efficiency and environmental sustainability can be achieved by careful choice of building materials.

c) Material choice should also take account of environmental considerations, namely:

i) abundant or renewable resources;

- ii) energy efficient materials, with low embodied energy;
- iii) recycled materials;
- iv) non-polluting materials;
- v) environmentally acceptable production methods;
- vi) durable materials, with low maintenance; and
- vii) recyclable and reusable materials.
- d) Wood certified by the Forest Stewardship Council known as 'Good Wood' must be utilised where possible. The Forest Stewardship Council sets the international standard for credible forest management and chain of custody certification and remains the most widely recognised and best regarded in the world.
- e) 'Good Wood' is certified by the Forest Stewardship Council and comes from ethically and ecologically sustainable sources. Buying Good Wood tells companies there is no market for illegal and destructive timber and forces them to act responsibly. See www.goodwoodguide.org.au.

3.5.7.2 Thermal mass

See also the Building Code of Australia Section J - Part 1 Building Fabric.

- a) For the construction of buildings, use materials that have a good thermal mass, such as bricks, concrete and stone. These materials should be used where they can benefit the thermal comfort and energy efficiency of a dwelling. To be effective, materials with thermal mass should be located:
 - i) inside the insulated fabric of the house;
 - ii) in north facing rooms, where they can benefit from winter heat gain.
- b) Manly's temperate climate means that the storage of heat through thermal mass is an important factor in achieving 'thermal comfort' in the home.
- c) Achieving thermal mass in the building envelope as illustrated in Figure 18 is important for both:
 - i) heat gain in winter. Internal walls with thermal mass can soak up heat from the sun through north-facing windows. During the night, this heat is released back into the rooms;
 - ii) heat release in summer. The thermal mass soaks up excess heat in the building. During the night this heat is slowly released.

3.5.7.3 Glazing

Notes: The thermal performance of a building relies upon a balance of thermal mass materials, and the area of glass exposed to sunlight. The northern orientation of major glazed areas should receive maximum solar radiation (heat gain) during winter, and a minimum amount during summer. Due to the low altitude of the sun in winter, (30) during the winter solstice) a greater percentage of solar radiation is transmitted during winter, than in summer. This contributes to 'direct heat gain'. The direct heat gain system of space heating requires a relatively large proportion of glazing on the north facing part of the house. This allows low angled winter sunshine to penetrate deeply, and heat the interior of the building. North facing glazing can take the form of full height glass windows and doors. These should also be incorporated with an effective shading system, for summer sun. Generally, north facing glazing should account for between 10 to 30 percent of the dwelling's overall floor area.

Windows should be rated under the Window Energy Rating Scheme and Building Code of Australia Section J - Part 2 Glazing.

a) Clerestory windows and skylights:

Where sun penetration is required to the southern parts of the house, glass roofs, skylights, or clerestory windows can be used. However, they must be shaded in summer to reduce excessive heat gain.

b) Orientation of living spaces:

Where a dwelling's living spaces are orientated northwards, aim to achieve a glazed area of up to 30 percent of the dwelling's floor area in this direction.

3.5.7.4 Insulation

The use of insulation in walls and roofs can alter the rate at which a house can lose or gain heat. Insulation is not a heat store - it just makes it harder for heat to pass through a wall, roof or floor. The types of roof, ceiling and wall insulation are summarised at Figure 20 below. See also Building Code of Australia Section J - Part 1 Building Fabric.

Thermal insulation will help make your building easier to heat in winter, by reducing the rate at which heat is lost, and help to retain any solar heat gain. In summer, insulation will help reduce heat entering through the walls and roof, thereby increasing thermal comfort. In each case insulation saves energy and energy costs. Insulation can be equally effective for all types of dwellings. However, it will not significantly improve the heat storage capacity of a timberframed cottage with wooden floors, which will be warm during the day, but still cool down at night.

Note: Types of insulation can be classified as either 'bulk' or 'reflective' insulation as follows;

- Bulk insulation: such as glass fibre, rock wool and foamed plastics reduce conducted heat flow. This is achieved by the material itself and air trapped between its fibres or particles resists heat conduction.
- Reflective insulation: reduces radiant heat flow by reflecting most of the radiation on the warm side and not emitting much on the cool side. Effective reflective insulation needs to be used in conjunction with an air space.

To prevent moisture laden air reaching insulation in a wall cavity, provide a vapour barrier on the warmer side of the insulation

Draught proofing:

a) In winter, draughts can cause a heat loss of around 20 percent in homes with insulated ceilings. In summer, hot air leaking into a building can be uncomfortable. To reduce heat loss/gain from a building, provide adequate draught excluders or weather-stripping to all windows and doors.

Fitted curtains with pelmet:

b) To reduce heat loss in winter and heat gain in summer, fit internal close fitting curtains with pelmet.

Wall and roof colour

c) Lighter colours are preferred for wall and roof materials. Dark walls and roofs absorb heat, light walls and roofs reflect heat. This phenomenon is particularly important in summer where solar radiation is absorbed by the roof and walls, heating the building.

Pipes and storage tanks

d) Pipes and storage tanks should be insulated for hot water systems.

Response: The criteria within this clause 3.5.7 are noted and addressed within the BASIX and NatHERS certification that accompanies the Application, and to further details at the Construction Certificate stage of the works.

3.5.8 Water Sensitive Urban Design

3.5.8.1 Principles of Water Sensitive Urban Design

Under LEP clause 6.4 Stormwater Management, the principles of Water Sensitive Urban Design to be considered in granting development consent for any development in residential, business and industrial zones are summarised as follows:

- a) protection and enhancement of natural water systems (including creeks, rivers, lakes, wetlands, estuaries, lagoons, groundwater systems) and riparian land;
- b) protection and enhancement of water quality, by improving the quality of stormwater runoff from urban catchments;
- c) minimisation of harmful impacts of urban development by mimicking natural water runoff regimes where possible and appropriate;
- d) integration of vegetated stormwater treatment and harvesting systems into the landscape in a manner that maximise visual and recreational amenity of urban development and also provides water quality benefits;
- e) reduction in potable water demand through water efficiency and rainwater and stormwater harvesting; and
- f) location of water quality and stormwater treatment measures outside riparian land.

3.5.8.2 Water Sensitive Urban Design Targets

a) Stormwater Quality Management

Note: Urbanisation places pressure on waterways and stormwater systems and can increase pollutants entering receiving environments.

Objective 1)

To reduce the pollutant loads reaching downstream receiving waters and environments.

- i) For all development, the impervious areas that are directly connected to the stormwater system should be minimised.
- ii) For development requiring a Water Sensitive Urban Design Strategy under Council's Administrative Guidelines the following reductions in post development average annual loads of pollutants are required:
 - 90 percent reduction in the post development average annual load of Gross Pollutants (greater than 5mm);
 - 80 percent reduction in the post development average annual load of Total Suspended Solids;
 - 60 percent reduction in the post development average annual load of Total Phosphorus; and
 - 45 percent reduction in the post development average annual load of Total Nitrogen.

Notes: The post development annual load should be determined by the applicant and presented to Council in a Water Sensitive Urban Design Strategy, along with a description of the measures used to achieve the reduction target.

Legislated pollution reduction targets are not currently established by the NSW Government but guidance is provided to Councils through the NSW Government Sydney Metropolitan Catchment Management Authority.

See also Landcom Water Sensitive Urban Design Book 1 "Policy" (page 9) Table 1 (Reference www.landcom.com.au/downloads/uploaded/WSUD_Book1_Policy_Draft_0409_6d9c.pdf) for NSW Government established pollution reduction targets for land development. Pollution reduction targets are also described in this Landcom document.

The above stormwater quality controls have been derived through the modelling of numerous combinations of Water Sensitive Urban Design elements and technologies and development types at various locations. They reflect a cost-effective level of stormwater treatment that is considered to be technically feasible in terms of the footprint or land take of measures likely to be required for compliance, and environmental benefits.

b) Water Conservation

Note: Urbanisation results in significant volumes of imported potable water from Warragamba Dam and large volumes of generated waste water discharged to the environment at North Head wastewater treatment plant. Significant financial, social and sustainability benefits exist through local adoption of water conservation measures.

Objective 1)

To enhance potable water conservation in developments to provide enhanced sustainability benefits.

- i) Buildings that are not affected by Building Sustainability Index (BASIX) that are installing any water use fittings must demonstrate compliance with the minimum standards defined by the Water Efficiency Labelling and Standards Scheme. Minimum ratings recommended under this scheme include:
 - 3 star showerheads;
 - 3 star urinals;
 - 4 star dual-flush toilets; and
 - 4 star taps (for all taps other than bath outlets and garden taps).
- ii) Water efficient washing machines and dishwashers are to be specified and used wherever possible.
- iii) Industrial and commercial developments must supply 80 percent of their non potable demand using non potable sources. This shall include the use of rainwater as the primary source and be supplemented by recycled water only in instances where rainwater cannot

meet 80 percent of the demand. Where the 80 percent demand threshold cannot be met, the use of non potable sources shall be maximised and will be considered on a merits basis by Council.

Notes: Examples of non potable demand includes toilet and urinal flushing, washing machines, garden watering (irrigation), vehicular washing, ornamental ponds and cooling tower top up (see Blacktown Council WSUD and Integrated Water Cycle Management DCP). The percentage of proposed roof area directed to a rainwater tank must be maximised to increase the effectiveness and reliability of the reuse system. Water use within public open space (for uses such as irrigation, water features, public amenities etc.) is to be supplied from alternative sources to meet a minimum of 80 percent of the demand and treated to NSW State Government and Commonwealth Government standards (see Interim Reference Guideline for the South East Queensland Concept Design Guidelines for WSUD for Sydney).

c) Groundwater Quality Management

Note: Urbanisation not only places pressure on waterways and stormwater systems but can also impact groundwater quality and dependent ecosystems in Manly.

Objective 1)

- To protect groundwater resources in accordance with NSW State groundwater policy, enhance groundwater and protect any groundwater dependent ecosystems.
- i) Consideration must be given to this paragraph in relation to all development to which this paragraph applies consistent with the spirit and principles of the NSW State Groundwater Policy and 'The NSW State Groundwater Policy Framework Document'.

Response: The criteria within this clause are noted and addressed within the Stormwater Concept Plan prepared by 'Engineering Studio Civil and Structural'. The scheme includes comprehensive rainwater capture, storage and re-use within the dwelling and landscaping component.

3.6 Accessibility

Response: Not Applicable within the context of a single dwelling.

3.7 Stormwater Management

See also paragraph 5.4.3 Flood Effected Land, which identifies flood affected land which is subject to Council's Interim Policy and Administration Guidelines for Manly Lagoon.

See also paragraph 3.5.5 Landscaping (Sustainability) & paragraph 3.5.8 Water Sensitive Urban Design.

See also NSW Road and Maritime Services standard requirements for the management of stormwater in relation to development near the foreshore.

See also Council's Stormwater Control Policy Reference S190 under the Manly Policy Register.

Relevant objectives to satisfy relation to this part include the following:

Objective 1)

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.

Objective 2)

To manage construction sites to prevent environmental impacts from stormwater and protect downstream properties from flooding and stormwater inundation.

Objective 3)

To promote ground infiltration of stormwater where there will be no negative (environmental) impacts and to encourage on-site stormwater detention, collection and recycling.

Objective 4) To make adequate arrangements for the ongoing maintenance of stormwater facilities.

Note: Development consent must not be granted on residential, business and industrial lands unless Council is satisfied that the matters identified in LEP clause 6.4(3) are satisfied.

The following consideration and requirements apply to the management of stormwater:

a) In support of the purposes of LEP clause 6.4(3), all developments must comply with the Council's 'Stormwater Control Policy" (see Council Policy Reference S190). The standards to achieve the controls contained in the Stormwater Control Policy are provided in Council's "Specification for On-site Stormwater Management 2003" and "Specification for Stormwater Drainage". Stormwater management measures are to be implemented and maintained in accordance with the Specification for Stormwater Management;

- b) Stormwater disposal systems must provide for natural drainage flows to be maintained;
- c) Pervious surfaces and paving will be used for driveways, pathways and courtyards where practical;
- d) Notwithstanding the prevailing BASIX water conservation targets, the collection of rainwater/run-off for non-potable uses exceeding the target is encouraged; and
- e) A qualified drainage/hydraulic engineer will design all stormwater controls, devices and water storage systems; and
- f) In relation to development in the LEP Zone B6 Enterprise Corridor, Burnt Bridge Creek runs through this land. Land in this locality is also generally low-lying. In this regard stormwater runoff from new developments in these LEP zones must be limited to that currently existing for the site for a 1 in 5 year storm or 40 litres per second whichever is the least, unless the drainage system is demonstrated to be sufficient for unimpeded discharge for a fully developed catchment area. Developers should assess whether their land warrants additional drainage considerations because of its location. The NSW Government Floodplain Development Manual may be useful in this assessment.

Response: This matter has been discussed previously at cl.6.4 of the MLEP2013 section of this Statement.

Also refer to the 'Stormwater Concept Plan' prepared by 'Engineering Studio' for details of the stormwater management system.

3.8 Waste Management

Note: This plan requires the lodgement of Waste Management Plans that demonstrate sound waste management practices that will reduce, reuse and recycle resources.

Relevant objectives to satisfy in relation to this paragraph include the following:

Requirement

All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.

Response: The Application includes a comprehensive Waste Management Plan for demolition/construction and ongoing use of the premises.

3.9 Mechanical Plant Equipment

Note: Mechanical Plant Equipment refers to the necessary infrastructure to support and maintain services or operations including air conditioning (both heating and cooling systems and ventilation), swimming pool filtration and other mechanical systems. Plant may also maintain other systems, such as plumbing and lighting for larger developments.

3.9.1 Plant Rooms

- a) Plant rooms are generally required to accommodate mechanical plant systems for commercial buildings or major residential development and used exclusively for that purpose. The design and size of these rooms will vary depending on the technical specifications of the systems and other factors such as access and ventilation.
- b) The provision of plant equipment in low density residential development rarely demands exclusive rooms for the occupation of plant i.e. a 'plant room', but where an exclusive plant room is proposed, the floor area must be no larger than the actual area which the plant and/or machinery occupies plus the equivalent of a 0.5m access/maintenance area surrounding the plant/machinery item for access and ventilation*. Plant rooms are not to be used for other purposes such as for storage and laundry and the overall size of the plant room should generally be less than a size of habitable rooms and must not add to building bulk or result in excessive excavation. In considering the location of mechanical plant equipment in dwelling houses, the use of an otherwise non-habitable location/ space or under storey that is well ventilated and which minimise noise impacts are preferred.

*Note: While additional space around plant equipment may be required for occupational, health and safety reasons, (i.e. more than 0.5m around the plant) then the floor area will be calculated as gross floor area for the purposed of the FSR calculation.

3.9.2 Roof-top Plant, Lift Towers etc.

Roof-top plant and lift towers must be inconspicuous and / or designed as an integral part of the building in such a way as to appear as an appropriate part of the overall townscape. Plant equipment is to be appropriately located and designed such that it is not apparent from the street level view or from other active pedestrian areas and must not compromise street character, landscaping or pedestrian amenity or conflict with townscape objectives of this plan. See paragraph 3.1 Streetscapes and Townscapes.

3.9.3 Noise from Mechanical Plant

External mechanical plant systems (for pools, air conditioning and the like) must be acoustically enclosed and located centrally and away from neighbours living areas of neighbouring properties and side and rear boundaries. See also paragraph 3.4.2.4 Acoustical Privacy.

Note: Excessive noise from the operation of mechanical plant such as air conditioning units, swimming pool pumps, and ventilation and refrigeration systems can disturb residents, disrupt sleep, interfere with normal daily activities or significantly impact on people's health.

Response: As mentioned previously, noise generating equipment eg air conditioning plant and the like, is located within the service court and set well back from the side boundary sub-floor area and well insulated for noise attenuation.

There is no plant and equipment located at roof level, with the exception of solar panels.

3.10 Safety and Security

3.10.1 Safety

The principle of 'safety in design', is to be considered for all development in relation to the design and assessment of DAs to ensure developments are safe and secure for residents, all other occupants and visitors.

a) Vehicular Access is to be designed and located to achieve safety by:

- i) locating car park entry and access on secondary streets or lands where available;
- ii) minimising the number and width of vehicle access points;
- iii) providing clear sight lines at pedestrian and vehicular crossings; and
- iv) separating pedestrian and vehicular access. This separation is to be distinguishable and design solutions in this regard may include changes in surface materials, level changes and use of landscaping for separation.

Response: The existing battleaxe driveway is to be maintained for vehicular and pedestrian access from Addison Road to the land.

3.10.2 Security (Casual Surveillance)

In order to promote safety and security, all development is to be designed to maximise opportunities for passive surveillance of public and communal areas by:

a) orientating some rooms to the street;

- b) providing sight lines to the street frontage from the window(s) of at least one habitable room unobscured by trees or any other object;
- c) ensuring the design of fences, walls and landscaping minimise opportunities for concealment and encourage social interaction; and
- d) preferring double glazing on windows in areas of high street noise rather than the high fences or walls as a sound attenuation measure.

Response: The land is a battleaxe lot with no presentation to Addison Road and no public foreshore access except by water onto private land. There is no boundary fencing to the foreshore except for pool fencing.

4 Development Controls and Development Types

4.1 Residential Development Controls

4.1.1 Dwelling Density, Dwelling Size and Subdivision

4.1.1.1 Residential Density and Dwelling Size

This section contains maximum permissible residential density controls which generally apply to land identified on the LEP Lot Size Map and determine the maximum number of dwellings that may be achieved on any one parcel of land.

a) The maximum permissible residential density control at Figure 24 – Minimum Residential Density applies to land identified in Residential Density Areas on the Minimum Residential Density Map at Schedule 1 - Map A in this plan.

Figure 24 - Minimum Residential Density determines the maximum number of dwellings that may be achieved on any one development site. This figure indicates the minimum site area required for every dwelling contained on a site. For example, if a density control of 300sqm per dwelling applies to a site with a site area of 600sqm the density control would allow for a maximum of 2 dwellings.

- b) For the purposes of calculating the residential density control for battle-axe lots, the area of the access handle is excluded from the site area, consistent with the provisions for minimum subdivision lot size in LEP clause 4.1(3A).
- c) Notwithstanding the minimum Residential Density in Figure 24, no more than 2 dwellings may be constructed on lots 29, 30, 31 and 32 in Section 5 of DP 939916, known as 15 -17 Suwarrow Street Fairlight.

Response: Complies. The proposal is for the erection of a single dwelling. The battleaxe lot is existing and there is no change to the existing configuration of the lot, access or boundaries.

Dwelling Size

d) Dwellings are required to have the following minimum internal areas:

Studio dwellings: 35 sqm

1-bedroom dwellings: 50 sqm

2-bedroom dwellings: 70 sqm

3-bedroom dwellings: 90 sqm

The minimum internal areas include only 1 bathroom. Additional bathrooms increase the minimum internal area by 5 sqm.

A 4th bedroom and further additional bedrooms increase the minimum internal area by 12 sqm each.

Note: Dwelling Size Guidelines are adopted from the NSW Apartment Design Guidelines to apply more broadly to all residential accommodation considered under this Plan.

Note: This paragraph does not apply to Secondary Dwellings which are subject to their own development standard for minimum floor area at LEP clause 5.4(9).

Response: Complies. The floor area of the single dwelling well exceeds the minimum requirements.

4.1.1.2 Residential Land Subdivision

See also paragraph 4.4.8 in relation to controls for all Subdivisions.

Response: Not Applicable.

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Note: While the LEP contains Height of Buildings development standard and special height provisions, these paragraphs control the wall and roof height and the number of storeys within and in support of the LEP provisions in relation to residential development.

LEP objectives for the Height of Buildings at clause 4.3 are particularly applicable to controls at paragraph 4.1.2 of this DCP.

See also paragraph 4.1.7 First Floor and Roof Additions.

See also LEP clause 4.6 Exceptions to Development Standards.

a) LEP Zones where numeric height controls in this DCP apply Height controls under paragraph 4.1.2 of this plan apply to development in LEP Zones R1, R2, R3, E3 and E4. This part of the DCP does not apply to development of other lands subject to the LEP Height of Building standard identified on the LEP Height of Building Map.

See also paragraph 4.2 of this plan in relation to height controls and considerations in the LEP Business Zones.

b) Exceptions to Height

Where an existing building exceeds the maximum height controls in this plan or the height of building standards in the LEP, any alterations and/or additions to the building must not increase the overall height of the existing building.

See also paragraph 4.1.7.2 Habitable Rooms in the Roof Structure.

Response: Minor non-compliance. As discussed elsewhere in this Statement there is a minor breach of the maximum building height associated with the overhang of the upper floor balcony.

This is addressed via a separate cl.4.6 Statement included with the Development Application.

4.1.2.1 Wall Height

a) Within the LEP Height of Buildings development standard, the maximum external wall height is calculated based on the slope of the land under the proposed wall. Figures 26, 27 and 28 provide guidelines for determining the maximum height of external walls based on the particular slope of the land along the length of these proposed walls. The maximum wall height control will also vary from one building, elevation or part elevation to another depending on the slope of land on which the wall is sited. Within the range of maximum

wall heights at Figures 26 and 28, the permitted wall height increases as the slope of the land increases up to a gradient of 1 in 4, at which point the permitted maximum wall height is capped according to Figure 26.

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Subzones on the LEP	Maximum Wall	Maximum Wall	Maximum Wall
Height of Buildings	Height on flat land (no	Height on land with a	Height on land with a
(HoB) Map *	gradient)	site gradient less than	site gradient of 1:4 or
		1:4	steeper
Area 'L' on HoB Map	9m	See Figure 28 -	10.5m
(11m)		Maximum Wall Height	
Area 'N1' on HoB Map	12m	Determined by the	12m
(13m)		Slope.	
All other areas on HoB	6.5m		8m
map			

Figure 26 - Wall Height in relation to the LEP Height of Buildings Map

* Note: Council's Wall Height control applies to the subzones within LEP Zones R1, R2, R3, E3 and E4.

b) For the purpose of determining maximum wall height, the slope of the land is calculated at natural ground level along the full length of the proposed wall expressed as a ratio that is applied in Figure 27 - Interpretation of Wall Height based on Slope. The slope of land on which the wall is sited will differ from one building to another and from one elevation of that building to another elevation and will be used in Figure 28 below to determine the maximum wall height in each case.

Figure 28 - Maximum Wall Height Determined by the Slope

Note: This table is used to determine the maximum wall height based on a calculation of the slope of land under the wall.

Response: Various wall heights are shown on the elevations at each relevant location on the façade.

The maximum wall height of the building is that found at the southern elevation due to the three-storey configuration and the gradient in this location. We rely upon the justification arguments as set out elsewhere in this Statement that the third storey, and by direct association the wall height in this location, is appropriate in terms of bulk, scale and presentation of the dwelling to the public realm of Little Manly Cove.

Wall heights on the eastern and western facades vary accordingly to location along the length of the building, closely following the natural topography of the site. We submit that the wall heights along both sides of the building are slope dependent, the façade treatment includes substantial modulation and articulation to ameliorate subjective building bulk and are an appropriate design solution to address constraints imposed by the site conditions.

4.1.2.2 Number of Storeys

a) Buildings must not exceed 2 storeys, except on land in areas 'L' and 'N1' on the LEP Height of Building Map and notwithstanding the wall and roof height controls in this plan.

- b) Buildings on land in areas 'L' and 'N1' on the LEP Height of Building Map Buildings must not exceed 3 storeys notwithstanding the wall and roof height controls in this plan.
- c) Variation to the maximum number of storeys may be considered:
 - i) where specific physical site constraints warrant an exception to this requirement. In these circumstances the development must still fully comply with other numeric height controls and development standards; and
 - ii) to allow an additional understorey where that storey satisfies the meaning of basements in the LEP.

See also paragraph 3.1.1.3 Roofs and Dormer Windows.

Response: The building takes the form of a part two-storey and part three-storey structure when viewed from the foreshore.

This configuration is related to the steep topography of the land as it rises to the north from the Little Manly Cove foreshore towards the Addison Road alignment, making strict compliance with the two-storey restriction problematic.

The site-specific design well addresses the opportunities and constraints of the land, and the proposal can be supported on a merit assessment as:

- The design 'steps down' the existing contours from north to south in accordance with good design practice for sloping sites.
- The configuration is substantially compliant on overall building height, with the minor exception of a roof overhang that is immaterial to the subjective bulk of the building.

- The new structure is of a height, bulk and scale that is consistent with the surrounding development pattern and is lower than the adjoining buildings.
- The height, bulk and scale and general configuration is consistent with the building it replaces.
- There are no unacceptable impacts upon view loss, solar access or loss of amenity for any adjoining neighbour that result for the additional storey.
- The architectural style and façade treatment is inoffensive as it presents to the public foreshore of Little Many Cove.

4.1.2.3 Roof Height

- a) Pitched roof structures must be no higher than 2.5m above the actual wall height *, calculated in accordance with Figure 29.
- * **Note:** In this paragraph 'actual wall height' means the wall height that is either existing or proposed rather than the maximum achievable wall height control in this plan.
- b) Roof parapets may extend up to 0.6 m above the actual wall height where Council considers that a parapet is considered to be appropriate to the design of the development and satisfies the objectives of this DCP and the LEP. For example, a parapet roof should not result in the appearance of lift structures and the like that protrude above the roof.
- **Note:** As the LEP definition 'Building Height' incorporates plant and lift overruns, these structures must be similarly contained and not protrude above the maximum roof height.

Response: The building has a flat roof with deep overhanging eaves to the upper balcony; there are no pitched roof forms.

The stairwell structure that provides roof access projects above the flat roof however is contained within the overall building height limit, sits well back from the edge of the building and is well integrated into the overall building design.

Roof Pitch

c) The maximum roof pitch must be generally no steeper than 35 degrees. A roof with a steeper pitch will be calculated as part of the wall height. In this regard the wall height controls at paragraph 4.1.2.1 of this plan will apply to the combined wall height and the height of the roof steeper than 35 degrees.

Response: Not Applicable for a flat roof form.

4.1.2.4 Application of DCP Controls in respect of Land Identified under 'Special Height Provisions' under Clause 4.3A of the LEP

Response: Not Applicable.

4.1.3 Floor Space Ratio (FSR)

4.1.3.1 Exceptions to FSR for Undersized Lots

See also LEP clause 4.6 Exceptions to Development Standards.

See also paragraph 3.2.5.2 Exceptions to FSR Development Standards (for the development of Heritage).

Note: On existing sites in Residential LEP Zones (including E3 & E4) with a site area less than the minimum lot size required on the LEP Lot Size (LSZ) Map, Council may consider exceptions to the maximum FSR under LEP clause 4.6 when both the relevant LEP objectives and the provisions of this DCP are satisfied. See LEP clause 4.6(4)(a).

The undersized nature of a lot is a matter that Council may consider in determining whether 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' and 'there is sufficient environment planning grounds to justify contravening the development standard' under LEP clause 4.6(3).

a) The extent of any exception to the LEP FSR development standard pursuant to LEP clause
4.6 in this plan is to be no greater than the achievable FSR for the lot size indicated in Figure
30 - Extent of FSR Variation for Undersized Lots.

Subzones on the LEP Lot Size (LSZ) Map	Maximum variation to FSR for undersized lots	
Area 'C' on the LEP LSZ map	Calculation of FSR based on 250 sqm lot size/ site area	
Area 'D' on the LEP LSZ map	Calculation of FSR based on 300 sqm lot size/ site area	
Area 'I' on the LEP LSZ map	Calculation of FSR based on 500 sqm lot size/ site area	
Area 'M' on the LEP LSZ map	Calculation of FSR based on 600 sqm lot size/ site area	
Areas 'R','T'&'U' on the LEP LSZ map	Calculation of FSR based on 750 sqm lot size/ site area	

Figure 30 - Extent of FSR Variation for Undersized Lots

4.1.3.2 Exceptions to FSR for Plant Rooms

In calculating the gross floor area under the LEP dictionary meaning for the purpose of calculating FSR, consideration must be given to paragraph 3.9 Plant Equipment of this plan with regard to the design and maximum area of plant equipment and plant rooms.

4.1.3.3 Exceptions to FSR for Open Balconies

Objective 1) To maintain open balconies which contribute to the articulation of building facades without adding to the building bulk and provide an amenity of open space for occupants.

In calculating the Gross Floor Area under the LEP dictionary meaning for the purpose of calculating FSR, balconies that are enclosed will not be excluded from the LEP definition of Gross Floor Area i.e. will be included in FSR when the balcony is:

i) enclosed to the extent that it is part of the building envelope as defined by the Building Code of Australia; and

ii) considered by Council to have the character of a habitable room.

Note: In this regard it is noted that the LEP only excludes balconies from the Gross Floor Area when the outer walls are less than 1.4m high.

Response: Complies (0.599:1) – refer to previous discussion at the MLEP section. FSR calculations are shown graphically on Sheet DA 10K of the architectural set.

4.1.4 Setbacks (front, side and rear) and Building Separation

Note: This section addresses the buildings' setback from its various property boundaries.

4.1.4.1 Street Front setbacks

See also paragraph 3.2.4 in relation to Heritage and paragraph 4.2 in relation to controls in LEP Business Zones.

- a) Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.
- b) Where the street front building lines of neighbouring properties are variable and there is no prevailing building line in the immediate vicinity i.e. where building lines are neither consistent nor established, a minimum 6m front setback generally applies. This street setback may also need to be set further back for all or part of the front building façade to retain significant trees and to maintain and enhance the streetscape.
- c) Where the streetscape character is predominantly single storey building at the street frontage, the street setback is to be increased for any proposed upper floor level. See also paragraph 4.1.7.1.
- d) Projections into the front setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, chimneys, meter boxes and the like, where no adverse impact on the streetscape or adjoining properties is demonstrated to Council's satisfaction.

Note: Reference to 'prevailing building lines' in this paragraph means the building lines determined in undertaking the context and site analysis required to accompany all DAs (see Council's Administrative Guidelines) including, in this case, demonstrated survey of all building lines and street frontages in the vicinity i.e. the visual catchment along the street.

Response: Not Applicable. The lot is a battleaxe with no street frontage to Addison Road.

Roaa.

4.1.4.2 Side setbacks and secondary street frontages

a) Setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.

- b) Projections into the side setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, and the like, if it can demonstrate there will be no adverse impact on adjoining properties including loss of privacy from a deck or balcony.
- c) All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;
- d) For secondary street frontages of corner allotments, the side boundary setback control will apply unless a prevailing building line exists. In such cases the prevailing setback of the neighbouring properties must be used. Architecturally the building must address both streets.
- e) Side setbacks must provide sufficient access to the side of properties to allow for property maintenance, planting of vegetation and sufficient separation from neighbouring properties. See also paragraph 4.1.4.3.b.vi.of this plan.
- f) In relation to the setback at the street corner of a corner allotment the setback must consider the need to facilitate any improved traffic conditions including adequate and safe levels of visibility at the street intersection. In this regard Council may consider the need for building works including front fence to be setback at this corner of the site to provide for an unobstructed splay. The maximum dimension of this triangular shaped splay would be typically up to 3m along the length of the site boundaries either side of the site corner.

See also paragraph 5.5 Road Widening and Realignment and the former Manly Council's Corner Splay Policy (C150) for instances where the corner splay may be acquired by Council at intersections in the public interest and in the circumstances of the particular case.

Response: The side setbacks are shown for both the existing dwelling and the new structure on the architectural plans. Generally, the proposed side setbacks exceed those of the existing dwelling and achieve the objectives of this Clause.

4.1.4.3 Variations to Side Setback in Residential Density Areas D3 to D9 (see paragraph 4.1.1 of this plan)

Response: Not Applicable.

4.1.4.4 Rear Setbacks

a) The distance between any part of a building and the rear boundary must not be less than 8 m.

- b) Rear setbacks must allow space for planting of vegetation, including trees, other landscape works and private and/or common open space. The character of existing natural vegetated settings is to be maintained. See also paragraph 3.3 Landscaping.
- c) On sloping sites, particularly where new development is uphill and in sensitive foreshore locations, consideration must be given to the likely impacts of overshadowing, visual privacy and view loss.
- d) Rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity to minimise overshadowing, visual privacy and view loss.

Response: Not Applicable. The 'Foreshore Building Line' applies.

4.1.4.5 Foreshore Building Lines and Foreshore Area

Note: Foreshore building lines are contained in the LEP clause 6.10 and the LEP Foreshore Building Line Map. This paragraph is to be read in conjunction with the LEP and provides supporting and more detailed controls and considerations in respect of exceptions which may be considered under LEP clause 4.6.

- a) Any exception proposed to the foreshore building lines under LEP clause 4.6 must consider the particular site terrain, the setback of adjoining development and Council's existing or future proposed foreshore walkway. Any exception sought for foreshore land that is reclaimed must also consider the position of the mean high watermark on adjoining properties.
- b) Development on any property with a foreshore building line may be required to be setback a further distance from the mean high water mark than required by the LEP Foreshore Building Line Map to satisfy the objectives of the LEP in instances where the proposed height of building on the foreshore frontage is greater than 15m. The minimum foreshore setback for development in this instance is to be no less than the maximum wall height at the foreshore frontage.
- c) Development of land that is permitted in the foreshore area is to be designed to complement the natural or established landscaped character of the waterfront and must not be used for accommodation.
- d) Care must be taken when considering opportunities for 'continuous public access along the foreshore and to the waterway' under LEP clause 6.10(3)(e) to ensure that:
 - i) remnant riparian vegetation is not degraded and removed; or
 - ii) the width of riparian land that is to be protected and or rehabilitated is not reduced on order to provide public access; or

- iii) pathways are to be generally located outside the foreshore/riparian areas to avoid impacts on foreshore/riparian areas, flora and fauna and habitat it provides and the rehabilitation of riparian vegetation. If access to the foreshore/riparian areas needs to be provided, the access should be limited to strategic locations rather than provided continuous access pathways along these sensitive areas. Locating the pathways outside the foreshore/riparian areas would also improve public surveillance and safety.
- e) In relation to Lots 101,102 & 103 DP1047595 and Lots 104 & 105 DP1048038 Rignold Street, Seaforth; the following foreshore building line controls apply notwithstanding any other provisions of this plan:
- i) The natural tree cover between the foreshore building line and the water's edge is to be retained and any future landscaping should complement existing natural vegetation. The retention of rock outcrops and other native features of the site are to be given due consideration in any development of the site.
- ii) Swimming pools will not be permitted between the foreshore building line and the water's edge, but gazebos, pergolas and other similar structures will be permitted provided that they are designed in keeping with the bushland character of the site and the adjacent foreshore area.
- iii) No retaining walls or fences are to be erected between the foreshore building line and the water's edge.

Response: Substantially compliant with the minor exception of the encroachment of the rear facing balconies. Refer to previous discussion.

4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2

Response: Not Applicable.

4.1.4.7 Setback for development of certain land at Boronia Lane and Rignold Street, Seaforth

Response: Not Applicable.
4.1.5 Open Space and Landscaping

4.1.5.1 Minimum Residential Total Open Space Requirements

See also Dictionary meaning of Total Open Space in this plan.

See also paragraph 4.1.5.3 Principal Private Open Space.

Numeric Controls

a) Open Space must be provided on site in accordance with Figure 34 – *Numeric Requirements* for Total Open Space, Landscaped Area and Open Space Above Ground.

The minimum total open space requirement is determined as a percentage of the site area in Figure 34 and applies to residential accommodation and other permissible development in the LEP Zones R1, R2, R3, E3 & E4 and residential development in any other zone excluding shop top housing in LEP Zone B1 Neighbourhood Centre (see paragraph 4.2.8.3) and Zone B2 Local Centre.

Figure 34 – Numeric Requirements for Total Open Space, Landscaped Area and Open Space Above Ground

Residential Open Space Areas at DCP Schedule 1 – Map B	Total Open Space (minimum percentage of site area)	Landscaped Area (minimum percentage of Total Open Space Open Space)	Above Ground (maximum of Total Open Space)
Area OS1	at least 45% of site area	at least 25% of open space	-In relation to dwelling houses: no more than 25% of Total Open Space. -In relation to all other land uses permitted in the Zone: no more than 40% of Total Open Space.
Area OS2	at least 50% of site area	at least 30% of open space	
Area OS3	at least 55% of site area	at least 35% of open space	
Area OS4	at least 60% of site area	at least 40% of open space	

Note: to be read in conjunction with Schedule 1 - Map B and relevant Dictionary meanings.

Minimum dimensions and areas for Total Open Space

- b) Total Open Space (see Dictionary meanings including landscape area, open space above ground and principal private open space) must adhere to the following minimum specifications:
 - i) horizontal dimension of at least 3m in any direction; and
 - ii) a minimum unbroken area of 12sqm.
 - iii) A variation to the minimum specifications in i) and ii) above may only be considered for Above Ground Open Space where it can be demonstrated that lesser dimensions or areas will better serve to minimise amenity impacts on neighbours. A lesser areas of

above ground open space may be included or calculated under the minimum requirements in the circumstances of the case.

In all other cases open space that does not comply with the minimum specification is not included or calculated under the minimum requirements for total open space.

See also paragraph 4.1.9.3 Proportion of Total Open Space in relation to the maximum area for pools and concourse.

Note: This paragraph limits the extent of total open space which may be provided above ground level.

See dictionary meaning of 'open space above ground'

c) Open Space Above Ground is limited on site in accordance with Figure 34 – *Numeric Requirements for Total Open Space, Landscaped Area and Open Space above Ground Level.* The maximum open space above ground requirement is determined as a percentage of the Total Open Space.

Response: Minor Non-compliance. Open space and landscape calculations are shown graphically on Sheet DA 11K of the architectural set.

The open space component of **52.48%** is marginally under the control (55%), noting that the proposal is a substantial improvement over that of the current dwelling in both quantitative and qualitative terms.

The primary open space, which also includes the 'Private Open Space' allocation is appropriately located within the foreshore zone with good spatial connectivity to the dwelling, notwithstanding the challenging topography to the foreshore area. There is a good relationship between the open space at ground level and the terraces and elevated balconies that are incorporated as part of the structure. Open space areas are directly accessible for the primary living areas of the dwelling.

As mentioned previously, additional private amenity is provided within the roof top terrace.

Amenity Considerations

i) Areas of total open space that are above ground are considered to have a potentially greater impact on the amenity of neighbours. Accordingly the provision of open space that is above ground is to be confined to a maximum percentage of the total open space for any development. In particular, roof terraces and large decks are discouraged and are not a preferred design option when providing open space above ground.

- ii) All open space above ground including verandas, balconies, terraces, are not to be enclosed.
- iii) The Total Open Space Above Ground as provided for in Figure 34 may be refused by Council where privacy and/or view loss are issues and where development does not satisfy particular considerations in the following paragraphs iv) and v).
- iv) Roof terraces are not permitted unless designed for privacy with no direct lines of sight to adjoining private open spaces or habitable window openings both within the development site and within adjoining sites.

Note: In relation to assessing privacy in this paragraph, the anticipated lines of site are to be determined from any location on the terrace at an eye level of 1.6m above the proposed finished floor level. Council may require sketches to accompany the DA demonstrating critical view lines from the proposed development to adjoining spaces and windows in sectional drawings.

v) Council may also require methods of sound attenuation and/or acoustic treatment to be indicated in the DA to protect the acoustic amenity of neighbouring properties and the public. See paragraph 3.4.2.4 Acoustical Privacy (Noise Nuisance).

Response: The primary open space entitlement is that within the foreshore area, which is consistent with the same condition for the adjoining neighbours.

Neither the upper floor balconies nor the roof terrace is an enclosed structure.

4.1.5.2 Landscaped Area

Numeric Controls

 a) Landscaped Area must be provided on site in accordance with above Figure 34 – Numeric Requirements for Total Open Space, Landscaped Area and Open Space above Ground Level. The minimum landscaped area requirement is a percentage of the actual* total open space onsite.

*Note: 'Actual' space refers here to proposed (or existing where no change proposed), rather than the minimum requirement for open space in this plan.

Response: Landscaped area as a component of 'open space' is compliant at 44.6%, being a significant improvement upon the current situation and providing a better outcome for privacy between the adjoining neighbours.

Minimum Dimensions and Areas

b) Minimum dimensions and areas must provide for the following:

- i) soil depth of at least 1m for all landscaped areas either in ground or above ground in raised planter beds; and See also paragraph 4.1.5.1.c regarding the extent of open space above ground.
- ii) a minimum horizontal dimension of 0.5m measured from the inner side of the planter bed/ box, wall or any other structure which defines the landscaped area and incorporating an appropriate drainage and irrigation regime.

See also paragraph 3.3 Landscaping regards requirements for design and planting principles.

c) Minimum Tree Plantings

- i) The minimum tree numbers must be in accordance with Figure 37 Minimum Number of Native Trees Required.
- ii) The minimum tree requirement may include either existing established native trees or new native trees planted at a pot/container size to be at least 25 litres capacity and being a species selected in accordance with Schedule 4 Part B - Native Tree Selection.
- iii) The required minimum number of native trees required under this paragraph must be planted in a deep soil zone as defined in this plan's Dictionary.

Note: Suggested minimum soil volumes for tree planting generally are as follows: Large size trees (13-18m high with 16m spread) required 80 cubic metres of soil. Medium size trees (9-12m high with 8m spread) requires 35 cubic metres of soil. (Source: NSW Apartment Design Code 2015).

Site Area (sqm)	Areas in the LEP Lot Size Map	Minimum number of native trees listed in Schedule 4 Part B
up to 500	Area 'C' on the LEP Lot Size Map	1 tree
up to 500	all Areas except Area 'C' on the LEP Lot Size Map	2 trees
between 500 and 800	all Areas on the LEP Lot Size Map	3 trees
over 800	Area 'C' on the LEP Lot Size Map	3 trees
over 800	all Areas except Area 'C' on the LEP Lot Size Map	4 trees

Figure 37 - Minimum Number of Native Trees Required
Note: to be read in conjunction with the LEP Lot Size Map.

Response: The various controls of this clause are noted and are addressed within the landscape concept plan prepared by HSA Landscapes.

Landscaping Driveways

d) Driveways alongside boundaries will be sufficiently setback to provide a landscaped area at least 0.5m wide between the driveway area and side boundary for the length of the driveway. Any parking hard stand area or carport associated with the driveway should also be similarly setback unless requiring a greater setback elsewhere under this plan.

Response: Not Applicable. The driveway access handle is existing.

4.1.5.3 Private Open Space

Note: Private open space is in addition to the provision of communal open space for residential accommodation with more than 1 dwelling. Guidelines for the provisions of communal open space are contained in the Residential Flat Design Code referenced in this plan.

Principal Private Open Space

- a) Principal private open space is to be provided in accordance with the following minimum specifications:
 - i) Minimum area of principal private open space for a dwelling house is 18sqm; and
 - ii) Minimum area of principal private open space for residential accommodation with more than 1 dwelling on the site is 12sqm for each dwelling.

Note: Principal private open space is both part of the private open space as defined in the LEP and the total open space requirement defined in the DCP and must also comply with the meanings and provisions for these spaces provided in the LEP and elsewhere in this DCP.

See also dictionary meaning of principal private open space in this DCP

Response: Ample 'Private Open Space' of the required dimensions, with an easterly aspect and accessible from the main living rooms is provided to the dwelling.

Private Open Space for Boarding Houses

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas

See also paragraph 3.1.1 Streetscape.

- a) 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.
- b) Garage and carport structures forward of the building line must be designed and sited so as not to dominate the street frontage. In particular:
 - i) garages and carports adjacent to the front property boundary may not be permitted if there is a reasonably alternative onsite location;
 - ii) carports must be open on both sides and at the front; and
- c) the maximum width of any garage, carport or hardstand area is not to exceed a width equal to 50 percent of the frontage, up to a maximum width of 6.2m.

Note: The width of any parking structure considered under this paragraph is to be measured along the elevation of the structure that fronts the street.

d) In relation to the provision of parking for dwelling houses, Council may consider the provision of only 1 space where adherence to the requirement for 2 spaces would adversely impact on the streetscape or on any heritage significance identified on the land or in the vicinity.

See Schedule 3 of this plan for parking and access requirements and paragraph 3.2.5.1 in relation to general exceptions to parking requirements for items of the environmental heritage listed at schedule 5 of the LEP.

Response: The existing detached garage is demolished and replaced with a new attached two-car garage. Importantly, the new scheme allows for cars to be reversed more easily within the front setback paved area to exit the site than the current condition.

The area where the existing garage is located replaced with new soft planting, offering a superior outcome for the visual amelioration of hard-paved surfaces.

4.1.6.2 Roof Top Parking

Parking on the roof top should be avoided for Residential Accommodation and for any other development in the LEP Residential Zones (Zones R1, R2, R3, E3 & E4).

Response: Not Applicable.

4.1.6.3 Bicycle Storage

Secure bicycle storage is required for residential accommodation in accordance with Schedule 3 Part 2 Bicycles. Bicycle storage areas should be of sufficient dimensions to comply with Australian Standards.

Response: Not Applicable within the context of a single dwelling, however sufficient space is available within the garage to accommodate bicycles.

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.
- d) Particular attention should be given to separating pedestrian entries and vehicular crossings for safety.
- e) Vehicular access will not be permitted from pedestrianised areas in Manly Town Centre.
- f) In relation to the development of 15-17 Suwarrow Street and 28-34 Balgowlah Road Fairlight, should vehicular access for future development be through L M Graham Reserve, a right of way will be required at the eastern most part of the site, being a 1 metre right of way required for lots 29 and 30 in Sec 5, DP 939916. The right of way should nominate Council or any person nominated by Council as the beneficiary as well as Lot 1 in DP1022202, the other lots of the site, lots 29, 30, 31 and 32 in Section 5 of DP 939916, known as 15-17 Suwarrow Street Fairlight.

Note: NSW Roads and Maritime Services advise in relation to properties fronting arterial roads (being managed by Roads and Maritime Services) that continued availability of on street

car parking cannot be assumed. State Environmental Planning Policy - (Infrastructure) 2007 also states that Council must not grant consent to development on land that has frontage to a classified road unless it is satisfied that where practicable, vehicular access to the land is provided by a road other than a classified road. In the consultation of this plan with Roads and Maritime Services, it is advised that direct vehicular and pedestrian access for a child care centre should not be permitted to a classified road. See also paragraph 4.4.6 Child Care Facilities.

See also paragraph 4.1.5.2.d Landscaping Driveways.

See also paragraph 4.1.8 Development on Sloping Sites including driveways on sloping sites.

a) Driveway crossovers/ gutter crossings should be minimised and spaced to maximise kerbside car parking spaces. An appropriate means of minimising impacts in this regard may involve relocation of garages or carports away from the front property boundary if there is a reasonable alternative location.

Note: In assessing driveways and crossings under this paragraph, consideration will be given to whether the works have any impact on kerbside parking supply and demand.

- b) Particular attention should be given to separating pedestrian entries and vehicular crossings.
- c) The use of porous pavements and retention of existing vegetation is strongly encouraged in the design of driveways in order to maximise stormwater infiltration.

Note: For other information on street crossings and kerb laybacks see the former Manly Council's Specifications for the Construction of Concrete Vehicular Crossings by Private Contractors.

Response: There is no change to the existing battleaxe driveway configuration outside of the property boundary, however as noted above the internal driveway arrangement is superior to the current configuration for easier manoeuvrability from the garage to the driveway.

4.1.6.6 Tandem, Stacked and Mechanical Parking Areas

The design location and management of parking facilities involving tandem, stacked and mechanical parking (including car stackers, turntables, car lifts or other automated parking systems) must consider the equitable access and distribution of parking spaces to all occupants and visitors to the building. In this regard:

a) all parking spaces in any tandem or stacked arrangement are to be allocated to the same dwelling/strata unit and must not be used as visitors parking; and

b) where the proposed development involves a tandem, stacked and mechanical parking arrangement which necessitates more than one parking space being attributed to a single dwelling unit under paragraph a) above; Council must be satisfied that sufficient parking spaces are reasonably allocated to all other dwelling units within the development.

Response: Not Applicable. The proposal does not rely upon mechanical devices or stacked parking.

4.1.7 First Floor and Roof Additions

See also paragraph 4.4.2 Alterations and Additions.

4.1.7.1 First Floor Additions

- a) First floor additions must complement the architectural style of the ground floor and where possible retain existing roof forms. Notwithstanding setback provisions, the addition may follow the existing ground floor wall setbacks providing adjoining properties are not adversely impacted by overshadowing, view loss or privacy issues.
- b) The dwelling and the form of alterations and additions must retain the existing scale and character of the street and should not degrade the amenity of surrounding residences or the aesthetic quality of the former Manly Council area. In this regard, it may be preferable that the addition be confined to the rear of the premises or be contained within the roof structure.

4.1.7.2 Habitable Rooms in the Roof Structure

See also paragraph 3.1.1.3 Roofs and Dormer Windows in relation to residential streetscape.

See also paragraph 4.1.5.1.c.ii in relation to roof-top decks.

Habitable rooms will be permitted in a roof structure subject to compliance with all other controls in this plan and the LEP including height and FSR in the LEP. However alterations and additions to a building which existed prior to 2007 may involve habitable rooms within an existing roof structure that is above the maximum wall and roof height; (see paragraph 4.1.2 of this plan) subject to the rooms not detracting from the character or integrity of the roof structure and not adversely impacting on the amenity of adjacent and nearby properties and the streetscape.

Similarly, alterations and additions which exceed the maximum height must not increase the overall height of the building. Consideration may be given in this paragraph to the application of LEP clause 4.6 in considering exceptions to the LEP Building Height standard.

Response: Not Applicable

4.1.8 Development on Sloping Sites

Requirements

- a) The design of development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.
- b) Developments on sloping sites must be designed to:
 - i) generally step with the topography of the site; and
 - ii) avoid large undercroft spaces and minimise supporting undercroft structures by integrating the building into the slope whether to the foreshore or a street.

Response: The steep topography of the site is very relevant and has closely informed the design solution adopted by the project architect in addressing the challenges for building modulation in height, roof and wall forms.

Driveways on sloping sites

- c) On steep sites, driveways must be designed so they do not dominate the street frontage, by:
 - i) limiting their height above existing ground level to avoid the need for elevated ramps and similar structures to access car parking areas, especially those which may encroach on public land;
 - ii) limiting their width;
 - iii) using materials that do not visually detract from the natural surroundings; and
 - iv) retaining significant trees.

When is a Site Stability (Geotechnical Survey) Report required?

a) A Site Stability Report is required with a DA when the proposed development involves:

- i) any land identified on the LEP Landslide Risk Map. DAs for development on land identified on the LEP Landslide Risk Map must consider certain matters under LEP clause 6.8;
- ii) any excavation greater than 1m below natural ground level for a basement or basement car parking area;
- iii) building works (load bearing) on land contained in geotechnical area 'G1' in the Potential Geotechnical Landslip Hazard Map at Schedule 1 to this plan; or
- iv) building works (load bearing) on other land not contained in geotechnical area 'G1', i.e. areas 'G2', 'G3' and 'G4' where a Preliminary Assessment of Site Conditions (Landslip) determines the need for a Site Stability Report, or where otherwise required by Council.

Note: Applicants must consider which geotechnical area their property falls under in accordance with the Map of Geotechnical Areas at Schedule 1 to this DCP. Considerations for each geotechnical area include geotechnical implications on development; potential geotechnical hazards and typical consequences of failure.

Response: A comprehensive geotechnical investigation of the ground conditions and site stability has been undertaken and is included with the application.

Considerations required in Geotechnical area 'G1'

- a) Site Stability Report required in geotechnical Area 'G1' DAs for load bearing building works to be carried out on land or in the vicinity of land in geotechnical area 'G1' on the Potential Geotechnical Landslip Hazard Map (see Schedule 1 to this plan) must be accompanied by a Site Stability Report.
- b) Detailed Requirements:

When considering a Construction Certificate application, the Certifying Authority must be satisfied that any construction intended in the area includes appropriate precautions to prevent instability developing. Construction Certificate drawings should be viewed by the geotechnical engineer to confirm that the intent of the geotechnical recommendations has been correctly implemented. Site visits by geotechnical engineer may be appropriate during construction. Notwithstanding the above, Site Stability Report may not be required for minor works proposed in area G1 at the discretion of Council.

- c) Potential Geotechnical Hazards & Typical Consequences of Failure:
 - i) Rock falls and rock toppling from natural cliffs, together with slumping of soil and fill materials from unsupported cuts onto public and private roadways and pathways are potential hazards in area G1.
 - ii) Down slope creep of deeper talus materials may occur on steeper soil covered slopes as well as possible down slope movement of detached blocks of sandstone, soil slumps and flows. Typical consequences of failure include moderate damage to some of structure, ranging to possible extensive damage to most of structure, or extending beyond site boundaries. Significant part of site may require large stabilisation works if landslide occurs, or to prevent landslide occurring.

Considerations required in Other Geotechnical Areas (Areas G2, G3 and G4)

Response: Not Applicable.

4.1.9 Swimming Pools, Spas and Water Features

4.1.9.1 Height above ground

- a) Swimming pools and spas must be built on or in the ground and not elevated more than 1m above natural ground level. Consideration of any exception to exceed the height above ground must demonstrate that any swimming pools and/or spa and their curtilage and/or concourse more than 1m above natural ground level:
 - i) would not detract from the amenity or character of the neighbourhood; and
 - ii) is a minimum distance from any side boundary equivalent to the height of the swimming pools and/or spa and their curtilage and/or concourse at any point above existing ground level.

4.1.9.2 Location and Setbacks

See also paragraph 4.1.4.5 Foreshore Building Lines and paragraph 4.1.4.6 Setback adjacent LEP Zones RE1, RE2, E1 and E2.

- a) Swimming pools and spas must not be located within the front setback i.e. between the front boundary of the lot and the building line. Consideration of any exception to the required location must demonstrate that any swimming pools and/or spa and their curtilage and/or concourse:
 - i) does not detract from the amenity or character of the neighbourhood; and

- ii) is a minimum distance from the front boundary equivalent to at least twice the height of the swimming pools and/or spa and their curtilage and/or concourse at any point above existing ground level.
- c) 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.

4.1.9.3 Proportion of Total Open Space

Swimming pools and associated concourse areas must not comprise more than 30 percent of the total open space.

See also Dictionary meaning of Total Open Space which includes swimming pools only occupying less than 30 percent of the total open space.

4.1.9.4 Other matters - sewer connections, pumps, structural certificates, rainwater tank

and pool blankets

- a) All swimming pools and spas must be connected to the sewerage system;
- b) Pumps and filters must be located, enclosed and acoustically controlled to limit noise to the appropriate standard. (See also paragraph 3.9.3 Noise from Mechanical Plant);
- c) A spa pool must not be located on a deck or balcony unless the structural integrity of the deck or balcony to accommodate the spa is certified by a structural engineer;
- d) A separate rain water tank, of adequate capacity, must be installed to recharge the pool when required; and
- e) Swimming pools should be covered with a secure "pool blanket", or similar device, when not in use to minimise water loss by evaporation and to conserve energy in heated pools.

Response: The existing swimming pool, pool surround/terrace, safety fencing, plant and equipment is retained 'as is' with minimal maintenance works only required.

4.1.10 Fencing

See also paragraph 3.1 Streetscapes and Townscapes and paragraph 3.2.3 Fences for Heritage.

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.

4.1.10.1 Exceptions to maximum height of Fences

- a) In relation to stepped fences or walls on sloping sites (see paragraph 4.1.8), the fence and/or wall height control may be averaged.
- b) In relation to open/ transparent fences, height may be increased up to 1.5m where at least 30 percent of the fence is open/ transparent for at least that part of the fence higher than 1m.
- c) In relation to development along busy roads:
 - i) where a development will be subjected to significant street noise, Council may consider exceptions to the permitted fence height where the use of double glazing or thicker glazing for the residence is not available. The use of double glazing for windows in the development is the preferred means of noise reduction. See also paragraph 3.4.2.4 Acoustical Privacy.
 - ii) fences to the southern side of French's Forest Road, Seaforth may achieve a maximum height of 1.5m with 'solid' fencing.

4.1.10.2. Fencing Height in relation to the height of retaining walls

Fences must be setback at least 1m from the lip of any retaining wall unless the combined height of the fence and retaining wall is contained within the maximum fence height required in this plan.

Note: Any boundary fencing close to the allotment boundary in an approved DA is in no way construed as permission to build on or encroach over the allotment boundary. Your attention is drawn to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common property. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of the legal position which may involve a survey to identify the allotment boundary.

Response: The proposed boundary fence treatment, including a new vehicular sliding gate to the driveway, is shown in plan and elevation on the landscape concept plans.

4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)

4.3 Development in LEP Zone B6 Enterprise Corridor

Response: Not Applicable.

4.4 Other Development (all LEP Zones)

Note: This part provides controls for a range of developments, both residential and non-residential across all LEP zones to which this DCP applies.

4.4.1 Demolition

Where development involves demolition, the applicant is to demonstrate that the degree of demolition considers any existing building on the land that should be retained and appropriately adapted in order to:

- a) Meet ecologically sustainable development principles by conserving resources and energy and reducing waste from any demolition process; and
- b) Conserve the cultural heritage of the existing building and that of the locality. An appropriate assessment of potential heritage significance must accompany any DA in relation to demolition. If the property has merit as a potential heritage item, the heritage controls and considerations in this plan apply, and
- c) Comply with the requirements of the Northern Beaches Waste Management Policy

See also paragraph 3.2.1 Consideration of Heritage Significance.

Response: Demolition requirements are detailed on the 'Waste Management Plans' that accompany the application, and to further details to be provided to the satisfaction of the Principal Certifying Authority at the Construction Certificate stage of the works.

4.4.2 Alterations and Additions

Manly Council promotes the retention and adaptation of existing buildings rather than their demolition and replacement with new structures.

See also paragraph 3.2.2 Alterations and Additions to Heritage Items and Conservation Areas.

See also paragraph 4.1.7 First Floor and Roof Additions (for Residential Development).

See also paragraph 4.4.1 Demolition.

Extent to which this Plan Applies to Alterations and Additions

- a) This paragraph defines alterations and additions in respect of how much of the building is to be demolished. If alterations and additions involve demolition of more than half of the building then the development will be assessed as new work and the controls of this plan will apply to the whole building i.e. to both existing and new development.
- b) In paragraph a) above, the extent of demolition is calculated as a proportion of the existing external fabric being demolished including the surface area of the walls, the roof measured in plan form and the area of the lowest habitable floor.

Response: Not Applicable.

4.4.3 Signage

Response: Not Applicable.

4.4.4 Awnings

See also paragraphs 4.4.3.3.c, d & e in relation to signs above awning height and under awning signs.

4.4.4.1 Awnings in LEP B1 and B2 Business Zones

4.4.5 Earthworks (Excavation and Filling)

Note: Before granting development consent for earthworks, consideration must be given to the matters listed in LEP clause 6.2(3)(a)-(h).

4.4.5.1 General

- a) Earthworks must be limited to that part of the site required to accommodate the building and its immediate surrounds to protect significant natural features of the site including vegetation and prominent rock outcrops.
- b) Natural and undisturbed ground level must be maintained within 0.9m of side and rear boundaries.
- c) On steeply sloping sites, pier and suspended slab or an equivalent non-invasive form of construction technique must be used to minimise earthworks and vegetation loss and retain natural features.
- d) Excavation under the canopy of any tree (including those on neighbouring properties) will only be permitted providing its long-term survival and stability is not jeopardised. Such excavation must be supported by an Arborist report.
- e) Approved sediment, siltation and stormwater control devices must be in place (and maintained) prior to and during the carrying out of any earthworks and other works on the site.

Response: Earthworks are generally confined to the building footprint and do not encroach beyond the extent of the works to any adjoining neighbour. Excavation is expected to be 'in rock' in accordance with the recommendations of the geotechnical report.

4.4.5.2 Excavation

- a) Excavation is generally limited to 1m below natural ground level with the exception of basement parking areas (which will be contained within the footprint of the building) and swimming pools;
- b) A dilapidation survey report and geotechnical assessment may be required for excavation works exceeding 1m. Dilapidation survey reports are to include photographic survey of the physical condition of adjoining properties, both internally and externally, including walls ceilings, roof, structural members and other such items. Such records are to provide proper record in relation to the proposed development to particularly assist in any dispute over damage to adjoining proposed arising from the works. It is in the interests of applicants

and adjoining landowners for it to be as full and as detailed as necessary commensurate with the nature of the proposed development.

Response: A 'Dilapidation Report' for neighbouring structures may be provided, if required, with the Construction Certificate documentation to the future satisfaction of Council and the PCA.

4.4.5.3 Filling

- a) Filling must not exceed 1m above natural ground level.
- b) Only natural rock, gravels or sand material (not builder's waste or demolition materials), obtained from approved sources, must be used as filling.

Response: Only minor filling of approximately 450 mm depth is required as part of the construction works. Refer to the 'cut and fill' plan at sheet DA 11 for details.

4.4.6 Child Care Centres

Response: Not Applicable.

4.4.7 Telecommunication Facilities

Response: Not Applicable.

4.4.8 Subdivision

Response: Not Applicable.

4.4.9 Boarding Houses

Part 5 – Special Character, Areas and Sites

5.4 Environmentally Sensitive Lands

5.4.1 Foreshore Scenic Protection Area

LEP clause 6.9 designates land in the Foreshore Scenic Protection Area as shown on the LEP Foreshore Scenic Protection Area Map to protect visual aesthetic amenity and views both to and from Sydney Harbour, the Pacific Ocean and the Manly foreshore. Development in the Foreshore Scenic Protection Area must not detrimentally effect the 'visual or aesthetic amenity of land in the foreshore scenic area nor must the development similarly effect the views of that land, including ridgelines, tree lines and other natural features viewed from the Harbour or Ocean from any road, park or land in the LEP for any open space purpose or any other public place. Any adverse impacts considered in this paragraph will be mitigated. In accordance with these LEP objectives Council seeks to conserve and preserve tree canopies and street trees, wildlife corridors and habitat and minimise cumulative impacts on escarpment, rock shelves and other natural landscape features.

5.4.1.1 Additional matters for consideration

LEP clause 6.9(3)(a) to (d) lists certain matters to be taken into account in relation to all development within the Foreshore Scenic Protection Area.

- a) Further to matters prescribed in the LEP, the development in the Foreshore Scenic Protection Area must also:
 - i) minimise the contrast between the built environment and the natural environment;
 - ii) maintain the visual dominance of the natural environment;
 - iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;
 - iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;
 - v) locate rooflines below the tree canopy;
 - vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and
 - vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality.

b) Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly.

See also paragraph 4.1.4.5 of this DCP and LEP clause 6.10 in relation to Foreshore Building Lines and limited development in the Foreshore Area

Response: Development within and adjacent to the 'Foreshore Scenic Protection Area' has been discussed at length elsewhere in the Statement.

5.4.2 Threatened Species and Critical Habitat Lands

Any development of land with known habitat for threatened species must consider the likely impacts of the development and whether further assessment needs to be undertaken by a Species Impact Statement.

See also Council's Administrative Guidelines for DA lodgement requirements.

a) Any DA on land identified in Schedule 1 - Map D, being land generally to the southeast of Ashburner Street, Manly and including North Head must be accompanied by an Assessment of Significance Report ('7 Part Test') under Section 5A Environmental Planning and Assessment Act 1979. Critical habitat for the little penguin (eudyptula minor) and habitat for the long nosed bandicoot (threatened species) is prescribed in the Threatened Species and Conservation Act 1995

Notes: The Minister for the Environment and the Minister for Primary Industries, with the concurrence of the Minister for Planning, have prepared assessment guidelines to assist in the interpretation and application of the factors of assessment. The guidelines clarify the specific terminology of the relevant legislation and provide clear interpretations of the factors of assessment.

Response: The land is mapped for 'Terrestrial Biodiversity' and we note the matters for consideration within MLEP cl. 6.5.

As discussed previously, the proposal has adopted the recommendations of the 'Flora and Fauna Assessment Report' prepared by 'Narla Environmental' to minimise any potential impacts upon flora and fauna, and relies upon the conclusion of the expert that the site is suitable for development.

5.4.3 Flood Prone Land

Note: This paragraph applies to land identified on the Council' Flood Risk Precinct Maps as being affected by flooding.

Note: Manly LEP clause 6.3 states that any development of land at or below the flood planning level must not be granted development consent unless Council is satisfied on certain matters identified at LEP clauses 6.3(3)(a) to 6.3(3)(e).

Response: Not Applicable.

5.4.4 Riparian Land and Watercourses

SUMMARY and RECOMMENDATIONS

In summary, the proposal is for demolition of a dwelling and detached garage, and the erection of a new single dwelling and associated landscaping. Due consideration has been given in the design of the new works to Council's DCP Controls and LEP Objectives, the unique characteristics of the site and its surroundings, and the specific requirements of the occupants. Where there are minor departures from the Controls these are well justified and address the relevant Objectives of the relative planning instrument.

The proposed design pays due regard to the opportunities and constraints afforded by the site and provides for a creative design solution that limits impacts upon neighbours whilst also providing for improved amenity for the Owners in their preference for new, modern housing accommodation. The position of the new dwelling with reference to the foreshore setback has been well considered and consistent with the adjoining development.

The proposal does not constitute an over-development of the site and as such there should be negligible additional impacts upon the local environment, this being consistent with the zoning and allowable residential usage for this site and with Council's broader objectives.

We commend the proposal to Council as being worthy of support.

CLARON CONSULTING PTY LTD

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Brent M Winning JP [B.Build Hons.)., GDURP, MAIB, MPIA] Registered Planner, Building & Development Consultant, Chartered Builder

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Louise Popowitz [MUPE, BSc. NatRes-NatMgt] Associate Planner

STATEMENT of PROFESSIONAL QUALIFICATIONS

I am a qualified and Registered Planner. I have completed a Bachelor degree in Building at the University of Western Sydney, Hawkesbury in 1997, and post-graduate Diploma in Urban and Regional Planning at University of New England in 2003. I have worked as a consulting planner since 1997 and I am a member of several relevant professional associations including PIA and AIB.

Aul-

Brent M Winning JP [B.Build Hons.)., GDURP, MAIB, RPIA] Registered Planner, Building & Development Consultant, Chartered Builder

I have completed a Master of Urban Planning and Environment at RMIT, Melbourne in 2016, and have a Bachelor of Science in Natural Resources – Nature Management from University of Copenhagen in 2014. I have worked as an urban planner since 2018 and as a Natural Resources consultant since 2015. I have been a member of PIA since 2015.

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Louise Popowitz [MUPE, BSc. NatRes-NatMgt] Associate Planner

APPENDIX ONE – DEMOLITION and CONSTRUCTION WASTE MANAGEMENT STATEMENT

Subject building:	30A Addison Road Manly NSW.
Configuration:	existing dwelling and detached garage.
<u>Age</u> :	c. 1970's
Heritage or Historic value:	none.

Generally:

The demolition of the existing dwelling, detached garage and associated landscape structures is to be carried out by suitably experienced sub-contractors under expert supervision.

All redundant material is to be taken from the site. Asbestos material, if encountered, is to be handled and disposed of by licenced asbestos contractors and strictly in accordance with all relevant WorkSafe procedures.

Sedimentation control measures as outlined in the architectural/sediment control plan are to be erected prior to the demolition/footing excavation commencing.

On-site storage of construction materials is to be separated from those areas where vegetation is to be protected.

Waste resulting from building material off-cuts, surplus and off-cuts are to be separated according to type, placed in skips and periodically removed from the site, in accordance with good building practice. All waste and building materials are to be stored entirely within the site, with no infringement upon public areas.

<u>Methods taken to ensure public safety</u>: the site is in a quiet residential location and is not located close to public spaces. A standard construction mesh panel fence to the battleaxe handle alignment will be required, to connect into the existing fencing on either side boundary. A second fence at the waterfront boundary should also be considered.

All spoil and construction waste is to be removed from site promptly, and not be allowed to accumulate.

APPENDIX TWO – SITE PHOTOGRAPHS



Photo 2 - aerial photo showing site context with neighbours (source: SIX Maps)



Photo 3 – Subject dwelling and detached garage to be demolished at the end of the battleaxe driveway.



Photo 4 – Subject site, looking south-east



Photo 5 – Southern neighbour



Photo 6 – North-western neighbour



Photo 7 – garage to be demolished and eastern side neighbour



Photo 8 - rear of subject dwelling to be demolished, looking north



Photo 9 – swimming pool to be retained, looking south



Photo 10 – Rear of eastern neighbour, looking north-east



Photo 11 – Rear of western neighbour, looking south-west.



Photo 12 - rear of battleaxe driveway, looking from the subject site west towards Addison Road



Photo 13 – battleaxe driveway at Addison Road looking south-east towards the subject site