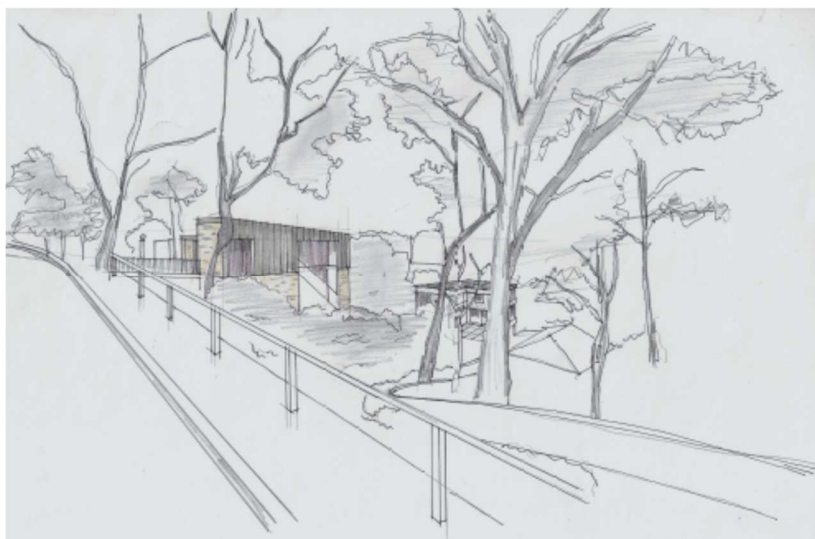




STATEMENT OF ENVIRONMENTAL EFFECTS TO THE NORTHERN BEACHES COUNCIL

# New dwelling house, garage and studio

13 Amiens Road, Clontarf



Prepared on behalf of

**Alan and Gillian Scott- Brown c/- Case Ornsby Design**

25 FEBRUARY 2020



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## 1.0 INTRODUCTION

This Statement of Environmental Effects (**SEE**) is submitted to the Northern Beaches Council (the **Council**). It describes a Development Application (**DA**) seeking development consent pursuant to Section 4.16(1) of the Environmental Planning and Assessment, Act, 1979 (the **Act**) for demolition of the existing dwelling house and construction of a new dwelling house, garage and studio below, landscaping and other required site works at 13 Amiens Road, Clontarf (the **site**). A detailed description of the proposed works is provided at Section 4 of this report.

Lockrey Planning and Development Solutions Pty Ltd (**LPDS**) has prepared this report on behalf of Alan and Gillian Scott-Brown. It is based on plans and technical information provided by Case Ornsby Design, the project architect and supporting technical documents as referenced below.

This report has been prepared pursuant to Section 4.12 of the Act and Clause 50 of the Environmental Planning and Assessment Regulation 2000 (**Regulations 2000**). The purpose of the document is to:

- provide a description of the site's context, including identification of the site, existing development on the site, and surrounding development;
- provide a detailed description of the proposal;
- undertake an assessment of the proposed development in terms of the matters for consideration as listed under Section 4.15 of the Act; and
- identify and assesses the issues relevant to the proposed development.

It should be read in conjunction with the supporting information submitted separately:

- Clause 4.6 Exception to Development Standards submission relative to FSR at Clause 4.4 of Manly LEP 2013, by LPDS;
- Northern Beaches Council Cost Summary Report, by Case Ornsby Design;
- Survey Plan, by CMS Surveyors;
- Architectural Drawings including Site Analysis, Calculations, Shadow Diagrams, Waste Management Plan, Landscape Concept Plan, Sketches and Schedule of Materials and Finishes, all by Case Ornsby Design;
- Stormwater Management Plan, by IStruct Consulting Engineers;
- Arboricultural Impact Assessment, by Complete Arborcare;
- Geotechnical Risk Analysis and Management, by Jack Hodgson Consultants; and
- BASIX Certificate and NatHERS Stamping, by Certified Energy.

Application for Construction Certificate (**CC**) will be sought separately. Landowners consent will be submitted separately.

### 1.1 Referral authorities

It is our understanding that only 'standard' referrals to Council's internal departments are required.

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## **1.2 Cost of works**

As detailed on the Council Cost Summary Report, by Case Ornsby Design, the proposal has a total development cost of \$1.8 Million (including GST).

## 2.0 SITE DESCRIPTION AND ANALYSIS

The key characteristics of the site are summarised below:

<b>Location</b>	<ul style="list-style-type: none"> <li>– The site is on the western side of Amiens Road and is adjacent its intersection with Beatrice Street to the east and Cutler Road to the south.</li> <li>– Clontarf Reserve is approximately 330m to the site's north and Clontarf Point (beach and harbour) is approximately 80m to the site's west.</li> </ul>
<b>Legal property description</b>	– Lot 701 in DP 1133488. A Survey Plan by CMS Surveyors is submitted separately.
<b>Site area</b>	– 967m <sup>2</sup>
<b>Shape</b>	– Irregular.
<b>Frontage</b>	– 7.01m to Amiens Road.
<b>Easements</b>	<ul style="list-style-type: none"> <li>– The site is affected by the following easements:               <ul style="list-style-type: none"> <li>- (C) to drain water 1.2m wide;</li> <li>- (X) right of way 1.2m wide;</li> <li>- (Y) right of way 1.2m wide; and</li> <li>- (D) right of way 1m wide.</li> </ul> </li> </ul>
<b>Zoning</b>	– R2 Low Density Residential pursuant to Manly Local Environmental Plan 2013 ( <b>LEP 2013</b> ) and the accompanying land zoning map.
<b>Heritage and conservation</b>	<ul style="list-style-type: none"> <li>– The existing dwelling house and its surrounds is not an identified heritage item and is within a heritage conservation area.</li> <li>– The site is not within the visual catchment of any identified heritage items.</li> </ul>
<b>Biodiversity</b>	– The site is identified on Council's terrestrial biodiversity map.
<b>Bushfire</b>	– The site is not bushfire prone.
<b>Flooding</b>	– The site is not floodprone.
<b>Acid sulfate soils</b>	– The site is Class 5 acid sulfate soils.
<b>Riparian land and watercourses</b>	– The site does not contain riparian lands or natural watercourses.
<b>Scenic protection</b>	– The site has a scenic protection land classification.
<b>Terrestrial biodiversity</b>	– The site does not contain any terrestrial biodiversity.
<b>Topography</b>	– The site has a westerly aspect and is on the low side of Amiens Road. It is located towards the top of the steeper portion of the

	<p>slope that rises from the harbour to the plateau above.</p> <ul style="list-style-type: none"> <li>– The slope drops from the road at angles between 20° and 25° (approximately 20m from the front to rear boundary).</li> <li>– The site's surface is controlled by the underlying sandstone that steps down the slope in a series of narrow benches.</li> <li>– The existing multi level dwelling has been cut into the slope and terraced down the slope. The dwelling is supported on brick and sandstone walls and piers.</li> </ul>
<b>Vegetation</b>	<ul style="list-style-type: none"> <li>– The site contains established landscaped areas including mature vegetation and perimeter planting to each side boundary. The area between the garage and the dwelling comprises a relatively level and useable lawn area.</li> </ul>
<b>Existing improvements</b>	<ul style="list-style-type: none"> <li>– Currently existing on the site is a part two, part three storey brick, stone and clad dwelling house with a tile roof (roof ridge RL 36.24).</li> <li>– The lower ground floor (FFL 24.6) contains a music room, rumpus, kitchen and shower and subfloor area. This level is provided with an external terrace (roof over) and is directly accessible to the existing swimming pool, spa and surrounds. Beyond the pool is retained gardens.</li> <li>– The ground floor (FFL 27.64) contains the primary living rooms (kitchen, living, dining and sitting), bathroom, toilet, entry portico and stairs connecting to the levels above and below. This level is provided with an external roofed terrace oriented to the harbour and an additional terrace at the front (eastern side) of the dwelling.</li> <li>– The first floor (FFL 30.94) contains four bedrooms, a bathroom and the master bedroom with ensuite. A roofed external west facing terrace is accessible from the master bedroom and bedroom 2.</li> <li>– Fencing with stone and concrete block retaining walls are provided to the site's side boundaries with additional stone and brick retaining walls provided throughout. Paved and concrete paths enable access along both side boundaries from the front to the site's rear.</li> <li>– A relatively level lawn area with established perimeter landscaping and mature vegetation is provided between the dwelling and the two storey garage built form.</li> <li>– The single vehicle garage comprises stone and is provided with a tile roof (ridge RL 43.49). Additional hardstand parking is provided in front of the garage. The garage appears as a single storey structure from the street frontage. Its FFL is 39.43. As the site drops significantly at the garage's western end, an additional level is provided below and internally viewed from the garden, the garage is two storeys in height. The lower level (FFL 36.25)</li> </ul>

comprises a large open plan storage area. Stairs on the garage's northern side enable access from the site's frontage to the mid level lawn area and beyond to the dwelling via paved / concrete pathway.

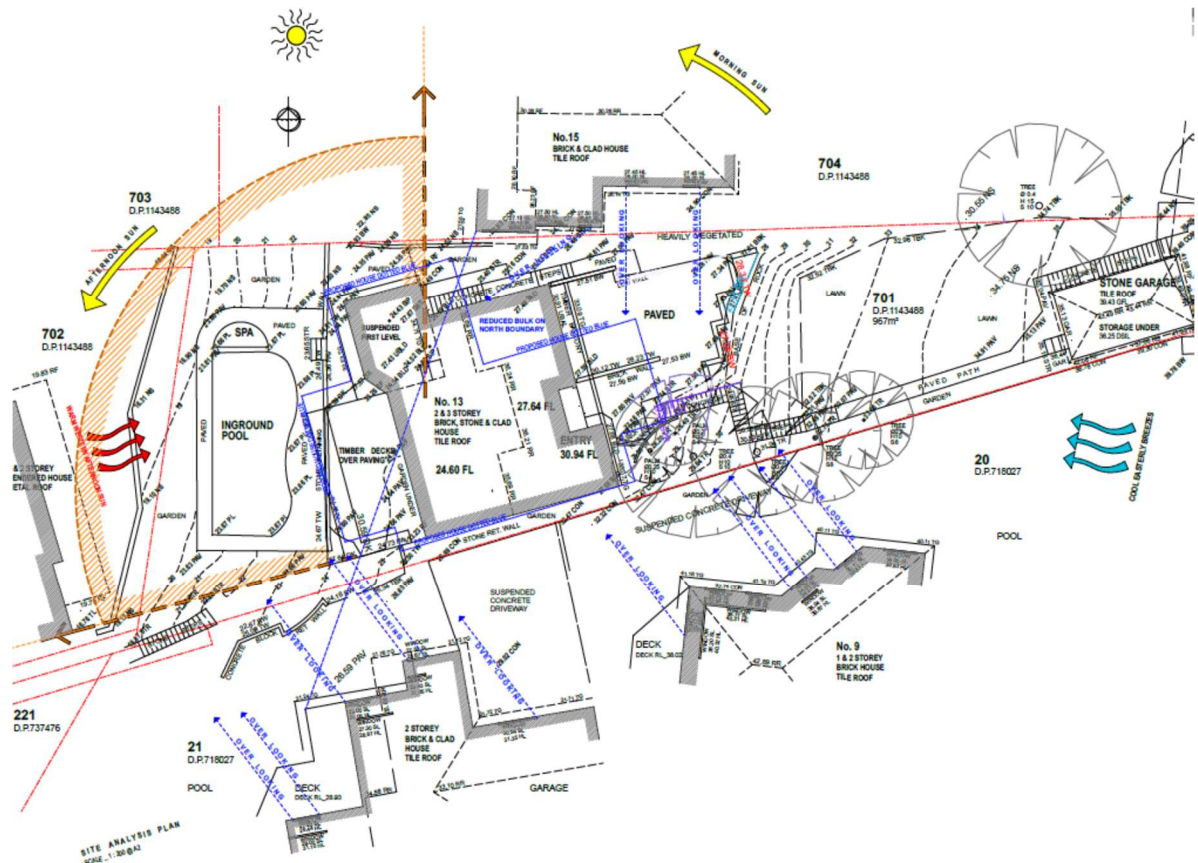
### Surrounding context

- The surrounding locality is characterised by leafy streetscapes, stone walling, landscaped gardens, street trees, and a variety of large housing types and architectural styles. The integrity of the building stock varies greatly as does the age of the built form. Generally the adjacent built form and site characteristics are similar to that of the site.
- To the site's north at 15 Amiens Road is a two storey dwelling (roof ridge RL 30.28) occupied by Champagne Sailing Sydney. It is provided with a decked open concrete parking area and inclinators generally between the site's garage and dwelling. This property's rear built form is more to the east (Amiens Road) than the site's.
- To the site's south is a battle-axe allotment containing 9 (eastern dwelling) and 11 Amiens Road (western dwelling). A suspended concrete driveway along these property's northern boundary enables vehicular access from Amiens Road to the rear dwelling.
- 9 Amiens Road is a two storey plus undercroft level dwelling with a pitched tile roof (ridge RL 42.89). It is generally located between the site's dwelling and its garage. It is provided with a pool in its front yard and elevated west facing external terraces.
- 11 Amiens Road is a two storey dwelling brick and clad dwelling with a pitched tile roof (ridge RL 33.10). It is provided with elevated west facing external terraces and swimming pool in its backyard.

An aerial location plan is provided at **Figure 1**. The site is shown outlined approximately in red and shaded yellow. A site analysis plan (by Case Ornsby Design) is provided at **Figure 2**. Photographs of the site and its adjacent built form are provided at **Figures 3 to 11**.



**Figure 1** – Aerial location plan with the site shown outlined in red and shaded yellow



**Figure 2 – Site analysis plan**



**Figure 3 – The site and its neighbours to the north and south as viewed from Amiens Road**



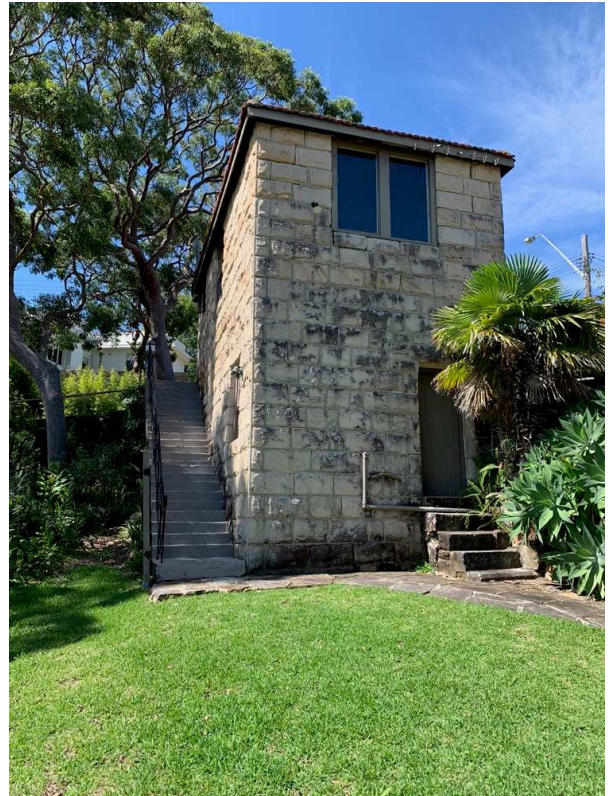
**Figure 4** – The site (circled) and its neighbours as viewed from the opposite side of the harbour



**Figure 5** – The site (circled) and its neighbours as viewed from Clontarf Point



**Figure 6** – The site's garage and dwelling as viewed from the eastern boundary of 15 Amiens Road



**Figure 7**– The garage looking east from the mid site lawn level



**Figure 8** – The site's mid level lawn area looking west between the garage and the dwelling



**Figure 9** – The site's rear elevation, swimming pool and part backyard



**Figure 10** – Side and rear lower ground level relationship between the site and 15 Amiens Road



**Figure 11** – Mid yard relationship between the site and 11 Amiens Road including its access driveway

## 3.0 DESCRIPTION OF THE PROPOSAL

### 3.1 Overview

Architectural Drawings of the proposal by Case Ornsby Design are submitted separately. Calculations have been provided by Case Ornsby Design and are based on the referenced definitions.

Pursuant to Section 4.16 of the Act, development consent is being sought for the following works at 13 Amiens Road, Clontarf:

- demolition of the existing dwelling house, part garage area and pathways;
- retention of the existing swimming pool, spa and surrounds including pool fence;
- excavation;
- nominated tree removal and retention;
- construction of a new three level dwelling house;
- reconstruction and enlargement of the garage and area below to create a double garage with storage, garage forecourt, garbage room, inclinator, self contained studio with kitchenette, deck and storage; and
- landscaping and required site works.

Upon construction, the dwelling will comprise:

- basement level (FFL 24.24)
  - rumpus room, pool change room, shed / pool storage, plant room, lift and stairs, cellar, kitchenette and laundry;
  - a covered external wrap around (north [6.8m x 7m] and west [4m x 9.2m]) terrace (RL 24.2) with BBQ area and direct access to the existing swimming pool and spa surrounds;
- ground floor (FFL 27.14):
  - open plan living, dining, kitchen (with scullery) and breakfast room, study x 2, TV room, powder room, store room, lift and stairs;
  - 4m x 9m west facing balcony (FFL 27.10) with BBQ directly accessible from the open plan primary living room;
  - 4.2 x 7m east facing terrace (FFL 27.10) directly accessible from the living and dining room;
- first floor (FFL 30.29):
  - master bedroom with ensuite and walk in robe, bedrooms 1 and 2, guest bedroom with ensuite, bathroom, gallery, lift and stairs and store room.

Upon construction, the garage will comprise:

- garage level (FFL 39.13):
  - double garage with storage, inclinator platform, forecourt with hardstand vehicle turn platform, stone driveway, screened garbage room and external northern side stairs;

- studio (FFL 35.83):
  - open plan studio with kitchenette, ensuite, plant and storage (within existing excavated areas) and irregular shaped (~20m<sup>2</sup>) timber deck (FFL 35.8). The studio has a GFA of 55.66m<sup>2</sup>;

Other required (nominated) site works, including:

- feature planting and landscaping (including decking, paving, concrete steps, sandstone clad retaining walls) within the split level front yard;
- reflection pond in the front yard;
- inclinor along the southern boundary between the garage and dwelling;
- two fixed skylights on the dwelling's roof;
- new boundary fencing; and
- 3,000 litre rainwater tank (**RWT**) adjacent to the southern boundary at the basement level.

Sketches of the proposed built form are provided at **Figures 12, 13 and 14**.



**Figure 12** – Sketch of the dwelling's western elevation (view from the swimming pool and surrounds)



**Figure 13** – Sketch of the dwelling's northern elevation (view from the mid level lawn terrace)



**Figure 14** – Sketch of the proposed built form as viewed from the Amiens Road footpath looking south west

## 3.2 External materials and finishes

Case Ornsby Design has prepared a swatch of the proposed external materials and finishes for the proposal. They are contained within the Architectural Drawings submitted separately. The elements of the building will be reflected in a selection of materials and colours consistent with the proposed built form. The proposed building design creates a rectilinear aesthetic. Strong proportions are counter-pointed by feature panels of different materials and colour. The built form is highly articulated.

The high quality and durable external materials and finishes are considered to positively add to the character of the surrounding locality and are durable/hardy given the site's relative waterfront location.

## 3.3 Waste management

Council's generic Site Waste and Recycling Management Plan has been completed by Case Ornsby Design and is submitted separately. The proposal does not alter the site's existing waste management practices. Collection of garbage from the site will continue in the same manner, which is by Council's contractors along Amiens Road on the designated days. A dedicated and screened waste storage area is provided adjacent to the north eastern boundary within the garage forecourt area.

## 3.4 Utilities

The utility services available to the site including electricity, telecommunications, sewer and stormwater may require some augmentation. It is not anticipated that the proposal will have an adverse impact on the provision or availability of these services.

## 3.5 Building height and wall height

Existing proposed height, bulk and scale calculation diagrams by Case Ornsby Design are contained within the Architectural Drawings submitted separately. Due to substantial topographical variations, the maximum building height<sup>1</sup> of the existing and proposed dwelling house and the garage / studio varies.

A comparison of the existing and proposed maximum heights for the dwelling and the garage / studio is provided at **Table 1** below.

**Table 1 – Comparison of existing and proposed maximum heights**

Element	Existing	Proposed
Dwelling	9.63m	8.5m
Garage / studio	7.32m	7.35m

The dwelling's maximum wall height<sup>2</sup> is 8.2m and the garage / studio's maximum wall height is 7.35m.

<sup>1</sup> Pursuant to the Dictionary in LEP 2013, **building height** means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

<sup>2</sup> Pursuant to Manly Development Control Plan 2013 (DCP 2013) **wall height** means that part of the building height measured vertically from the ground level (existing) at any point to the top most part of the external wall and exclusive of the height of any pitched roof or parapet. The top most part of the wall height is measured to the underside of the eaves associated with the topmost floor and where a deck or terrace is located at the top of the wall, the wall height is measured to the top of any balustrade, planter box or privacy screen.

### 3.6 Gross floor area (GFA) and floor space ratio (FSR)

GFA<sup>3</sup> and FSR<sup>4</sup> calculation diagrams by Case Ornsby Design are contained within the Architectural Drawings submitted separately. The proposed dwelling house has a GFA of 352.59m<sup>2</sup> and the garage / studio has a GFA of 69.53m<sup>2</sup> of which the studio comprises 55.66m<sup>2</sup> GFA. This equates to an overall GFA of 422.12m<sup>2</sup> or an FSR of 0.44:1.

### 3.7 Open space

It is proposed to provide:

- 292.5m<sup>2</sup> (30.2%) of the site as landscaped area<sup>5</sup>;
- 176.72m<sup>2</sup> (18.3%) of the site as deep soil zones<sup>6</sup>;
- 432.91m<sup>2</sup> private open space<sup>7</sup>; and
- approximately 715m<sup>2</sup> total open space<sup>8</sup> (excluding side boundary accessways and central access footpath and stairs).

The fundamental characteristics of the site's landscaped area remain unaltered, that is the useable terraced grassed areas are retained between the dwelling and the garage. This area promotes infiltration and absorption. In addition to the ground level landscaped areas, the site is provided with various external terraces (east and west facing and at each level) of the dwelling and the studio. These areas are directly accessible from the rooms they are connected to, which enable indoor/outdoor living. The existing swimming pool, spa and surrounds (including garden, retaining walls, steps, fencing etc) is to remain

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<sup>3</sup> Pursuant to the Dictionary in LEP 2013, **gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
  - (b) habitable rooms in a basement or an attic, and
  - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
  - (e) any basement:
    - (i) storage, and
    - (ii) vehicular access, loading areas, garbage and services, and
  - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
  - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
  - (h) any space used for the loading or unloading of goods (including access to it), and
  - (i) terraces and balconies with outer walls less than 1.4 metres high, and
  - (j) voids above a floor at the level of a storey or storey above.

<sup>4</sup> Pursuant to Clause 4.5(2) of LEP 2013, the **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

<sup>5</sup> Pursuant to the Dictionary in LEP 2013, **landscaped area** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area

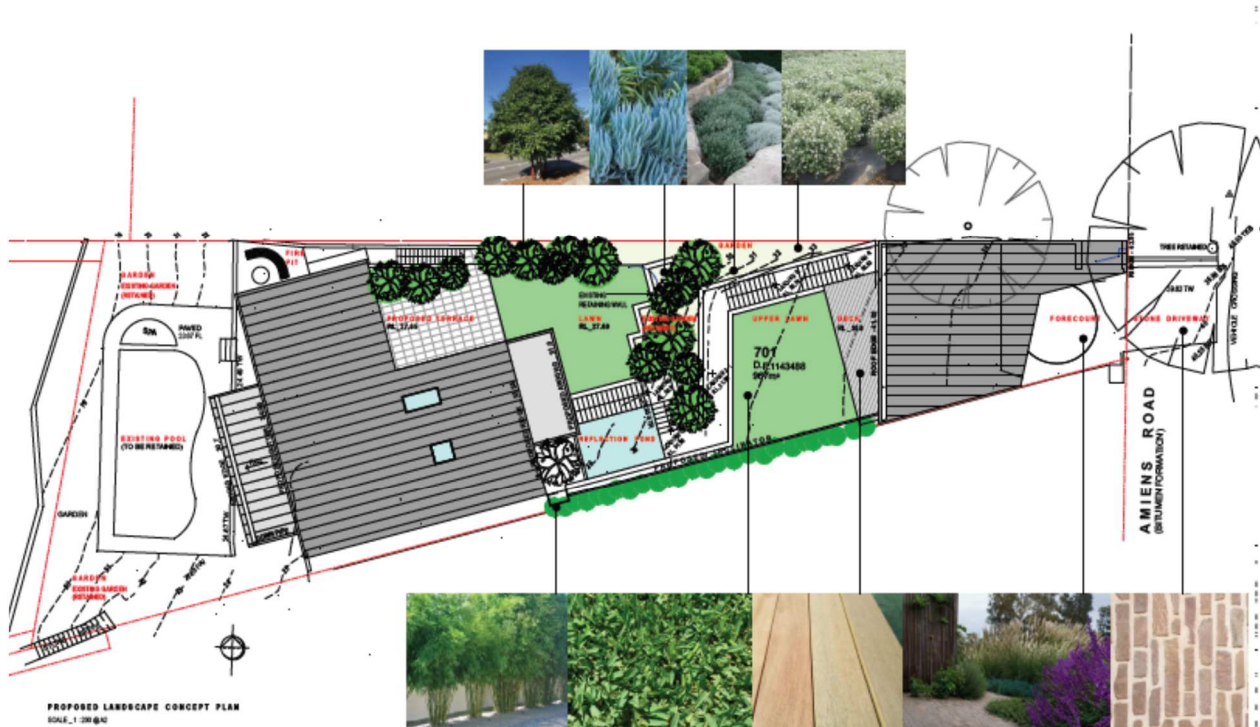
<sup>6</sup> Pursuant to DCP 2013, **deep soil zone** means an area (within the landscaped area) within a development that is unimpeded by building or structures above or below ground and have a minimum dimension of 6m. Deep soil zones exclude basement car parks, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways and road areas

<sup>7</sup> Pursuant to DCP 2013, **private open space** means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building

<sup>8</sup> Pursuant to DCP 2013, **total open space** = landscaped area, private open space, deep soil zones, swimming pool, balconies; paved areas and walkways etc

unaltered. Nominated removal of existing vegetation is required to facilitate the inclinator along the southern boundary. Appropriate new perimeter planting is proposed to each side boundary between the dwelling and the garage/studio.

A Landscape Plan by Case Ornsby Design is submitted separately and is reproduced below at **Figure 15**.



**Figure 15** – Proposed landscape plan

### 3.8 Setbacks

The proposed dwelling house and enlarged garage / studio generally follow the site's existing built form alignment relative to setbacks. A comparison of the existing and proposed alignment is shown overleaf at **Figure 16**. The existing built form is shown dotted blue over the proposed site plan.

The garage / studio at the garage level has a setback of 7.5m to the site's Amiens Road front boundary. This enable the provision of a hardstand with turntable forecourt and screened waste storage area. The built form is provided with a zero building alignment to its southern and northern boundaries (in part at both levels). Immediately adjacent the zero building alignment are driveway for the neighbouring properties to the north and south.

A minimum separation of 20m is provided between the dwelling and the garage/studio. Within this area is the terraced lawn area.

The dwelling is provided with the following side boundary setbacks:

- 3.2m (integrated garden shed), 6m (laundry) and 9.5m (rumpus) at the basement level to the northern boundary;
- 1.2m to the southern boundary at the basement, ground and first floor levels;
- ranging from 1.8m to 3.65m (living room) and 7m (entry gallery) at the ground floor to the northern boundary;

- ranging from 1.6m to 3.6m (master bedroom) and 6.5m (guest bedroom) at the first floor level to the northern boundary; and
- ranging between 9m (northern side) to 15.5m (southern side) to the western (rear) boundary.

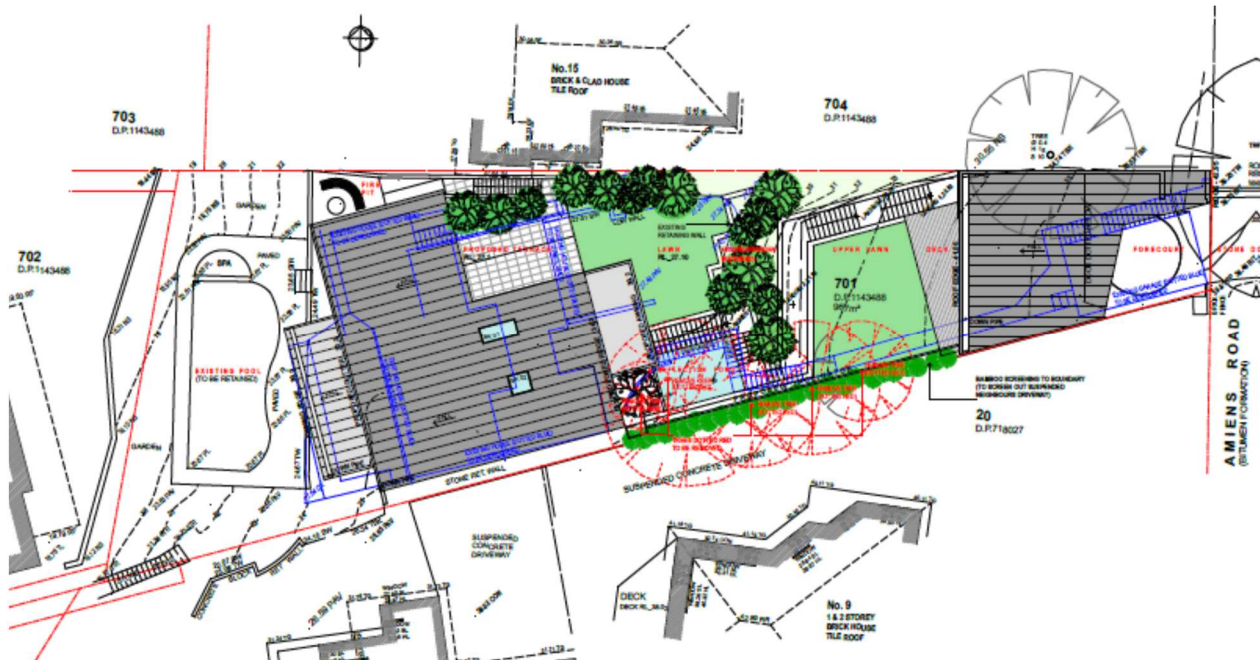


Figure 16 – Overlay of existing and proposed building alignment

### 3.9 Access and car parking

The existing garage and storage area below is to be demolished. A new double garage (FFL 39.13) with associated storage is proposed. In front of the garage is a stone forecourt area which will also contain a vehicle turn platform to enable views to leave the site in a forward direction, a desirable outcome given the relative poor sight distances, topographical variations and intersection location. Below the garage will be a separate studio and plant / storage area within the already excavated zone. Stairs on the northern side of the garage enable access to the studio level and backyard below. Alternative access to the dwelling along the southern boundary is provided via the proposed inclinator.

Existing stairs within the terraced mid front yard are retained and enable direct access to the ground floor level's entry foyer / gallery. The northern boundary pedestrian accessway is retained to enable access from the site's front to its backyard.

### 3.10 Stormwater management

IStruct has prepared a Stormwater Management Plan (submitted separately) for the proposal in accordance with Council's standard practices and requirements. The key aspects of the stormwater design include:

- 592.8m<sup>2</sup> pre-development impervious area;
- 666.2m<sup>2</sup> post development impervious area;
- 73.4m<sup>2</sup> increase in impervious area. As the site is within Zone 3 of Council's stormwater control zones, on site detention (**OSD**) is not required;

- the provision of a 3,000 litre RWT at the basement level adjacent to the south western extent of the dwelling for storage and reuse; and
- the provision of either 100mm or 150mm diameter PVC piping to connect to existing stormwater infrastructure.

### **3.11 BCA compliance**

Case Ornsby Design has prepared the Architectural Drawings (submitted separately) in compliance with the relevant performance criteria and deemed to satisfy provisions of the Building Code of Australia (**BCA**). Subject to detailed design as part of the CC process, the proposal is capable of compliance with the relevant requirements of the BCA.

## 4.0 STATEMENT OF ENVIRONMENTAL EFFECTS

The following is our assessment of the environmental effects of the proposed development as described in the preceding sections of this report. The assessment includes only those matters under Section 4.15 that are relevant to the proposal as identified in **Table 2**.

**Table 2** – Section 4.15 Checklist

Matter for Consideration	Comment
– Provisions of relevant Environmental Planning Instruments	– Refer to Sections 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.6 and 4.1.7.
– Provisions of relevant Draft Environmental Planning Instruments	– N/A
– Provision of relevant Development Control Plans	– Refer to Section 4.1.8.
– Provisions of relevant Planning Agreements	– N/A
– Any matters pursuant to the Regulations	– N/A
– Provisions of any relevant Coastal Management Plans	– N/A
– The likely impacts of the development	– Refer to Section 4.2.
– The suitability of the site for the development	– Refer to Section 4.3.
– Any submission made in accordance with the Act or the Regulations	– Refer to Section 4.4.
– The public interest	– Refer to Section 4.5.

### 4.1 S4.15(1)(a) Statutory considerations

The following environmental planning instruments and development control plan are relevant to the proposal:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (**BASIX**);
- State Environmental Planning Policy No. 55: Remediation of Land (**SEPP 55**);
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (**SREP 2005**);
- State Environmental Planning Policy (Coastal Management) 2018 (**SEPP 2018**);
- State Environmental Planning Policy (Vegetation in Non Rural Areas) 2017 (**SEPP 2017**);
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (**SEPP 2009**);
- Manly Local Environmental Plan 2013 (**LEP 2013**); and
- Manly Development Control Plan 2013 (**DCP 2013**).

An assessment of the proposal's compliance with the relevant provisions of these plans follows overleaf.

### 4.1.1 **BASIX**

BASIX applies to the proposal<sup>9</sup>, therefore the Regulations 2000 requires a BASIX Certificate to accompany the DA. A BASIX Certificate by Certified Energy is submitted separately. It demonstrates compliance with the relevant requirements of BASIX (water, thermal and energy).

### 4.1.2 **SEPP 55**

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether it is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

Generally, land contamination is most often the result of past uses. A planning authority is to consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination. Decisions must then be made as to whether the land should be remediated, or use of the land restricted, to reduce the risk.

The SEPP 55 guidelines state that as an indicator of potential contamination, an initial evaluation of the history of land use of a site is essential to determine whether contamination is an issue. The initial evaluation can be based on readily available information. Where there is no reason to suspect contamination after acting substantially in accordance with the guidelines, the proposal may be processed in the usual way.

The following assessment has been undertaken substantially in accordance with the initial evaluation process contained in the SEPP 55 guidelines. To our knowledge, no previous investigations of contamination on the land have been undertaken. Also, to our knowledge:

- the site is currently occupied by a dwelling house and has not in the past, been regulated through licensing or other mechanisms in relation to any activity listed in Table 1 of the SEPP 55 guidelines;
- there are no land use restrictions on the site relating to possible contamination, such as notices issued by any regulatory authority.

The site is zoned R2 Low Density Residential pursuant to the provisions of LEP 2012 and has been zoned for the same, or similar purpose for many years. Although a range of development is permissible with consent in the R2 Low Density Residential zone, to our knowledge, the land has not at any time been specifically zoned for an industrial or agricultural purpose.

Furthermore, inspection of the site does not suggest that the site has been associated with any activities listed at Table 1 in the SEPP 55 guidelines. Having regard to the initial evaluation of the site detailed above, there is no evidence to suggest that the land might be contaminated or that further inquiry in relation to potential land contamination is warranted in this instance.

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<sup>9</sup> Pursuant to the Environmental Planning and Assessment Regulation 2000, a **BASIX affected building** means any building that contains one or more dwellings but does not include a hotel or motel.

### **4.1.3 SREP 2005**

SREP 2005, a deemed SEPP applies to the entire Council area identified on the catchment map. The site is within the Foreshores and Waterways Area but is not identified:

- as a strategic foreshore site;
- as a heritage item; and
- within the wetlands protection area.

Therefore, only Part 1 and Part 3 are applicable. Part 1 identifies aims of the plan from (a) to (h). The aims set out in Part 1 of the SREP have been considered and the application is consistent with these aims.

Division 2 of Part 3 identifies matters for consideration.

The following is noted:

- the proposal does not affect the biodiversity, ecology and environment protection of the Foreshores and Waterways Area or public access or use of the foreshores and or waterways;
- the proposal will not affect the working harbour or the interrelationship of the foreshore and waterway uses;
- the proposal does not involve boat storage or landing facilities;
- the proposal maintains existing natural landforms and cultural values of Clontarf Point and its surrounds;
- water based development is not proposed
- is consistent with the prevailing character of adjoining and adjacent buildings and sits comfortably within the hillside to harbour context that the site is located;
- provides a modern and contemporary urban design solution which does not negatively influence the character of the waterfront locality; and
- the proposal will not affect the foreshore and waterways scenic quality of Sydney Harbour nor will it affect views from the site and the surrounding properties.

The matters for consideration set out in Division 2 Part 3 of the SREP have been considered and the application is consistent with these matters.

### **4.1.4 SEPP 2018**

The site is within the coastal environment and coastal use zone pursuant to the provisions of SEPP 2018. An assessment of the proposal's consistency with the relevant clauses of SEPP 2018 are addressed below:

#### ***Clause 13 – Development on land within the coastal environmental area***

*The consent authority is to consider whether the proposal is likely to cause an adverse impact on the following:*

- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) *coastal environmental values and natural coastal processes,*

- (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

The proposal has an acceptable outcome in relation to the above as:

- it does not affect the site's or locality's hydrological environment;
- the site does not contain any terrestrial biodiversity;
- the site does not contain riparian land;
- it has no identifiable impact on marine vegetation or native vegetation;
- the site is not a waterfront location and therefore has negligible potential for impact on water quality within the marine estate (the harbour);
- the site's existing vegetation is retained where required with appropriate new plantings proposed;
- it does not impact any aboriginal cultural heritage, practices or places;
- it does not alter access to and along the foreshore; and
- it is not in the surf zone.

**Clause 14 – Development on land within the coastal use area**

*The consent authority is to be satisfied that:*

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*
  - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
  - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
  - (iv) Aboriginal cultural heritage, practices and places,*
  - (v) cultural and built environment heritage, and*

The proposal has an acceptable outcome in relation to the above as:

- refer to the assessment at Clause 13 above;
- the site and adjacent properties do not have any heritage significance;
- the site is not within a heritage conservation area;
- it does not result in the loss of views to the foreshore from the surrounding public domain;
- there is no overshadowing impact of the foreshore or waterway; and

- it provides for an acceptable visual impact when viewed from the harbour or Clontarf Point as the site's built form sits comfortably within its established and likely future built form context (i.e. its neighbouring properties).

#### 4.1.5 SEPP 2017

SEPP 2017 applies to land within the Northern Beaches LGA. A total of 292.5m<sup>2</sup> (30.2%) of the site will comprise landscaped area (lawns, grasses, shrubs and trees).

The fundamental characteristics of the site's landscaped area remain unaltered, that is the useable terraced grassed areas are retained between the dwelling and the garage. This area promotes infiltration and absorption. Nominated removal of existing vegetation is required to facilitate the inclinator along the southern boundary. Appropriate new perimeter planting is proposed to each side boundary between the dwelling and the garage/studio.

#### 4.1.6 SEPP 2009

The relevant provisions of SEPP 2009 are addressed at **Table 3**.

**Table 3** – Compliance with SEPP 2009

Clause	Requirement	Proposal/Compliance
<b>Division 3 – Secondary dwellings</b>		
<b>Cl. 20 – Land to which this division applies</b>	– Applies to the following land use zones (stated or equivalent): - Zone R1, R2, R3, R4 and R5 Residential.	✓ Noted. The site is zoned R2 Low Density Residential pursuant to the provisions of LEP 2013.
<b>Cl. 21 – Development to which division applies</b>	– This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling	✓ A secondary dwelling (studio) is proposed below the new double garage.
<b>Cl. 22 – Development may be carried out with consent</b>	– A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	✓ A new dwelling house (the principal dwelling) is proposed along with the construction of the new secondary dwelling (studio).
	– A consent authority must not consent to development to which this Division applies unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and	✗ An FSR of 0.44:1 is proposed. Refer to <b>Table 4</b> and the FSR Exception to Development Standards submission by LPDS submitted separately for further information.
	(b) the total floor area of the secondary dwelling is no more than 60m <sup>2</sup> or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	✓ The total floor area of the secondary dwelling (studio) is 55.66m <sup>2</sup> .
	– A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or	✓ The secondary dwelling is detached from the principal dwelling. ✓ The site has an area of 967m <sup>2</sup> . ✓ A double garage is proposed.

Clause	Requirement	Proposal/Compliance
	(ii) the site area is at least 450m <sup>2</sup> , (b) parking:  if no additional parking is to be provided on the site.	
Cl. 24 – No subdivision	– A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	✓ Subdivision consent is not sought.

#### 4.1.7 LEP 2013

LEP 2013 is the principal environmental planning instrument applying to the site. The provisions of LEP 2013 specifically relating to the proposal are addressed below in **Table 4**.

**Table 4 – Compliance with LEP 2013**

Clause	Requirement	Proposal/Compliance
Cl. 2.1 – Land use zones and Cl. 2.2 – Zoning of land to which this plan applies	– Pursuant to the zoning map, the site is located within the R2 Low Density Residential Zone.	✓ Noted.
Cl. 2.3 – Zone objectives and land use table	– The following development is permissible with development consent in the R2 Low Density Residential zone: <i>Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Shop top housing; Signage; Tank-based aquaculture; Water recreation structures; Water recycling facilities; Water supply systems (my emphasis)</i>	✓ The site contains a single dwelling house <sup>10</sup> . The land use is not being altered. Demolition of the existing dwelling house and construction of a new dwelling house, garage and studio (secondary dwelling) <sup>11</sup> is proposed. The proposal is specifically permissible with development consent.

<sup>10</sup> Pursuant to the Dictionary in LEP 2013, **dwelling house** means a building containing only one dwelling.

<sup>11</sup> Pursuant to the Dictionary in LEP 2013, **secondary dwelling** means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling

Clause	Requirement	Proposal/Compliance
	<ul style="list-style-type: none"> <li>– The objectives of the R2 Low Density Residential zone are: <ul style="list-style-type: none"> <li>- to provide for the housing needs of the community within a low density residential environment.</li> <li>- to enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>✓ The proposal is consistent with the objectives of the R2 Low Density Residential zone as it: <ul style="list-style-type: none"> <li>- proposes a dwelling house on the site, an existing and approved low density residential allotment of land;</li> <li>- will not adversely reduce existing residential amenity levels of the locality;</li> <li>- enables a built form relative to height, bulk and scale and contemporary design that is compatible with the existing and likely future built form context;</li> <li>- provides flexible housing for a family through the new separate studio;</li> <li>- maintains existing dwelling diversity within the surrounding locality;</li> <li>- does not preclude the appropriate low density residential redevelopment of any neighbouring property;</li> <li>- maintains existing amenity levels for adjacent landowners; and</li> <li>- does not propose any non-residential land uses although the occupants can work from home as/if required.</li> </ul> </li> </ul>
<b>Cl. 2.7 – Demolition requires development consent</b>	– Development consent required for demolition.	✓ Development consent is sought for the demolition of the existing dwelling house and garage and other associated (and nominated) structures.
<b>Cl. 4.3 – Height of buildings</b>	– 8.5m maximum building height	<ul style="list-style-type: none"> <li>✓ The dwelling house has a maximum height of 8.5m.</li> <li>✓ The garage / studio has a maximum height of 7.347m.</li> </ul>
<b>Cl. 4.4 – FSR</b>	– 0.4:1 maximum FSR.	✗ An FSR of 0.44:1 is proposed. Refer to the Clause 4.6 discussion below for further information.
<b>Cl. 4.6 – Exception to development standards</b>	<ul style="list-style-type: none"> <li>– Consent may be granted for development which does not comply with a development standard imposed under LEP 2013.</li> <li>– Consent must not be granted for development which departs from a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the departure by demonstrating: <ul style="list-style-type: none"> <li>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</li> <li>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</li> </ul> </li> <li>– Consent must not be granted for development that departs from a development standard unless: <ul style="list-style-type: none"> <li>(a) the consent authority is satisfied that: <ul style="list-style-type: none"> <li>(i) the applicant's written request has adequately addressed the matters</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>✗/✓ Noted. The proposed dwelling departs from the FSR standard at Clause 4.4. A Clause 4.6 Exception to Development Standards submission for each departure (height and FSR) by LPDS is submitted separately and which demonstrates that: <ul style="list-style-type: none"> <li>- compliance with the standard is unreasonable and unnecessary;</li> <li>- the proposal does not result in any material environmental impacts to adjoining and adjacent properties and the surrounding public domain;</li> <li>- the proposal is in the public interest;</li> <li>- the proposal is consistent with the relevant zone objectives;</li> <li>- the proposal is consistent with the stated objectives of the standard; and</li> <li>- there are sufficient environmental planning grounds to support the variation.</li> </ul> </li> </ul>

Clause	Requirement	Proposal/Compliance
	<p>required above, and</p> <p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p> <p>(b) the concurrence of the Director-General has been obtained</p>	
<b>Cl. 5.4 – Controls relating to miscellaneous permissible uses</b>	<p>– If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:</p> <p>(a) 60m<sup>2</sup>,</p> <p>(b) 30% of the total floor area of the principal dwelling.</p>	<p>✓ The total floor area of the secondary dwelling (studio) is 55.66m<sup>2</sup>.</p>
<b>Cl. 6.1 – Acid sulfate soils</b>	<p>– The site is Class 5 acid sulfate soils.</p>	<p>✓ The proposed works are not likely to lower the water table below 1m AHD on any land within 500m of a Class 1, 2 and 3 land classification. Accordingly, any further assessment is not required as acid sulfate soil affectation is unlikely. Refer below.</p>
<b>Cl. 6.2 - Earthworks</b>	<p>– Council is to consider the following in relation to earthworks:</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>✓ Refer to Section 4.2 for further information. There will no importation of fill to the site.</p> <p>✓ The adjacent properties are at similar elevations and have similar geomorphology. No geotechnical hazards adversely affect the site and the proposed excavation is unlikely to have an adverse impact relative to natural watercourses, natural drainage patterns and landform in general.</p> <p>✓ The amount of excavation is consistent with the requirements of Clause 6.2 as:</p> <ul style="list-style-type: none"> <li>- the site's existing topography is generally respected despite being terraced;</li> <li>- it is typically sited away from the site's boundaries or if in proximity is not adjacent habitable built form but rather driveways;</li> <li>- the impact on existing vegetation is minimal;</li> <li>- the site's permeability is maintained; and</li> <li>- new planting is proposed.</li> </ul> <p>✓ Council can impose standard conditions of development consent to ensure the integrity of adjoining properties and buildings including:</p> <ul style="list-style-type: none"> <li>- a soil and erosion sediment control plan;</li> <li>- structural certificates;</li> <li>- dilapidation report; and</li> <li>- construction management plan.</li> </ul>

Clause	Requirement	Proposal/Compliance
<b>Cl. 6.4 – Stormwater management</b>	<ul style="list-style-type: none"> <li>– Council is to consider the following in relation to stormwater management:               <ul style="list-style-type: none"> <li>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</li> <li>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</li> <li>(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>✓ IStruct has prepared a Stormwater Management Plan (submitted separately) for the proposal in accordance with Council's standard practices and requirements. Refer to Section 3.10 for further information.</li> </ul>
<b>Cl. 6.5 – Terrestrial biodiversity</b>	<ul style="list-style-type: none"> <li>– The site is affected by the terrestrial biodiversity map. Council is to consider the following:               <ul style="list-style-type: none"> <li>(a) whether the development is likely to have:                   <ul style="list-style-type: none"> <li>(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and</li> <li>(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and</li> <li>(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and</li> <li>(iv) any adverse impact on the habitat elements providing connectivity on the land, and</li> </ul> </li> <li>(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>✓ The site is not affected by any terrestrial biodiversity. It is noted such affectation is adjacent the site's western boundary.</li> </ul>
<b>Cl. 6.9 – Foreshore scenic protection area</b>	<ul style="list-style-type: none"> <li>– Council is to consider the following in relation to the impacts on the foreshore scenic protection area:               <ul style="list-style-type: none"> <li>(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,</li> <li>(b) measures to protect and improve scenic qualities of the coastline,</li> <li>(c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,</li> <li>(d) measures to reduce the potential for conflict between land-based and water-based coastal activities.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>✓ Noted, refer to the detailed assessment under SREP 2005 and SEPP 2018 at Sections 4.1.4 and 4.1.5.</li> </ul>

Clause	Requirement	Proposal/Compliance
Cl. 6. 12 – Essential services	– Development cannot be granted unless adequate infrastructure (utilities) is available.	✓ The utility services available to the site including electricity, telecommunications, sewer and stormwater may require some augmentation. It is not anticipated that the proposal will have an adverse impact on the provision or availability of these services.

#### 4.1.8 DCP 2013

An assessment of the proposal against the specifically relevant guidelines of DCP 2013 is addressed at **Table 4** overleaf.

Section 4.15(3A) of the Act states:

*If a development control plan contains provisions that relate to the development that is subject of a development application, the consent authority:*

- (a) if those provision set standards with respect to an aspect of the development and the development application complies with those standards – is not to require more onerous standards with respect to that aspect of the development, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development does not strictly comply with those standards – **is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and***
- (c) may consider those provisions only in connection with the assessment of that development application. (our emphasis)*

The proposal relies on some minor variations to DCP 2013. The proposal is consistent with development already permitted on adjacent land and under the circumstances, dispensation from strict adherence to the controls will enable a better outcome for the site.

**We note that Sections 3.42 and 4.15(3A) of the Act clarify that a DCP is only to act as a guideline, and that Council's are to be flexible and allow for alternative solutions where an application does not meet the applicable guidelines in a DCP.**

Table 4 – Compliance with DCP 2013

Element	Control	Proposal/Compliance
<b>Part 3 – General Principles for Development</b>		
<b>Landscaping</b>	– In low density areas (including LEP Zones R2 Low Density, E3 Environmental Management and E4 Environmental Living); open space should dominate the site. Setbacks of buildings from open space should also be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshore.	✓ The dwelling and the garage / studio sit comfortably within their established and likely future built form context when viewed from the surrounding public domain, including Amiens Road, Clontarf Point or the harbour generally. Their height, bulk and scale of the dwelling is consistent with that existing on adjacent properties. The locality is characterised by substantial multi level dwelling houses that are influenced by the locality's topographical characteristics. There will be no visual built form dominance when viewed from the surrounding public domain. The dwelling and its surrounds sit within an appropriate landscape setting.
	– Developments must maximise the retention and protection of natural landscape features including significant rock outcrops and vegetation including canopy trees and under-storey vegetation, which would require a tree permit under this plan.	✓ Existing natural features and outcrops on the site will be retained. The site does not contain any significant vegetation that cannot be removed (refer to Section 4.2 for further information). Established landscaping within the site's backyard area is not altered. Appropriate new perimeter landscaping will be provided in the mid level front yard. The site's contribution to the landscape and scenic quality of the locality is maintained.
<b>Amenity</b>	– Careful design consideration should be given to minimise loss of sunlight, privacy and views of neighbouring properties.	✓ Refer to Section 4.2 for further information.
	– Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private view points.	✓ The dwelling and the garage / studio built form sit comfortably within their established and likely future built form context when viewed from the surrounding public domain, including Amiens Road, Clontarf Point or the harbour generally. Their height, bulk and scale of the dwelling is consistent with that existing on adjacent properties. The locality is characterised by substantial multi level dwelling houses that are influenced by the locality's topographical characteristics. There will be no visual built form dominance when viewed from the surrounding public domain. The dwelling and its surrounds sit within an appropriate landscape setting.
	– 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 9am to 3pm on 21 June.	✓ The proposal does not result in adverse overshadowing impacts to neighbouring properties or the surrounding public domain. Refer to Section 4.2 for further information.

Element	Control	Proposal/Compliance
	– Architectural or landscape screens must be provided to balconies and terraces to limit overlooking nearby properties.	✓ Refer to Section 4.2 (Privacy) for further information. Appropriate landscaping and design related screening elements are proposed to ensure privacy internal to the site and for the neighbouring properties.
<b>Stormwater management</b>	– Stormwater management plan required.	✓ Stormwater Management Plans by IStruct Consulting Engineers are submitted separately. Refer to Section 3.10 for further information.
<b>Waste management</b>	– Waste management plan required.	✓ A Waste Management Plan by Case Ornsby Design is submitted separately. It has been prepared in accordance with Council's standard practices and guidelines. Refer to Section 3.3 for further information.
<b>Mechanical plant and equipment</b>	– 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.	✓ Mechanical plant and equipment including that for the pool and spa and inclinor is contained either within the dwelling's basement or the at the rear of the studio within the existing excavated zone. Adverse acoustic impacts are therefore not anticipated.
<b>Safety and security</b>	– Development is to have regard to CPTED principles.	✓ Refer to Section 4.2 for further information.
<b>Part 4 – Development Types and Development Controls</b>		
<b>Part 4.1 – Residential development controls</b>		
<b>Wall height</b>	– Maximum wall height determined by gradient.	<p>✗ The dwelling's maximum wall height is 8.2m and the garage / studio maximum wall height is 7.347m. Notwithstanding the proposal's departure it is nonetheless consistent with the guideline's objectives and provides for an appropriate and equitable planning outcome for the following reasons:</p> <ul style="list-style-type: none"> <li>- the dwelling's overall height complies with the LEP 2013 height standard. It is 1.131m lower than the existing dwelling;</li> <li>- the dwelling's height and wall height is like other redeveloped properties in the site's vicinity;</li> <li>- a similar front and rear building alignment is maintained. Curtilage to the neighbouring properties is respected;</li> <li>- the non complying wall height element does not materially add to the bulk and scale of the dwelling or the garage / studio. The overall built form is not dissimilar to neighbouring properties and built form along the eastern ridgelines of Clontarf point generally. The dwelling sits comfortably within its established and likely future locational built form context;</li> <li>- appropriate setbacks are maintained to the neighbouring properties to the site's north and south. The wall height has no environmental impact in this regard;</li> </ul>

Element	Control	Proposal/Compliance
		<ul style="list-style-type: none"> <li>- appropriate landscaped areas are proposed which maintain the landscape and scenic quality/characteristics of the locality;</li> <li>- the proposed external wall height will not set an undue precedent and will not preclude appropriate redevelopment of neighbouring properties. The architecture provides an appropriate height and mass relationship to the locality's existing and likely future character;</li> <li>- it provides a built form that is appropriate to its locational context as a basis for innovative and imaginative design;</li> <li>- it provides an urban framework that supports the principles of ecological sustainable development, particularly promoting cross flow and stack effect ventilation and solar access to primary living areas;</li> <li>- the expression of the built form is adjusted to respond to: <ul style="list-style-type: none"> <li>- the site's topography;</li> <li>- solar access and the site's orientation;</li> <li>- the design and character of neighbouring development;</li> <li>- internal and external amenity for the future occupants;</li> </ul> </li> <li>- the works that will exceed the wall height guideline will not result in material environmental impacts to neighbouring properties and the surrounding public domain. The resultant built form provides for an acceptable and equitable planning outcome in relation to: <ul style="list-style-type: none"> <li>- solar access and overshadowing;</li> <li>- access to natural daylight and ventilation;</li> <li>- aural and visual privacy;</li> <li>- views and vistas; and</li> <li>- visual and streetscape impact.</li> </ul> </li> </ul>

Element	Control	Proposal/Compliance
Number of storeys	– 2 storeys maximum	<b>X</b> The existing dwelling is three storeys in height. The proposed dwelling is also three storeys, albeit has a reduced maximum height (which complies with the LEP 2013 height standard) as compared to existing. The dwelling and the garage / studio sit comfortably within their established and likely future built form context when viewed from the surrounding public domain, including Amiens Road, Clontarf Point or the harbour generally. Their height, bulk and scale of the dwelling is consistent with that existing on adjacent properties. The locality is characterised by substantial multi level dwelling houses that are influenced by the locality's topographical characteristics. Refer <b>Figures 4 and 5</b> and the context images within the Architectural Drawings submitted separately.
Roof height	– Pitched roof structures must be no higher than 2.5m above the actual wall height	<b>V</b> A parapet and skillion roof form is proposed. This roof form reduces the apparent height (complying), bulk and scale of the dwelling. It also maintains or improves views, vistas and outlook from neighbouring properties and the surrounding public domain.
FSR	– 0.4:1	<b>X</b> An FSR of 0.44:1 is proposed. Refer to the Exception to Development Standards submission by LPDS submitted separately.
Setbacks – front, side and rear	– Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.	<b>V</b> An existing varied front building line to Amiens Road is provided between the site and its neighbours to the north and south. A similar front building is proposed. It is generally expected and enables the retention of the useable mid level front yard. Refer to Section 3.8 for further information. Garaging forward of the building line is prevalent. An increased setback to the front boundary for the garage itself is proposed as compared to existing. This enables an open forecourt area, improving sight lines external to the site. The studio sited below the garage is generally not visible from the surrounding public domain and therefore there is no perception of visual built form dominance.

Element	Control	Proposal/Compliance
	<p>– 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</p>	<p><b>X</b> The proposed dwelling's side boundary setbacks are nominated at Section 3.8. Generally, a similar building alignment is proposed (refer <b>Figure 16</b>) as existing, albeit with an overall reduced and complying maximum height. The dwelling is appropriately articulated and provided with cut outs to avoid excessive bulk and scale. Despite the technical departure from the FSR standard, as there are two separate built forms proposed with a minimum separation of 20m, the actual GFA/FSR of the dwelling if calculated in isolation would comply with the standard. Its built form is therefore anticipated by the relevant controls. The garage / studio is built with a near zero building alignment to the side boundaries, however, this type of built form is expected, most of which is also not visible from the surrounding public domain. In addition, the following is noted:</p> <ul style="list-style-type: none"> <li>- the side boundary setbacks do not have any identifiable impact on the use and amenity of the private open spaces or primary living rooms of the neighbouring dwellings. The garage adjoins long elevated driveways on each neighbouring property to the north and south;</li> <li>- most openings are appropriately provided to the front (eastern elevation) and rear (western elevation) of the site, the predominant areas used for passive and active recreation;</li> <li>- the overall benchmark design minimises environmental impacts to neighbouring properties in relation to aural and visual privacy, overshadowing, visual, solar access, access to natural daylight and ventilation; views and streetscape (including bulk and scale). Refer to Section 4.2 for further information;</li> <li>- it provides a built form that is appropriate to its context as a basis for innovative and imaginative design and furthermore encourages housing diversity rather than reproduction in design;</li> <li>- clear sight lines are maintained;</li> <li>- the built form location does not preclude appropriate maintenance of neighbouring dwellings;</li> <li>- side boundaries are typically used as accessways and/or plant and equipment storage.</li> <li>- the varied subdivision pattern and subsequent built form and the topographical variations results in closely</li> </ul>

Element	Control	Proposal/Compliance
		spaced housing with limited side boundary setbacks.
	<ul style="list-style-type: none"> <li>– 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.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Noted, refer to the above comment.</li> </ul>
	<ul style="list-style-type: none"> <li>– The distance between any part of a building and the rear boundary must not be less than 8m.</li> </ul>	<ul style="list-style-type: none"> <li>✓ The rear boundary setback ranges from 9m (northern side) to 15.5m (southern side).</li> </ul>
<b>Open space and landscaping</b>	<ul style="list-style-type: none"> <li>– 60% site area is to comprise open space.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Approximately 74% (715m<sup>2</sup>) total open space is proposed. An equitable outcome is provided as follows:               <ul style="list-style-type: none"> <li>- all open space has a high level of useability and functionality;</li> <li>- the overall built form exhibits an appropriate height, bulk and scale. It sits comfortably within the established and likely future streetscape character and maintains a general dominance of landscape over buildings;</li> <li>- the landscaping maintained and proposed complements the locality's scenic and landscape quality and maintains the curtilage to its neighbouring properties;</li> <li>- the proposal maintains and enhances the vegetated and landscape and townscape character of the surrounding locality and maintains and enhances existing vegetation;</li> <li>- the open space and landscaping reduces any perception of visual built form dominance over landscaping. The landscape theme and character is consistent with that established on neighbouring properties;</li> <li>- there is no loss of mature vegetation worthy of retention. High quality and locality specific new plantings are proposed which will positively contribute to the locality's landscape and scenic quality;</li> <li>- the site's overall permeability is maintained, encouraging infiltration and absorption rather than runoff and encourages vegetation growth;</li> <li>- the proposed development exhibits a high quality and ecologically sustainable development through compliance with the BASIX requirements and represents an imaginative and innovative landscape design;</li> <li>- the site's topographical variations restrict the amount of available landscaped area. Significant additional areas of useable landscaped area could be provided if the site had different topographical characteristics;</li> <li>- substantial private open space (and</li> </ul> </li> </ul>

Element	Control	Proposal/Compliance
		<p>landscaped area) is provided at all levels of the dwelling. It is directly accessible from both primary and secondary living rooms and serves as an indoor/outdoor extension;</p> <ul style="list-style-type: none"> <li>- the swimming pool, spa and its surrounds remains unaltered and enable outdoor living and/or outdoor recreation and which is directly accessible from and adjacent to a covered external basement level terrace;</li> <li>- the site is in proximity to significant public open spaces useable for both passive and active recreation.</li> </ul> <p>✓ Council has considered applications favourably which depart from the landscaped area guidelines. The proposal is supportable as it exhibits a superior architectural, urban design and landscape solution without adverse environmental impacts to adjacent properties and the surrounding public domain. Furthermore, the proposed landscaping, particularly at the site's frontage, will improve the site's contribution to the locality's landscape and scenic quality.</p>
	– 40% of open space is to comprise landscaped area.	✓ 292.5m <sup>2</sup> (30.2%) of the site as landscaped area. This equates to 41% of the site's total open space (715m <sup>2</sup> ).
	– 18m <sup>2</sup> minimum private open space.	✓ A total of 432.91m <sup>2</sup> private open space is proposed.
<b>Parking, design and location of garages</b>	– The design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality.	<p>✓ Garaging forward of the building line is prevalent. An increased setback to the front boundary for the double garage itself is proposed as compared to existing. This enables an open forecourt area (with vehicle turning platform), improving sight lines external to the site and enabling vehicles to exit the site in a forward direction, a desirable outcome. The studio sited below the garage is generally not visible from the surrounding public domain and therefore there is no perception of visual built form dominance. High quality and durable external materials and finishes are proposed which will positively contribute to the streetscape character of the locality.</p>
	– Garage and carport structures forward of the building line must be designed and sited so as not to dominate the street frontage. In particular:	<p>✓ Refer to the above comment.</p> <p>✓ The garage provides a considerate form to the more public side of the house. All attempts have been made to minimise the visual disruption of a garage facing the street. It is the only possible location for the provision of on site car parking.</p>
	<ul style="list-style-type: none"> <li>i) garages and carports adjacent to the front property boundary may not be permitted if there is a reasonably alternative onsite location;</li> <li>ii) carports must be open on both sides and at the front.</li> </ul>	

Element	Control	Proposal/Compliance
	<ul style="list-style-type: none"> <li>– The maximum width of any garage, carport or hardstand area is not to exceed a width equal to 50% of the frontage, up to a maximum width of 6.2m.</li> </ul>	<p><b>X/v</b> The garage / studio is built with a near zero building alignment to the side boundaries, however, this type of built form is expected, most of which is also not visible from the surrounding public domain. It has a setback of 7.5m from the site's Amiens Road boundary. This area is provided with an open forecourt area (with vehicle turning platform), improving sight lines external to the site and enabling vehicles to exit the site in a forward direction, a desirable outcome. In addition, a screened 1.8m wide garbage storage area is provided adjacent to the front boundary, representing only 26% of the site's frontage (7.01m). Whilst the garage technically departs from the guideline in terms of overall width, it is setback from the Amiens Road boundary and does not result in any adverse visual impact or built form dominance.</p>
<b>Bike storage</b>	<ul style="list-style-type: none"> <li>– 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.</li> </ul>	<p><b>v</b> Secure bicycle storage can be provided within the garage.</p>
<b>Vehicular access</b>	<ul style="list-style-type: none"> <li>– All vehicles should enter and leave the site in a forward direction.</li> </ul>	<p><b>v</b> An increased setback to the front boundary for the double garage itself is proposed as compared to existing. This enables an open forecourt area (with vehicle turning platform), improving sight lines external to the site and enabling vehicles to exit the site in a forward direction, a desirable outcome. The proposal reduces the potential for vehicular and pedestrian conflict.</p>
	<ul style="list-style-type: none"> <li>– Vision of vehicles entering and leaving the site must not be impaired by structures or landscaping.</li> </ul>	<p><b>v</b> Refer to the above comment. Access to and egress from the site is unquestionably improved from that existing.</p>
	<ul style="list-style-type: none"> <li>– Particular attention should be given to separating pedestrian entries and vehicular crossings for safety.</li> </ul>	<p><b>v</b> Refer to the above comment.</p>
<b>Driveways and crossings</b>	<ul style="list-style-type: none"> <li>– Driveway crossovers/ gutter crossings should be minimised and spaced to maximise kerb-side car parking spaces.</li> </ul>	<p><b>v</b> The existing driveway crossing is to remain. On street car parking is not possible so there will be no loss of car parking spaces.</p>
	<ul style="list-style-type: none"> <li>– 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 Manly. 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.</li> </ul>	<p><b>v</b> Refer to the above comment.</p>

Element	Control	Proposal/Compliance
Development on sloping sites	– The design of development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.	✓ The existing dwelling is three storeys in height. The proposed dwelling is also three storeys, albeit has a reduced maximum and LEP 2013 complying height. Proposed FFL's are similar to those existing and excavation is typically minimised other than for elements of the studio below the garage (and not visible) and to lower (bench) the dwelling house itself. The dwelling and the garage / studio sit comfortably within their established and likely future built form context when viewed from the surrounding public domain, including Amiens Road, Clontarf Point or the harbour generally. The height, bulk and scale of the dwelling is consistent with that existing on adjacent properties. The locality is characterised by substantial multi level dwelling houses that are influenced by the locality's topographical characteristics. The overall built form will not result in the material loss of views and amenity from private and public places.
	– Developments on sloping sites must be designed to: <ul style="list-style-type: none"> <li>i) generally step with the topography of the site; and</li> <li>ii) avoid large undercroft spaces and minimise supporting undercroft structures by integrating the building into the slope whether to the foreshore or a street.</li> </ul>	✓ Refer to the above comment.
Fencing	– Freestanding walls and fences between the front street boundary and the building are to be no more than 1m high above ground level at any point.	✓ A front boundary fence is not proposed. The garage acts as the site's secure entrance point.
Earthworks	– 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.	✓ Noted. Refer to the earthworks assessment at <b>Table 4</b> .
	– Natural and undisturbed ground level must be maintained within 0.9m of side and rear boundaries	✓ Noted. Refer to the above comment.
	– 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.	✓ Noted. Refer to Section 4.2 for further information and the Geotechnical Assessment submitted separately.
	– Excavation is generally limited to 1m below natural ground level with the exception of basement parking areas and swimming pools;	<p>✗ The amount of excavation proposed is greater than 1m below existing ground level. Refer to Section 4.2 for further information and the Geotechnical Assessment submitted separately</p> <p>✓ The required excavation will not materially alter the site's topography or natural drainage patterns. Substantial permeable areas remain which enable infiltration and absorption rather than runoff.</p>

Element	Control	Proposal/Compliance
	– Filling must not exceed 1m above natural ground level	✓ Fill is not proposed.
Foreshore scenic protection area	– Reinforces controls from LEP 2013.	✓ Refer to the detailed assessment for SREP 2005, SEPP 2018 and LEP 2013 at Sections 4.1.3, 4.14 and 4.1.6.

## 4.2 S4.15(1)(b) Impact on the environment

### 4.2.1 Context, character and streetscape

The site is located in an atypical low density residential environment within the R2 Low Density Residential zone that is heavily influenced by its topographical variations and mature vegetation and screen planting. The site and its adjacent built form are part of a varied subdivision pattern (battle-axe allotment to its south) that results in a range of elevated two and three storey dwellings (see **Figure 4**). Elevated external open space by nature of the topographical characteristics of each property is a common feature. Additional context images are provided within the Architectural Drawings (submitted separately) that demonstrate the locality contains numerous multi storey unarticulated (continuous three storey vertical walls) side elevations with substantial areas of glazing and elevated external space on large modern and contemporary dwellings.

The proposal responds and contributes to its context by engaging its desired future character as envisaged by the proposed land uses and densities permissible in the surrounding locality. The surrounding area is undergoing a period of regeneration. The future character is critical. The appropriate redevelopment of properties will enable the realisation of Council's strategic direction for the locality's future built form. A variety of housing types and architectural styles are provided within a subdivision pattern that winds around the existing local road network. The neighbouring built form's age and integrity varies. It does not contain any aesthetic, cultural, social or historical significance.

The height, bulk and scale of the built form is less than that existing. The new dwelling complies with the LEP 2013 height standard. Furthermore, and if treated in isolation (as it can be given the dwelling and the garage / studio are separated by a minimum of 20m), the dwelling's FSR would also comply with the LEP 2013 FSR standard. The departure from the standard is a consequence of the studio below the garage which does not in any contribute to adverse environmental impacts or a poor streetscape outcome. The proposed built form is generally consistent with the intent of Council's key planning controls, is consistent with that existing and neighbouring and complements the varied hillside streetscape character along the western side of Amiens Road. The dwelling's massing responds accordingly as well as considering the neighbouring dwellings. The scale is broken down by the articulation of facades with the use of different materials and elements (including large open areas) which helps reduce the perception of any apparent bulk.

The building volume has been designed to be articulated, and to facilitate a contextually appropriate massing. The elevations are articulated in response to the form and size of the dwelling. The proposed design is re-interpreting established roof shapes and slopes, whilst integrating contemporary materials and an architectural aesthetic.

The resultant built form will positively add to the visual character of the locality. In terms of architecture, urban design and streetscape, the proposal will have a positive impact on the built environment in that:

- the scale of the proposal is characterised by the desired future character for the area. The height (reduced from that existing and now complying with the LEP 2013 height standard), bulk and scale (compliant FSR of dwelling if viewed in isolation) of the built form does not influence or set a precedent for future buildings along the western side of Amiens Road. This is aptly demonstrated at **Figure 4**;
- a single storey structure is maintained to the site's Amiens Road frontage;
- the visual catchment contains several buildings that will present a similar bulk and scale and which set the character. Consequently, the dwelling's height does not result in a scale of building that is out of character with the surrounding development (see **Figure 4**);
- the proposal conforms to and reflects the site's natural landforms. Excessive excavation is not proposed and proposed FFL's are consistent with those existing,
- the expression of the built form is adjusted to respond to:
  - solar access and the site's orientation;
  - the site and surrounding locality's topographical characteristics;
  - the design and character of existing adjacent development;
  - maintaining the amenity of the adjacent property owners;
  - internal and external amenity for the future occupants;
- high quality and durable (given the site's relative coastal location) external materials and finishes are proposed which positively contribute to the residential character and visual amenity of the locality;
- a high quality level of design is proposed ensuring an excellent standard of residential amenity for the occupants in terms of access, solar access, natural, cross flow and stack effect ventilation, visual and acoustic privacy, overlooking, overshadowing, outlook and views;
- the design is of a high quality and is complementary to the adjacent development and furthermore, the dwelling is considered to be an appropriate design response, and which is consistent with other redeveloped dwellings within the surrounding locality that provide the same or similar accommodation; and
- the building design creates a modern facade treatment to the elevations with a variation of materials, colours, patterns and textures which assist in the delineation of zones within the building and create an aesthetically pleasing development that is consistent with desired future character.

#### **4.2.2 Environmental amenity**

##### ***Solar access and passive solar design***

The design of the proposal seeks to take advantage of the site's solar access potential as follows:

- the site has an elevated westerly orientation;
- generous floor to ceiling heights internally with an envelope relative to the dwelling that is anticipated by the planning controls;

- the proposal provides significant natural light penetration throughout the dwelling through the introduction of an open plan and two roof skylights;
- windows, openings and the internal open floor plan ensures appropriate levels of solar exposure to all areas of the dwelling, including those openings to the south which take advantage of the views;
- shading devices will serve to protect the dwelling and its occupants from heating effect of solar radiation;
- primary living areas are connected to the external facades and glazing. These areas will benefit from the ability to make use of trapped solar heat gain through its glazing during the winter months;
- higher latitude winter solar rays will reach large portions of the western facades for lengthy periods during the early afternoon permitting solar heat gain. Similarly higher latitude winter solar rays will also reach the eastern facade for lengthy periods during the morning permitting solar heat gain;
- the design minimises reliance on artificial lighting and mechanical ventilation as follows:
  - an open floor plan is provided;
  - the dwelling benefits from both cross and stack effect ventilation, which results in enhanced thermal comfort and reduced reliance on artificial/mechanical cooling in the summer months; and
  - provision of operable doors and windows enables the use of natural ventilation for summer month cooling and at the same time, the opportunity to close these openings will allow adequate control to moderate the impact of higher than normal winds.

### **ESD**

In addition to the standard BASIX requirements (refer Section 4.1.1), the design intent is to create an open plan dwelling house that has excellent access to natural light and ventilation. The site organisation and the building form have been designed to respond to, not only with urban design rationale, but also to make the dwelling efficient in terms of its energy use. The following is noted:

- the site's relative permeability has been maintained;
- the provision of a 3,000 litre RWT for water storage and reuse;
- the provision of two rooftop skylights for the dwelling;
- areas of soft landscaping allow for infiltration/absorption and re-use rather than runoff;
- the construction materials proposed provide high thermal mass to minimise heating and cooling loads;
- the use of water and energy efficient fixtures and finishes; and
- the engagement with the outdoors, the natural ventilation, the increase in natural light and the passive solar controls will reduce energy consumption.

### **4.2.3 Landscaping and scenic quality**

The provision of landscaped area on the site adds to its landscape and scenic quality in the following manner:

- the provision of landscaping on the site reduces any perception of visual built form dominance over landscaping. The dwelling and the garage / studio sit comfortably within the established and likely

future streetscape and therefore are considered to maintain a general dominance of landscape over buildings;

- the proposed landscaping complements the locality's scenic and landscape quality;
- the site's relative permeability has been maintained through an appropriate provision of deep soil permeable surfaces;
- the proposed landscaping (and built form location) does not result in the loss of any mature vegetation (worthy of retention – see below). Additional new plantings are proposed which will positively contribute to the landscape and scenic quality of the immediate locality;
- the proposed development exhibits a high quality and ecologically sustainable development through compliance with the BASIX requirements and furthermore represents an imaginative and innovative landscape design;
- high quality, durable and appropriate planting is proposed relative to the site's location and adjacent context;
- substantial private open space is proposed / maintained (swimming pool, spa and surrounds); and
- the site is near significant public open spaces.

#### **4.2.4 Vegetation**

The site and neighbouring properties contain established mature vegetation. Of relevance to the proposal is the proposed removal of existing vegetation adjacent the southern boundary to enable the construction and use of the proposed inclinator. Given the proposed vegetation removal, an Arboricultural Impact Assessment (AIA) by Complete Arborcare is submitted separately.

The AIA identifies seven trees as follows:

- Trees 1 and 2 – Sydney Red Gums with high retention values;
- Tree 3 – a Tee Tree with a low retention value;
- Tree 4 – a Jacaranda an exempt species; and
- Trees 5, 6 and 7 – Cheese Trees with low retention values.

The recommendations / conclusions of the AIA states:

- *It is recommended that arborist supervision is undertaken when the removal of the existing driveway crossover is conducted. The method of removal must be non-destructive and guided by the arborist. Stem protection around tree T1 must be installed before any works commence and stay in place until the completion of the project.*
- *It has been concluded that trees T3-T7 will require removal (subject to Northern Beaches Council approval) to allow for the installation of the proposed inclinator. These trees have been assessed to have low retention values.*
- *Tree removal works must be undertaken by an AQF2 level 3 arborist in accordance with the Work Cover Amenity Code of Practice-1998 and the Work Safe Guide to tree Trimming and Removal-2006.*
- *It is recommended that an AQF Level 5 Arborist is engaged to oversee/meet any arboricultural matters that may rise if the proposed works are approved.*

#### **4.2.5 Internal amenity**

The built form is appropriate to the site with the design of the development positively contributing to the future character of the streetscape and providing internal amenity and outlook. The design:

- offers excellent amenity to its occupants and users. The dwelling is provided with excellent solar access;
- ensures occupants will enjoy good amenity through the separation of living, sleeping, and service zones;
- provides useable and functional open space areas to take advantage of vistas and outlook;
- maintains the terraced mid front yard lawn area;
- provides enlarged openings to maximise direct solar access and westerly vistas whilst minimising openings to side elevations;
- maintains curtilage to the adjacent properties with no amenity impacts to the neighbours;
- provides the opportunity for outlook;
- exhibits a high quality and ecologically sustainable development through compliance with the BASIX requirements;
- separation (and provision of architectural elements and screen planting) between the dwelling and adjacent properties assists in maintaining appropriate levels of aural and visual privacy;
- external areas are directly accessible from the rear ground floor level. These areas provide for significant amenity and useability for the occupants without compromising the amenity of adjacent properties given side boundary screening;
- provision of two rooftop skylights for the dwelling and an open floorplan for both the dwelling and the studio;
- the provision of an integrated two vehicle garage and studio below, a desirable planning outcome, given the site's topographical characteristics;
- vehicular entry is separate to the pedestrian entry;
- provision of adequate storage space;
- ensures that private open space is generous in size, appropriately oriented and directly accessible from primary living rooms;
- retention of the existing swimming pool, spa and surrounds for active and passive recreation; and
- provides generous floor to ceiling heights.

#### **4.2.6 Overshadowing**

Case Ornsby Design has prepared Shadow Diagrams for the existing and proposed development at 9am, 12 noon and 3pm during the winter solstice. In summary the proposed development will have the following overshadowing impacts:

- as a similar building alignment and reduced overall building height is proposed, the shadows cast by the new built form are not materially different nor do they affect different areas of the neighbouring properties. Generally existing levels of sunlight is retained to the neighbours and their primary living rooms and private open space areas;

- the design is consistent with the objectives of the control as it ensures the form and scale of the dwelling is not excessive and it also maintains a relative continuity of building form. By this the proposal exhibits a similar height, bulk and scale to that of adjacent properties;
- the site's open plan primary living rooms will receive more than adequate levels of direct solar access and natural ventilation which will have a positive impact on levels of residential amenity;
- a large portion of the site's landscaped and private open space area receives satisfactory levels of direct solar access and thus has a positive impact in relation to residential amenity. Furthermore, the private open space areas of the neighbouring properties maintain appropriate levels of solar access and their useability and functionality is not compromised;
- notwithstanding the above, the proposed development casts relatively additional shadows at varying times during the winter solstice, however, in this instance and the given circumstances of the case, this overshadowing is considered immaterial and acceptable for the following reasons:
  - any area to the south of any built form will always be overshadowed irrespective of the built form to its north;
  - shadows cast by the dwelling house are expected given the proposed built form is typically anticipated by the planning controls. In this regard the dwelling's height complies with the standard, its curtilage is maintained to the neighbouring properties and its FSR would comply if treated in isolation as two separate built forms are proposed with substantial curtilage provided in between;
  - the design is consistent with the objectives of the control as it ensures the built form's bulk and scale is not excessive. By this the proposal exhibits a height, bulk and scale which is generally like adjacent redeveloped properties;
  - due to the existing development density, fencing, topographical and vegetative characteristics of the area, the adjacent development is already overshadowed. The proposed built form does not fully block solar access to any western elevation openings (those which provide significant outlook and amenity) or external elevated open space;
  - the shadow cast by the built form is generally expected and typical of existing development in the locality, particularly given the locality's topographical characteristics;
  - openings are provided to more than one elevation on the neighbouring properties;
  - primary living rooms generally remain unaffected as they are logically provided with a westerly orientation (and more than one opening) for significant outlook and amenity;
  - small areas of land (typically the highly elevated battle-axe driveway) are affected and their relative useability is not materially compromised;
  - the resultant overshadowing impact of the proposal is unlikely to preclude an appropriate redevelopment or the redevelopment potential of the neighbouring properties;
  - approval of the proposal which relates to the locality's existing (established) and the area's likely future character will not set a precedent for non-complying applications; and
  - development on neighbouring properties overshadows itself.

The limited overshadowing of the proposal is acceptable in the circumstances of the case as it occurs for short periods of time and in the winter arc of the sun. Overshadowing within a relatively dense locality is

inevitable due to the closeness and type of built form, fencing, associated vegetation, topographical and landscape characteristics. Separation between the site and the adjoining property has been maintained.

#### **4.2.7 Privacy**

The site is located in an atypical low density residential environment within the R2 Low Density Residential zone that is heavily influenced by its topographical variations and mature vegetation and screen planting. The site and its adjacent built form is generally part of a typical subdivision pattern (albeit with a battle-axe allotment to its south) that results in a range of elevated two and three storey dwellings. Elevated external open space by nature of the topographical characteristics of each property is a common feature. Resulting from the locality's topographical characteristics and as is the case in most residential neighbourhoods, overlooking of adjacent properties is inevitable.

The relationship between the site and its immediately adjacent (to each side) built form is the critical element in relation to the retention of aural and visual privacy. The specific design measures proposed to maintain or improve the existing aural and visual privacy relationship between the site and its adjacent properties includes:

- consistent front and rear building alignment with that existing;
- generally consistent side boundary building alignment with that existing;
- provision of screen planting to the northern side of the eastern ground floor level external terrace;
- retention of existing timber screen fencing along the northern boundary (refer **Figure 10**);
- provision of screen planting to each side boundary between the front dwelling alignment and the rear alignment of the garage/ studio;
- relative consistency in FFL's with those existing for both the dwelling and the garage / studio;
- all primary living rooms are oriented internal to the site;
- provision of a steel screen to the:
  - external stairs on the northern side of the garage / studio;
  - the garbage enclosure;
  - western side of the inclinator platform;
- side elevation openings are not proposed for the garage or the studio;
- provision of sandstone blade walls to the dwelling and the garage / studio;
- limited (and where provided opaque) southern elevation openings other than to service areas for the dwelling at each level;
- the existing dwelling is provided with a west facing balcony at the first floor level. A balcony is not proposed at this level of the new dwelling;
- provision of privacy and shade screens to the:
  - ground and first floor level at the northern elevation;
  - southern extent of the ground floor level balcony
  - western elevation at the first floor level;
  - master bedroom's eastern elevation openings;

- living room's eastern elevation's northern most opening;
- provision of steel window hood surrounds;
- the height, bulk and scale of the site's built form is not dissimilar to that of the adjacent dwellings;
- the dwelling's reduced overall maximum height as compared to existing
- location, orientation and design of windows and openings to avoid the incidence of direct overlooking between the site and those adjoining and adjacent. Most openings are logically oriented to the west to take advantage of the available panoramic views and vistas;
- internalisation of all required plant and equipment;
- retention of the swimming pool, spa and surrounds in their current location; and
- the land use as a single dwelling house is retained.

The locality's topography and resultant building proximity creates privacy impacts. The site is within an established residential precinct that contains a mixture of elevated multi level dwellings. Given the built form proposed there will be a degree of mutual overlooking, however, due to the above design measures, it is considered the proposal will not increase mutual overlooking to an unacceptable level. The site's proposed built form is consistent with that already considered acceptable on nearby properties by Council.

The nature of such an urban environment is that all future development seeks to maximise levels of residential amenity and density through design. The proposed built form is consistent with or less than the established and likely future built character of the surrounding locality. Privacy concerns have not impacted on the redevelopment of adjacent properties and it is not considered the proposal will materially increase privacy concerns to unacceptable levels.

#### **4.2.8 Acoustics**

The proposed development has been designed to ensure appropriate levels of noise/sound transmission in accordance with relevant BCA requirements and Australian Standards. This will maintain existing levels of amenity for neighbouring properties. Mechanical plant and equipment including that for the pool and spa and inclinor is contained either within the dwelling's basement or the at the rear of the studio within the existing excavated zone. Adverse acoustic impacts are therefore not anticipated.

#### **4.2.9 Views**

Dwellings are adjusted to the natural topography and are typically oriented to take advantage of their panoramic westerly views and vistas of the harbour, including land and water interface. The site's only real built form neighbours are to the north and south respectively. These are typically two or three storey dwellings with elevated external spaces that are also logically oriented to take advantage of their westerly vistas, generally with minimal interruption. View context images for the neighbouring property to the site's north across a side boundary and from southern (side) elevation openings demonstrate that there is no currently no view as a result of the existing built form (refer **Figure 10**). Westerly views from this property's western elevation openings remain unimpacted.

The dwelling and its surrounds sit comfortably within the established and likely future built form relative to height, bulk, scale and envelope including setbacks locational context (see **Figures 4, 5 and 16**). The proposal exhibits a high quality architectural, urban and landscape design solution for the site and which appropriately responds to the site's constraints. The LEP 2013 height compliant built form is articulated

and visually interesting. It has large open areas at the basement level which enable views through the site and beyond. The dwelling's actual GFA/FSR would comply with the LEP 2013 FSR standard if it was separated from the garage / studio as it realistically can be given the substantial separation (20m) between the built forms. Its resultant height, bulk and scale is therefore relatively anticipated by the planning controls. The dwelling maintains a human scale given its locational context. Adjacent properties will continue to be provided with vistas out, over and across the site (sometimes via side boundary), particularly those to the site's north and south.

Views from the Amiens Road carriageway (i.e. the public domain) will be improved due to the proposed dwelling's decreased height and skillion roof design. These views are significant and include land and water interface.

Although other than the wall height departure, the proposal is consistent with Council's other relevant built form standards and guidelines, the NSW Land and Environment Court planning principle (*Tenacity*) requires that the question be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the available views. It is contended that the proposed built form has been designed following detailed consideration of the site constraints. The building form, building envelope and footprint and centrally located structures positively responds to view sharing principles in a highly urbanised city environment that is heavily influenced by topographical variations. Typically westerly views have been retained and with the expansive undercroft north western portion of the dwelling remaining free of external enclosing walls.

The overall bulk and scale and building envelope of the proposed built form is generally consistent with that of neighbouring and nearby hillside properties and does not in any way preclude the appropriate redevelopment of these properties.

Based on the above, the proposal is entirely satisfactory in terms of view impacts and vista sharing given the circumstances of the case and the established and likely future built form on adjacent properties.

#### **4.2.10 Geotechnical / excavation**

The site has a westerly aspect and is on the low side of Amiens Road. It is located towards the top of the steeper portion of the slope that rises from the harbour to the plateau above.

The slope drops from the road at angles between 20° and 25° (approximately 20m from the front to rear boundary). The site's surface is controlled by the underlying sandstone that steps down the slope in a series of narrow benches. The site is underlain by Hawkesbury sandstone that outcrops across the site. The sand grains are mainly quartz with some sand grade claystone fragments. The existing multi level dwelling has been cut into the slope and terraced down the slope. The dwelling is supported on brick and sandstone walls and piers.

Based on the above, Jack Hodgson Consultants has prepared a Geotechnical Assessment (submitted separately) for the proposal. In relation to geotechnical hazards, the report notes, the following:

- the soil materials are sandy loams over thin sandy clays with the sandy clays being absent at many locations;
- the soil is up to 1m thick and the underlying bedrock are at depths expected to 0.5m to 3m or deeper where filling has been undertaken;

- the surrounding areas show sandstone bedrock outcropping and the properties beside are at similar elevations and have similar geomorphology. These properties do not present a risk of instability to the site;
- the natural soil profile is classified Class M defined as moderately reactive clay or silty sites;
- the site is naturally well drained with surface and subsurface runoff draining toward the rear western boundary;
- overland flow of stormwater from neighbouring properties was not evident. Some stormwater runoff could enter the site from above during heavy or extended rainfall;
- no geotechnical hazards likely to affect above the site (located on the ridge of a hill);
- the demolition works at the site's frontage will be a potential risk hazard to the road reserve and neighbouring properties as the depth of works is approximately 3.5m below ground level existing. A failure of existing retaining walls and any required shoring during these works would be considered a potential hazard one. In this regard an excavation management plan be provided before bulk excavations occur. Additionally, recommendations are made and if implemented the likelihood of cut failing and impacting is assessed as being unlikely, the consequences to property of such failure are minor and the risk to property is low;
- no geotechnical hazards likely to affect below the site;
- the areas beside the site are also classed slip affected hazard areas. These blocks have similar elevation and geomorphology to the site. No geotechnical hazards likely to adversely affect beside the site;
- as no geotechnical hazards are likely to adversely impact the site were observed below or beside the site, risk analysis is not required;
- the proposed development is suitable for the site;
- no geotechnical hazards will be created by the completion of the proposal in accordance with the requirements of the report and good engineering and building practice; and
- recommendations within the report are made relative to:
  - excavations;
  - types of structure;
  - fill;
  - stormwater drainage;
  - subsurface drainage;
  - inspections;
  - recommended geotechnical conditions

Having regard to the above, the conclusion of the report states:

*The site and the proposed development can achieve the Acceptable Risk management criteria outlined in Landslide Risk Management March 2007, published by the Australian Geo Mechanics Society provided the recommendations given in Section 10 are undertaken.*

#### **4.2.11 Safety and security**

There are four principles that need to be used in the assessment of DA's to minimise the opportunity for crime and promote safety and security:

- surveillance;
- access control;
- territorial reinforcement; and
- space management.

The proposal is consistent with crime prevention through environmental design (**CPTED**) principle of surveillance as follows:

- the entry to the dwelling provides architectural, landscape and spatial interest and a clear address. The clear definition of the private and public domain and the sequences of the front landscaped areas, including the garage/studio and the dwelling generally positively contribute to the occupant's levels of residential amenity;
- the design and placement of physical features, activities and people so as to maximise visibility and foster positive social interaction among legitimate users;
- appropriate lighting;
- secure access points;
- retained curtilage with neighbouring properties;
- adequate or improved (relative to the garage forecourt and vehicle turntable) sight distances;
- passing vehicular traffic can be used as a surveillance asset;
- the landscape design provides surveillance, especially in proximity to the site's designated entry points;
- the landscape design precludes opportunities for concealment;
- appropriate fencing or landscaping is provided / maintained.

The proposal is consistent with the CPTED principle of access as follows:

- public and private spaces are clearly differentiated;
- entrances and exits, fencing, lighting and landscape has been selectively placed to limit access and control flow. In this regard natural access control occurs;
- pedestrian routes and spaces within the site are clearly defined and have clear and direct sightlines for users and
- clearly identifiable, points of entry to the site are proposed.

The proposal is consistent with the CPTED principle of territorial reinforcement and space management as follows:

- public and private spaces are clearly differentiated;
- regular maintenance or upgrade of facilities as/when required; and
- natural surveillance by the users is casual and there is no specific plan for people to watch out for criminal activity. All members of the community are involved in what is happening around them.

#### **4.2.12 Demolition and waste management**

Civil construction works associated with the proposed built form will utilise normal (standard) site management practices to ensure that waste material is minimised and that excess material generated by the works is re-used on site, or disposed of suitably. All demolition works will be undertaken in accordance with the requirements of AS2601 – The Demolition of Structures.

A Waste Management Plan by Case Ornsby Design is submitted separately. It has been prepared in accordance with Council's standard guidelines and practices relating to demolition, construction and on-going waste management.

A dedicated and screened waste storage area is provided adjacent to the north eastern boundary within the garage forecourt area. Collection of garbage from the site will continue in the same manner (via Amiens Road) by Council's contractors on the designated day(s).

#### **4.2.13 Social and economic issues**

The proposed development will have several positive social and economic impacts, including:

- a modern and contemporary dwelling house and associated garage / studio is proposed that exhibits a benchmark architectural and landscape design solution and which positively responds to the site's locational characteristics without adversely impacting on neighbouring properties or the surrounding public domain;
- development of the site to facilitate a use which is generally consistent planning controls for the site and consistent with community expectations for the area;
- it maintains residential housing on a residential allotment within the Northern Beaches LGA;
- it retains vistas from neighbouring properties and improves those from the surrounding public domain (Amiens Road);
- construction will provide temporary employment opportunities;
- the population on the site will continue to patronage facilities within the surrounding villages, a desired outcome;
- provision of residential allotments to satisfy ongoing demand for home sites in the Northern Beaches LGA and specifically Clontarf, an area undergoing significant built form regeneration;
- re-use of an existing residential allotment of land for domestic residential purposes; and
- the promotion of the locality as a desirable place to live and work.

In addition to the above, the provision of housing close to public transport, employment opportunities and services, will provide good quality accommodation that is suitable for the intended occupants encouraging equal access to public amenities. The dwelling has been designed to cater for a family household. This enriches residential diversity. A well-designed and socially responsive development will always attract a socially diverse mix of people and in turn improve and enhance for a much richer community life in the area.

### **4.3 S4.15(1)(c) The suitability of the site for the proposed development**

Having regard to the characteristics of the site and its location, the proposed development is considered appropriate in that:

- the site is zoned to accommodate the proposal;
- the size and dimensions of the land are appropriate for the accommodation of the proposal;
- it will not result in any material environmental impacts to the adjoining properties or surrounding public domain particularly in relation to overshadowing, views, aural and visual privacy and access to natural daylight and ventilation;
- the site has good access to amenities, facilities and services;
- the site is fully serviced and existing infrastructure can be extended if required;
- the proposed use, density and scale is generally consistent with that of the surrounding development (and that existing on the site) and likely future built form; and
- it is consistent with Council's planning controls and where it departs it is still nonetheless consistent with the established and likely future built form and landscape context.

As detailed throughout this SEE, the proposed development will have several positive impacts whilst not resulting in any material environmental impacts and it is therefore considered that the site is suitable to accommodate the proposal in its current form.

### **4.4 S4.15(1)(d) Any submissions made in accordance with the Act or Regulations**

It is expected that Council will notify the proposal in accordance with its notification policy and will consider submissions (if any) made during the period of public exhibition and will afford the applicant to respond to such submissions as/if required.

### **4.5 S4.15(1)(e) The public interest**

The project provides a range of benefits that are in the public interest, including:

- redevelopment of an existing residential allotment of land for residential purposes without any adverse impacts to adjoining and adjacent properties and the surrounding public domain;
- economic and social benefits such as employment during and after construction;
- the promotion of the locality as a strong and healthy place for local business and investment; and
- the enhancement of the locality as an attractive place to live, work or visit.

The public interest is an overarching concept. Approval of the proposal will result in a modern and contemporary built form that has a high level of architectural, urban and landscape design (including environmental design initiatives) and which will sit comfortably within its locational (built form, landscape and scenic) context. There are no reasons why the proposal is not in the public interest.

## 5.0 CONCLUSION

An assessment of the relevant planning issues reveals the proposal has appropriate planning merit and does not result in any material environmental impacts to the neighbouring properties and the surrounding public domain in terms of overshadowing, aural and visual privacy, views, visual impact and access to daylight and natural ventilation.

Through the demonstration of a quality architectural, landscape and urban design solution, the site's built form will unquestionably positively contribute to the locality's built form character. The internal amenity for the occupants of the dwelling and studio will be superior. Furthermore, the technical studies of the site's capacity for redevelopment do not indicate any significant obstacles to development of the site for the purposes proposed.

Council can approve the development with confidence that its merits are sound. The Council as the determining authority unquestionably has the power to approve the proposal as it is empowered to approve a development that departs from an LEP 2013 development standard (FSR), where the departure is reasonable, technical, consistent with the context of the surrounding locality and fully justified in the presented circumstances of the case. Additionally the new built form complies with the LEP 2013 height standard and is some 1.131m lower in maximum height than the existing dwelling.

Where the proposal departs from DCP 2013 guidelines, the departure from the guideline is generally existing, reasonable, is consistent with the context of the surrounding locality and fully justified in the presented circumstances of the case. Relative to the proposed departures it is considered there are sufficient planning grounds for their justification as an appropriate (equitable) planning outcome results.

Considering the above, the proposal is worthy of Council's consent.