



Application No: PLM2020/0185
Meeting Date: 27 August 2020
Property Address: 16 Addison Road MANLY
Proposal: Development Application Prelodgement Meeting
Attendees for Council: Anne-Marie Young (Principal Planner)
Adam Croft (Planner)
Robert Blackall (Senior Environmental Officer)
Rafiq Islam (Principal Coastal Officer)

General Comments/Limitations of these Notes

These notes have been prepared by Council on the basis of information provided by the applicant and a consultation meeting with Council staff. Council provides this service for guidance purposes only. These notes are an account of the specific issues discussed and conclusions reached at the pre-lodgement meeting. These notes are not a complete set of planning and related comments for the proposed development. Matters discussed and comments offered by Council will in no way fetter Council's discretion as the Consent Authority. A determination can only be made following the lodgement and full assessment of the development application.

In addition to the comments made within these notes, it is a requirement of the applicant to address ALL relevant pieces of legislation including (but not limited to) any SEPP and any applicable clauses of the Manly LEP 2013 and the Manly DCP 2013 within the supporting documentation of a development application including the Statement of Environmental Effects. You are advised to carefully review these notes. If there is an area of concern or non-compliance that cannot be supported by Council, you are strongly advised to review and reconsider the appropriateness of the design of your development for your site and the adverse impacts that may arise as a result of your development prior to the lodgement of any development application.



SPECIFIC ISSUES RAISED BY APPLICANT FOR DISCUSSION

Issue/s Raised	Council Response
<p>Foreshore Area / Building Line</p> <p>The proposal includes the reconstruction of the existing dwelling partly within the foreshore area, and the construction of a new yoga studio/boatshed wholly within the foreshore area.</p>	<p>The legal advice provided by Dentons Australia has been reviewed, however, further consideration of this advice is required. A response regarding the siting of the dwelling and boatshed within the foreshore area will be provided under separate cover.</p> <p>As discussed in the meeting and in the below specialist advice section, the construction of a yoga studio within the foreshore area is not supported as it is not a permitted use under Manly LEP Clause 6.10(2).</p> <p>It is noted that the appearance of the site from the harbour and surrounds may be improved through the reconstruction/reconfiguration of the existing retaining walls within the foreshore area. However, the proposed wall and studio appear to contribute considerable additional bulk than the existing structure. Due to the sensitivity of this part of the site, any new retaining wall in this location should be carefully designed to minimise height and bulk as viewed from the foreshore and harbour. Consideration should be given to additional tiering or articulation of the retaining wall.</p>
<p>Excavation</p> <p>The proposal includes excavation up to a depth of 1m within the western setback along the length of the dwelling.</p>	<p>The proposed excavation within the side setback is non-compliant with DCP Clause 4.4.5.1(b) and exacerbates the visual bulk presented by the wall. The necessity of this excavation and design alternatives to provide access while maintaining compliance with the control should be considered.</p>
<p>Wall heights, setbacks, bulk and scale</p> <p>The proposal includes significant non-compliances with the DCP wall height and side setback controls.</p>	<p>Due to the extent of the numerical non-compliances and the proportion of the dwelling that is non-compliant, the built form is not considered to respond appropriately to the DCP controls/objectives. The non-compliances result in excessive bulk and insufficient articulation and physical separation. Further discussion and advice in relation to this issue is provided under the DCP controls below.</p>

MANLY LOCAL ENVIRONMENTAL PLAN 2013 (MLEP 2013)

Note: MLEP 2013 can be viewed at the [NSW Government Legislation website](#).

Zoning and Permissibility	
Definition of proposed development: (ref. MLEP 2013 Dictionary)	Construction of a new dwelling house and yoga studio.
Zone:	E4 Environmental Living



Permitted with Consent or Prohibited:	Dwelling - Permitted with consent. Yoga studio – Prohibited.
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Principal Development Standards:	
Clause 4.3 Height of Buildings	
Standard	Proposed
8.5m	8.5m
<p>Comment The section drawings indicate compliance with the control. Full compliance is expected for a new dwelling and should be demonstrated via sections through the north-eastern corner of the Master Bedroom (section C1) and/or a 3D render with an 8.5m height plane overlay. Note: Building heights are measured from existing ground level.</p>	
Clause 4.4 Floor Space Ratio	
Standard	Proposed
0.6:1 – 326.28m ²	0.55:1 – 300.4m ²
<p>Comment Proposal complies.</p>	

MANLY DEVELOPMENT CONTROL PLAN 2013 (MDCP 2013)

Note: The MDCP 2013 can be accessed via [Council's website](#).

Part 3: General Principles of Development
Streetscape
<p>Comment The subject site is a battle-axe allotment and is not visible within the streetscape.</p>
Heritage Considerations
<p>Comment The subject site adjoins Heritage Item I1 Harbour Foreshores. The development generally is not considered to adversely impact the value of the item.</p>
Landscaping
<p>Comment The subject site does not contain any significant vegetation. Landscaping requirements are included in the expert advice section.</p>
Amenity



Sunlight Access and Overshadowing

Comment

The proposed dwelling appears to result in some overshadowing of the north-eastern elevation of No. 14A Addison Road. All window locations along that elevation should be shown on the 3D/elevational shadow diagrams. Further articulation of the western elevation as discussed may improve solar access to the adjoining property.

Privacy and Security

Comment

The proposal is generally acceptable in relation to privacy. The provision of additional appropriately located and designed windows is not necessarily discouraged and may be beneficial in breaking up the appearance of the large wall planes to the eastern and western elevations, without impacting privacy.

Maintenance of Views

Comment

View loss is difficult to assess at pre-lodgement stage. An assessment of view loss is included in the draft SEE. It is advised to complete a detailed analysis of potential view loss and design the dwelling accordingly. If possible, it is recommended to consult with potentially affected neighbouring property owners prior to DA lodgement.

Part 4: Built Form Controls

4.1.4.1 Street Front Setbacks

Control/Requirement	Proposed
N/A	0m

Comment

The subject site is a battle-axe allotment and as such the front setback control does not apply. The 0m setback is to the proposed carport and will not result in unreasonable visual or amenity impacts to adjoining properties. Therefore the 0m setback is supported.

4.1.2.1 Wall Height

Control/Requirement	Proposed
East: 7.8m West: 7.2m	East: 6.2m – 8.9m West: 6.4m – 7.9m

Comment

The proposed eastern and western wall heights are non-compliant with the control calculated in accordance with 4.1.2.1 Figure 28. The design of the development should minimise the visual and amenity impacts resulting from these wall heights through increased setbacks and articulation.

4.1.4.2 Side Setbacks and Street Frontages

Control/Requirement	Proposed
East: 2.1m – 3m West: 2.13m – 2.63m	Front: 1m, rear: 3m Front: 1.2-1.6m, rear: 3m



Comment

The rear portion of the dwelling that is set back 3m from the side boundaries complies with the setback control. However, the majority of the eastern and western elevations are significantly non-compliant in relation to side setback. As indicated by the shading in the below Figures 1 and 2, the majority of the first floor walls and parts of the ground floor walls are non-compliant, with limited regard given to the setback control.

Increased setbacks and articulation are required to reduce the extent of these breaches. Given that the desired built form outcome is likely to result in wall height and side setback non-compliances with limited articulation, the development should also seek to reduce the length of the side walls and the resulting presentation of bulk to the adjoining properties.

The length of the setback breach could be reduced at both the front and rear of the eastern and western walls (in the vicinity of the staircase, master ensuite, and northern void and canopy/louvres). With suitable reconfiguration of the internal floor plan, these changes are unlikely to reduce the development potential.

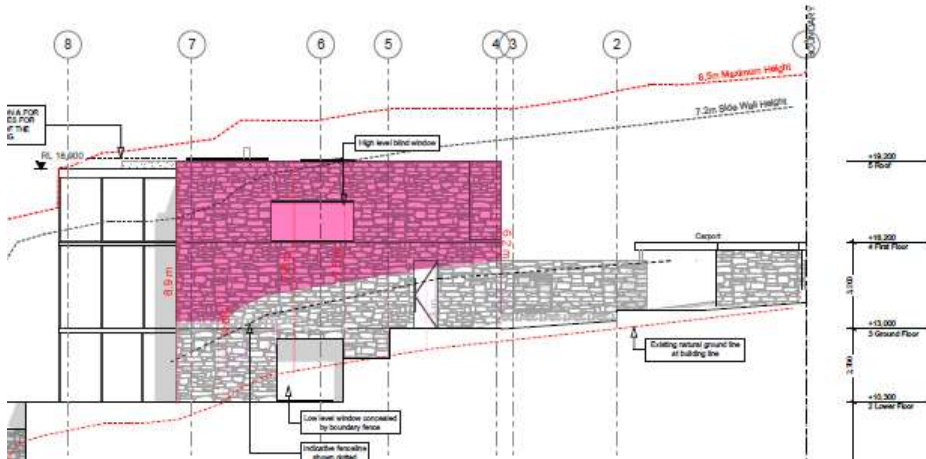


Figure 1. Eastern elevation setback breach.

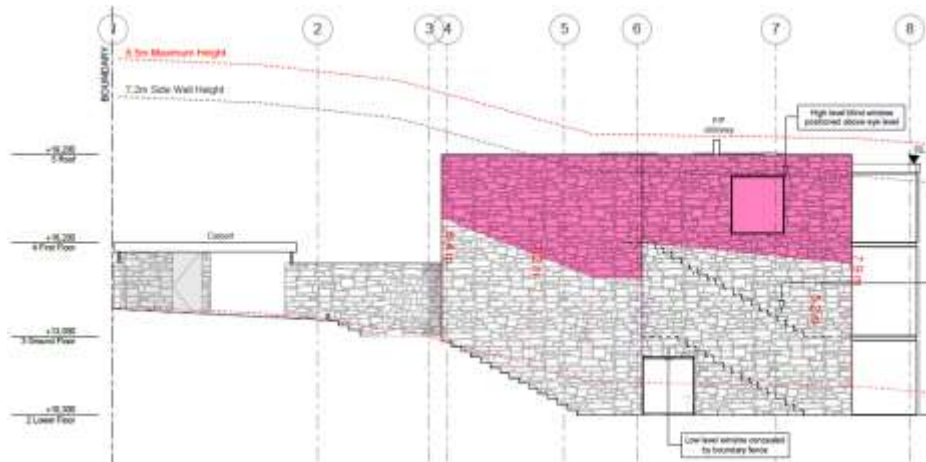


Figure 2. Western elevation setback breach.

4.1.5.1 Minimum Residential Total Open Space Requirements

Control/Requirement	Proposed
55% site area (299.09m2)	46.4% (252.5m2)



Comment The total site area includes access handle that cannot be included in the total open space calculation. The development provides sufficient open space area and the non-compliance is supported.	
4.1.5.2 Landscaped Area	
Control/Requirement	Proposed
35% TOS (88.375m ²)	51.5% (130.1m ²)
Comment Proposal complies.	

Specialist Advice

Coastal Management

Relationship with other documents

- Sydney Regional Environment Plan (Sydney Harbour Catchment) 2005
- Sydney Harbour Foreshores Area Development Control Plan 2005.
- Manly Local Environmental Plan 2013
- Manly Development Control Plan 2013
- Coastal Management Act 2016
- State Environmental Planning Policy (Coastal Management) 2018

Coastal Management Act 2016 and State Environmental Planning Policy (Coastal Management) 2018

The proposed development is located within the coastal zone of NSW and is subject to the provisions of the Coastal Management Act 2016 (CM Act) and State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP)

Under the CM SEPP the subject site has been included on the 'Coastal Environment Area' and 'Coastal Use Area' Maps. The relevant clauses are 12, 13, 14 and 15. However, the clause 12 does not apply as no Coastal Vulnerability Area Map was adopted till now and therefore no coastal vulnerability area has been identified.

Hence, the DA must address in the Statement of Environmental Effects (SEE) document the objectives and requirements of both the CM Act and the CM SEPP (Clauses 13, 14 and 15) as they relate to development within these coastal management areas.

Adequately addressed in the submitted draft SEE Report.

Sydney Harbour Regional Environment Plan 2005 and Sydney Harbour Foreshores Area Development Control Plan 2005.

The proposed development is located within the Sydney Harbour Regional Environment Plan and is subject to the provisions of the Sydney Harbour Regional Environment Plan 2005 and Sydney Harbour Foreshores Area Development Control Plan 2005.

The assessment template for both can be found at:



<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/former-manly-planning-rules/sydneyregionalenvironmentalplansydneyharbourcatchment2005.pdf>

Hence, the DA must address in the Statement of Environmental Effects (SEE) document the needed assessment

Adequately addressed in the submitted draft SEE Report.

Manly LEP 2013 and Manly DCP 2013

Manly Foreshore Scenic Protection Area

The proposed development is also located within the Manly Foreshore Scenic Protection Area.

The following clause & section will apply to proposed development of the site.

- Clause 6.9: Foreshore Scenic Protection Area of the Manly LEP 2013 and
- Part 5, Section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013.

Hence, the DA must address compliance to requirements of the above mentioned clause & section in the Statement of Environmental Effects (SEE) document

Adequately addressed in the submitted draft SEE Report.

Manly Foreshores Area

A part of the subject site is located within the Manly Foreshores Area. In this case, foreshore area means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody.

If any proposed development is located on the foreshores area, the Clause 6.10: Limited Development on Foreshore Area of the Manly LEP 2013 will apply to proposed development of the site.

The existing dwelling house is partly located within the foreshores area.

The proposal is to demolish the existing dwelling and construct a new building which will also be partly located within the foreshores area. In addition, the proposal is also to construct a 'yoga studio' located within the foreshores area

As per the clause 6.10 (2), "Development consent must not be granted to development on land in the foreshore area". This Clause also make certain purpose specific exceptions.

On careful consideration of the clause 6.10 (2), proposal of new dwelling partly located on the foreshore area cannot be supported.

A modified building design proposal fully consistent with the Clause 6.10: Limited Development on Foreshore Area of the Manly LEP 2013 will be required.

On the same basis, proposal for construction of a 'yoga studio' located on the foreshores area cannot be supported and should not be proposed.

Reports Required:

- Statement of Environmental Effects (SEE) Report



Natural Resources – Biodiversity

The foreshore and two small portions of the rear (south-eastern) yard is identified as an Area of Outstanding Biodiversity (AOBV; formerly Critical Habitat) for the endangered population of little penguins at Manly, as declared under the NSW Biodiversity Conservation Act 2016 (BC Act). The AOBV is included within the Biodiversity Values (BV) Map, which identifies land with high biodiversity value that is particularly sensitive to impacts from development and clearing. Accordingly, any development proposal located on an AOBV must be assessed using the Biodiversity Assessment Method, and a Biodiversity Development Assessment Report (BDAR) submitted.

If development within areas on the BV Map does not involve clearing native vegetation (including groundcover, trees and understorey plants) or a prescribed impact (as set out in clause 6.1 of the Biodiversity Conservation Regulation 2017) within the mapped area, the Biodiversity Offset Scheme is not applied based on the BV Map. The development application (ecological assessment) needs to show evidence to support this, particularly in relation to potential prescribed impacts. This may include indirect construction-related impacts which have the potential to prevent penguin occupation and natural use of nest sites at the subject site and on adjoining properties.

The proponent must also consider whether the proposed development or activity is likely to significantly affect threatened species or their habitats based on the test of significance in section 7.3 of the BC Act. The Threatened Species Test of Significance Guidelines have been developed in accordance with s7.3(2) BC Act and must be taken into account when preparing a Test of Significance in accordance with BC Act. If the ecological assessment concludes that the proposal is likely to significantly affect Threatened Species or their habitats, a Biodiversity Development Assessment Report (BDAR) is required to be prepared and submitted with the DA. The BDAR (if required) must be prepared by an accredited assessor using the Biodiversity Assessment Method and also document measures to avoid and minimise impacts, including information about serious and irreversible impacts.

The draft SEE refers to an ecological assessment report and this is to be submitted and must address the requirements of the relevant legislation, with reference to the Biodiversity Conservation Act 2016 and Regulation 2017, Manly LEP 2013 (6.5) and Manly DCP 2013 (5.4). Again, the development application (ecological assessment) needs to show evidence to support whether or not a BDAR is required.

The information submitted is to include measures to avoid and minimise impacts on the biodiversity values of the site, particularly of known penguin and bandicoot habitat. Proposed measures generally focus around timing restrictions to limit high-risk construction activity to outside of the penguin breeding season (which will need to be verified by the project ecologist at the appropriate development stage).

Council's Biodiversity Section also considers that the following measures/considerations will enable the proposal to avoid and minimise adverse environmental impacts:

- An assessment of potential noise- and disturbance-related impacts associated with operation of the site and any resultant changes in human use of the AOBV.
- A Landscape Plan should be prepared in accordance with Section 3.3.1 of the Manly DCP 2013. The plan should include a planting schedule and identify vegetation proposed for removal, replanting and retention.
- Preparation of a Construction Environmental Management Plan (CEMP) incorporating all measures and conditions of consent to address biodiversity impacts (this may be conditioned at the determination stage).



Landscaping

General comment

The existing site is located within the E4 Environmental Living zone as defined in Manly LEP, where the objectives include that development proposals not dominate the foreshore, and encourages revegetation and rehabilitation of the foreshore.

The rear of the property is contained within the Foreshore Building Line, and contains access stairs, retaining walls, rock outcrops, lawn and garden. A proposed Yoga Studio is contained in this area as well a rooftop planting over the Yoga Studio, and reconfigured stair access, retaining walls, lawn and gardens.

Landscape Plan

A Landscape Plan is provided with the pre-lodgement that generally satisfies the landscape controls of Manly DCP. The landscape zones within the foreshore zone shall be exclusively native / indigenous planting, and any potential self-seeding or 'escape' species are to be removed from the plan (ie. Olea, Monstera), and caution is provided on the proposal for exotic palm planting as proposed, as these are Exempt Species that are able to be removed unknowingly by future occupants.

The Landscape Plan at DA is required to demonstrate how the built form will be softened by landscaping, to satisfy the Manly DCP controls, and satisfy the scope of documentation listed under the Development Application Lodgement Requirements.

The development application documents will need to satisfy landscape control requirements included in Manly DCP2013:

- 3.3.1 Landscape Design, including
 - provision of native tree planting
 - landscaping to provide adequate private open space amenity
- 3.4 Amenity
 - design consideration should be given in tree planting locations to minimise loss of sunlight, privacy, views, and noise for neighbouring properties
- 4.1.5 Open Space and Landscaping
 - objective 2) to maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.
- 4.1.5.2 Landscaped Area
 - (b) i) soil depth of at least 1m for all landscaped areas either in ground or above ground in raised planter beds
 - (b) ii) a minimum horizontal dimension of 0.5m measures from the inner side of the planter bed, wall or any structure
 - (c) native trees to be supported on site in deep soil zone

Arboricultural Review

The site does not contain any significant vegetation that would otherwise require an Arboricultural Impact Assessment.

General conditions of consent shall be imposed to protect existing vegetation within adjoining land.



Development Engineering

Driveway

The shared driveway shall be retained.

Stormwater

The site is located in Zone 4 of Manly Stormwater Zone in accordance with Council's Manly Specification for on site stormwater Management 2003.

The stormwater management plan must be designed in comply with section 7 of the above specification.

The collected stormwater can be discharged into the ocean.

Relevant Council Policies

You are advised of the Council's policies available via [Council's website](#).

Documentation to accompany the Development Application

- Electronic copies (USB)
- Statement of Environmental Effects
- Request to vary a development standard
- Cost of works estimate/ Quote
- Site Plan
- Floor Plan
- Elevations and sections
- Survey Plan
- Site Analysis Plan
- Demolition Plan
- Excavation and fill Plan
- Waste Management Plan (Construction & Demolition)
- Certified Shadow Diagrams
- BASIX Certificate
- Schedule of colours and materials
- Landscape Plan and Landscape Design Statement
- Arboricultural Impact Assessment Report (refer to specialist advice)
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- Geotechnical Report
- Biodiversity Development Assessment Report (refer to specialist advice)
- Construction Environmental Management Plan (CEMP)

Please refer to Development Application Checklist for further detail.

Concluding Comments

These notes are in response to a pre-lodgement meeting held on 27 August 2020 to discuss the construction of a new dwelling at 16 Addison Road, Manly. The notes reference preliminary plans prepared by Patterson Associates dated 30 July 2020.

The proposal is not acceptable and requires redesign prior to submission as follows:



- The proposed yoga studio is not permissible and should not form part of the development application. A further response will be provided regarding the construction of the dwelling and a boat shed within the foreshore area.
- The retaining wall/studio as proposed results in a substantial increase to the bulk and scale of the existing retaining wall structure. Further stepping or articulation of this wall may be necessary to minimise the additional bulk.
- The proposed dwelling includes significant breaches of the wall height and side setback controls. Increased setbacks and articulation are required, particularly at the upper floor levels, in order to reduce the extent of the non-compliances and the associated bulk and amenity impacts.
- The proposed excavation within the side setbacks should be limited or deleted.

Based upon the above comments you are advised to satisfactorily address the matters raised in these notes prior to lodging a development application.