

**Four Towns  
Planning**

*Planning and property consultant*

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

## **Alterations and Additions to Existing Semi-Detached Dwelling and Associated Works**

**10 Smith Street,  
Manly NSW 2095**

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**This report has been prepared to support a Development Application under the *Environmental Planning and Assessment Act 1979*.**

**Report prepared by:**

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Director – Four Towns Pty Ltd

**Report prepared for:**

Jill Tunbridge

**8 December 2024**

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## 1. Introduction and Background Information

### 1.1 Introduction

This report has been prepared as supporting documentation for a Development Application for alterations and additions to the existing semi-detached dwelling and associated works at 10 Smith Street, Manly, being Lot B within Deposited Plan 437840.

This report has been prepared following instructions from the property owner Jill Tunbridge. In preparing this application consideration has been given to the following:

- *Environmental Planning and Assessment Act, 1979* (as amended) (EP&A Act);
- Environmental Planning and Assessment Regulation 2021;
- Relevant State Environmental Planning Policies;
- Manly Local Environmental Plan 2013 (MLEP 2013);
- Manly Development Control Plan (MDCP);
- Survey Plan prepared by CMS Surveyors Pty Ltd;
- Architectural Plans prepared by Action Plans Pty Ltd;
- Stormwater Management Plan prepared by NB Consulting Engineers;
- BASIX Certificate prepared by Action Plans Pty Ltd;
- Arboricultural Impact Assessment prepared by Hugh the Arborist.

This Statement of Environmental Effects describes the proposed development having particular regard to the provisions of Section 4.15 of the EP&A Act 1979 and examines any potential environmental impacts with regard to the relevant sections of the Act, State policies and requirements of Northern Beaches Council's MDCP.

The conclusions of the Statement of Environmental Effects are that the proposed alterations and additions to the existing semi-detached dwelling and associated works at 10 Smith Street, Manly, are permissible with development consent and are consistent with the relevant statutory planning instruments including Manly Local Environmental Plan 2013 and the planning policies of Manly Development Control Plan 2013.

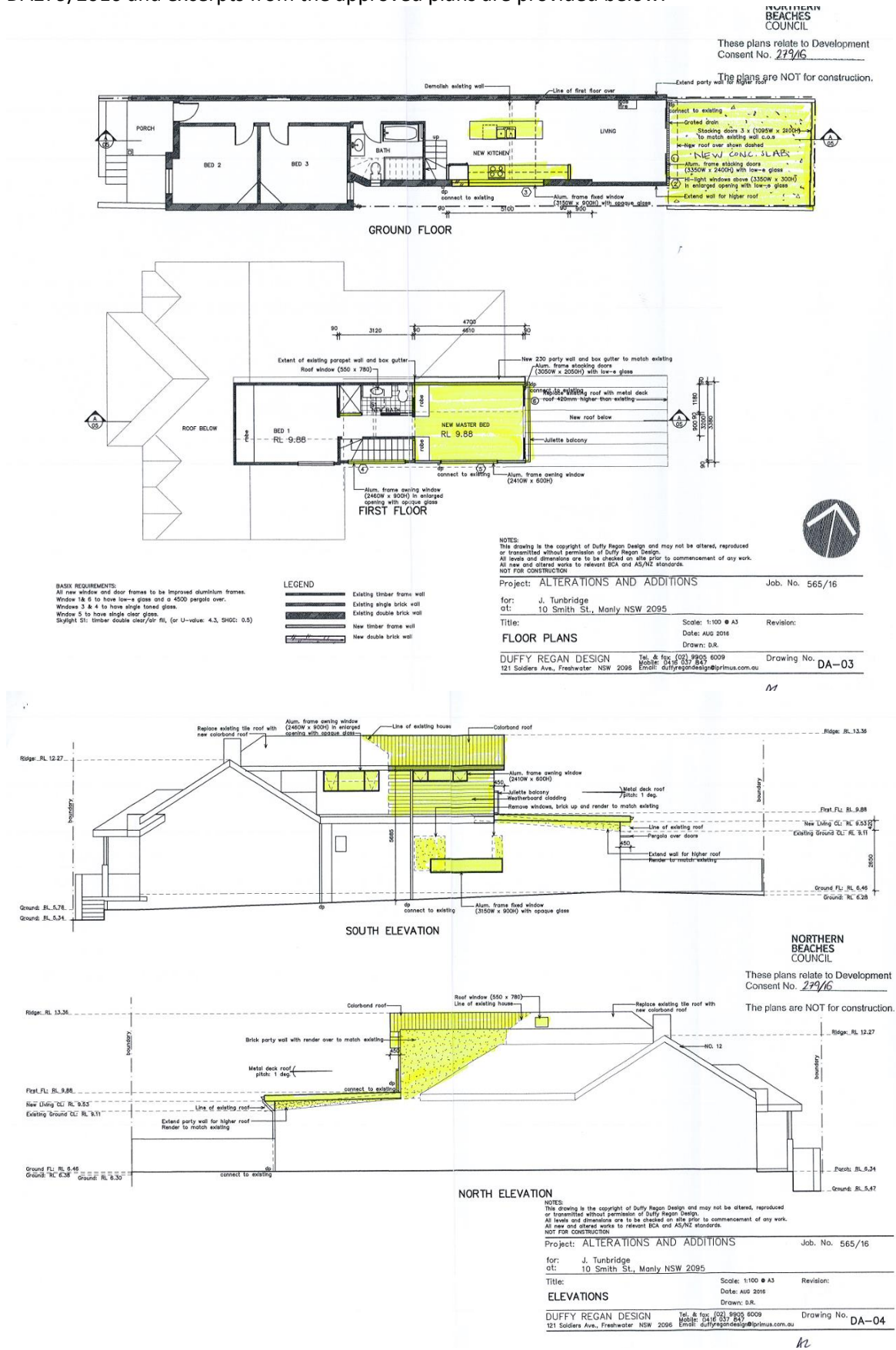
Accordingly, the Development Application succeeds on its merits and should be approved by Council as submitted.

### 1.2 Background Information

The site was the subject of a recent Development Application to Northern Beaches Council 'DA 279/2016' which obtained approval for alterations and additions to the existing semi-detached dwelling including first floor extension with Juliette balcony, internal alterations, changes to windows and new gate to the rear fence.

It is acknowledged that the construction works were undertaken without a construction certificate. The owner has been the subject of investigations, and it was found that the project manager and construction company engaged to complete the works on their behalf never obtained a construction certificate, albeit paid to complete. As a result, the owner proposes to demolish the works undertaken and seek re-approval. On this basis, the proposed application does not propose or seek

approval for any retrospective works. Comments from the assessment officers report from DA279/2016 and excerpts from the approved plans are provided below:



## Assessment Officers Report (Excerpts):

**Part 4 Principal development standards**

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

4.	Principal Development Standards	Requirement	Proposed	Complies Yes/No	Comments
4.3	Height of buildings	8.5m	7m	Yes	
4.4	Floor Space Ratio	0.6:1 (81.9m <sup>2</sup> )	0.81:1 (110.9m <sup>2</sup> )	No	See comment below

**4.6 Exceptions to development standards**

Council/Consent Authority may consider a variation, where that variation would achieve a better outcome.

*Comment:*

The proposed development exceeds the floor space ratio development standard. The applicant has submitted a written application to vary the development standard pursuant to Clause 4.6 of the Manly LEP. The application claims that the development standard would hinder the efficient development of the site and that there are sufficient environmental planning grounds to justify an exception to the development standard for the following reasons:

- The undersized nature of this lot doesn't allow for additions.
- The adjacent semi-detached cottage (No.8) has a first floor extension of the same or similar size so there is a precedent.
- The new FSR complies with the variation in the DCP.

In this case, compliance with the development standard is considered unreasonable due to the undersized nature of the lot. The proposed development is on a site which is classified as an undersized lot under Clause 4.1.3.1 of the Manly DCP, having a FSR of 0.44:1 when the maximum variation to lot size of 250m<sup>2</sup> is applied. Under this provision of the DCP, the proposed development is compliant with the standard of 0.6:1 provided by the Manly LEP, 2013.

The proposal is considered to be consistent with the LEP objectives of Clause 4.4 for FSR, Clause 4.6 for Exceptions to Development Standards and the objectives of Zone R1 – General Residential for the following reasons:

**4.4 Floor space ratio**

(1) *The objectives of this clause are as follows:*

(a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*

The proposed addition is significantly smaller in scale than the existing dwelling. Therefore, the bulk and scale of the development will not be substantially increased, and is considered to be consistent with the existing and desired streetscape. Additionally, the proposed works are to be located behind the roof line and existing first floor, so are not generally visible from the street.

(b) *to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*

The proposed addition is not generally visible from the street and does not obscure and landscape or townscape features.

(c) *to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*

The proposed works are to take place behind the existing roof line and first floor and will have no unreasonable impacts of the character and landscape of the area.



- (d) *to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*

The proposal, as conditioned, will have no unreasonable impacts on adjoining land or the public domain.

- (e) *to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

N/A

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

See Clause 4.6.

- (2A) *Despite subclause (2), the floor space ratio for a building on land in Zone B2 Local Centre may exceed the maximum floor space ratio allowed under that subclause by up to 0.5:1 if the consent authority is satisfied that at least 50% of the gross floor area of the building will be used for the purpose of commercial premises.*

N/A

#### **4.6 Exceptions to development standards**

- (1) *The objectives of this clause are as follows:*
- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The proposal is consistent with the objectives of LEP Clause 4.6. In this case, flexibility in the application of development standards will achieve a better outcome by allowing a first floor addition a practical scale.

#### **Comment:**

The proposal has been designed to a similar bulk and scale to that approved under DA279/2016 albeit with some minor amendments based on the clients requirements for the dwelling. On the basis of the above, the proposal can be supported as per the original merit assessment granted in 2016.

The proposal was not the subject of a pre-lodgement meeting with Northern Beaches Council.

## 2. Site Profile

### 2.1 Property Description

The subject allotment is described as 10 Smith Street, Manly, being Lot B within Deposited Plan 437840. The site is zoned R1 General Residential under Manly Local Environmental Plan 2013.

The site located within a heritage conservation area and is adjacent to heritage item '12' – relating to all stone kerbs within the Manly municipal area, and item '1223' – relating to the street trees within Smith Street (from Pine Street to Carlton Street, and around the intersection with Alexander Street).

### 2.2 Site and Locality Description

The subject site is located on the eastern side of Smith Street, north of the intersection with Carlton Street, and south of the intersection with Pine Street. The site is located in a group of semi-detached cottages with undersized lot areas. The allotment is regular in shape with a 4.51 primary western frontage to Smith Street, a 4.395m secondary eastern frontage to Smith Lane, and a site depth of 30.48m. The total site area is 136.8sqm.

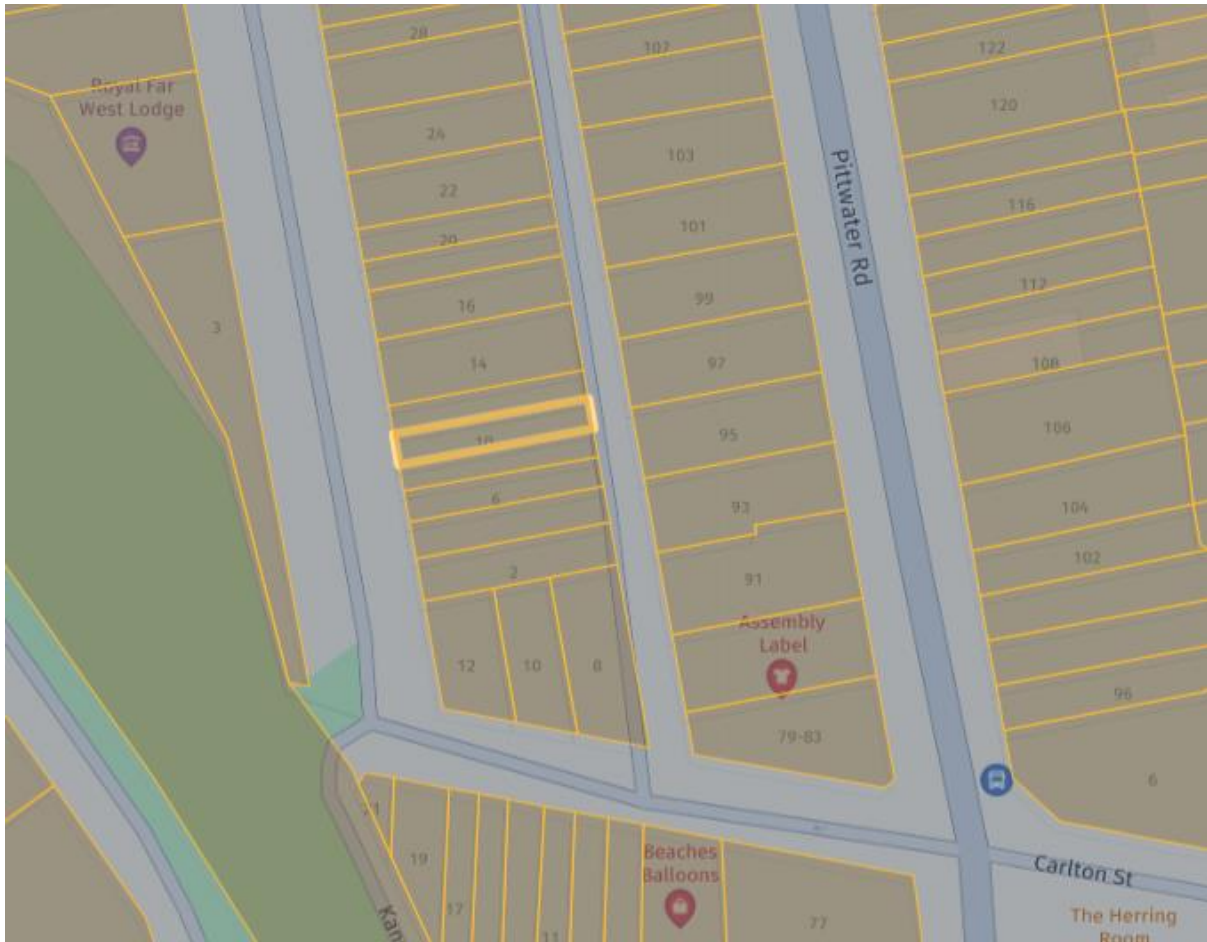
The locality maps on the following page show the location and area of the site:

Locality Maps



Source: Nearmap 2024





Source: Nearmap 2024

The immediate locality has a variety of residential property types and sizes. The existing surrounding development comprises a mix of single to two storey dwelling houses, semi-detached dwellings and shop-top housing developments up to three storeys in bulk and scale along Pittwater Road to the east.

A visual analysis on the following pages outlines the existing site and the bulk and scale of the area.

**Visual Analysis**



*Photograph of the subject site – 10 Smith Street, Manly*



*Photograph of the site from the rear lane*





*Photograph of the site and properties to the south – note first-floor additions*

### 3. Proposal

The proposal is for alterations and additions to existing semi-detached dwelling house and associated works at 10 Smith Street, Manly. The proposal is consistent with relevant Council controls and ensures privacy and solar access are maintained for surrounding properties and the site. The proposal includes the following:

#### **Demolition Works**

Demolition works as depicted on drawings DA03, DA05 and DA06 prepared by Action Plans Pty Ltd.

#### **Dwelling**

##### *Ground Floor Alterations*

- Porch with stair
- Entry (existing)
- Bed 2 (existing)
- Bed 3 (existing)
- Bath
- Stair
- Laundry
- Open kitchen and living with patio existing

##### *First Floor Additions*

- Master Bed
- Ensuite
- Stair
- Bed 1

##### *Roof Plan*

- New rear ground floor and first floor roof with metal sheeting with skylights as depicted

*\*Refer to architectural plans prepared by Action Plans Pty Ltd for a full description of all works.*

## 4. Statutory Planning Controls

The proposal has been assessed in accordance with the following instruments and controls:

- *Environmental Planning and Assessment Act 1979*, and Environmental Planning and Assessment Regulation 2021;
- State Environmental Planning Policies;
- Manly Local Environmental Plan 2013; and
- Manly Development Control Plan 2013.

### 4.1 *Environmental Planning and Assessment Act 1979 (EP&A Act 1979) and Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)*

The EP&A Act 1979 governs all environmental planning instruments within New South Wales. The proposal has been reviewed pursuant to the matters for consideration within Section 4.15 of the EP&A Act 1979.

The proposal is not Designated Development under Section 4.10 of the EP&A Act 1979 or Schedule 3 of the EPA Assessment Regulation 2021, therefore Northern Beaches Council is the Consent Authority. In addition, the proposal does not constitute an Integrated Development under the EP&A Act 1979, Section 4.46 with no further approvals from other Government agencies required.

### 4.2 State Environmental Planning Policies (SEPPs)

#### **SEPP (Transport and Infrastructure) 2021**

It is submitted that the proposal does not fall under the provisions of SEPP (Transport and Infrastructure) 2021 and therefore no assessment is required.

#### **SEPP (Sustainable Buildings) 2022**

The proposal has been assessed in accordance with the relevant provisions of the BASIX and Energy Efficiency. A BASIX Certificate has been prepared by Action Plans Pty Ltd and outlines the proposal's compliance with the provisions of BASIX and Energy Efficiency.

#### **SEPP (Resilience and Hazards) 2021**

Chapter 4 of the SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting of consent to the carrying out of any development on that land.

#### **4.6 *Contamination and remediation to be considered in determining development application***

- (1) A consent authority must not consent to the carrying out of any development on land unless—*
- (a) it has considered whether the land is contaminated, and*
  - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*



*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

*(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

*(4) The land concerned is—*

*(a) land that is within an investigation area,*

*(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*

*(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—*

*(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*

*(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

It is submitted that the site has been used for the purpose of residential accommodation for decades. The builder/contractors should take all measures to ensure if contamination is found during construction that relevant procedures are followed to report and remove contaminated materials. A site inspection was undertaken with no landfill sited. As a result, it is our professional opinion that the site is classed low risk and no further assessments are required.

#### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to various rescinded SEPPS that related to the preservation of trees and vegetation, koala habitat and bushland in urban areas.

The aims of this Policy are to protect the biodiversity values of trees and other vegetation, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The development remains consistent with the provisions of the SEPP. All significant trees and vegetation will be retained on-site. The proposal is acceptable and will not have an adverse impact on the natural environment. The proposal is supported by an Arborist Report prepared by Hugh the Arborist as the proposed works are located within 5m of the existing palm tree located at the rear of the site.

### 4.3 Manly Local Environmental Plan 2013 (MLEP2013)

The relevant matters to be considered under MLEP2013 are outlined below in the LEP summary compliance table.

<b>Part 4: Principal Development Standards</b>			
<b>Standard</b>	<b>Permitted</b>	<b>Proposed</b>	<b>Comments</b>
4.1 Minimum subdivision lot size	250sqm	N/A	N/A – no subdivision proposed.
4.1AA Minimum subdivision lot size for community title scheme	N/A	N/A	N/A
4.1A Minimum lot sizes for manor houses and multi dwelling housing (terraces) in Zone R2	N/A	N/A	N/A
4.2 Rural subdivision	N/A	N/A	N/A
4.3 Height of buildings	8.5m	6.448m	Complies – Refer to assessment under Heading Clause 4.3 Height of Buildings.
4.3A Special height provisions	N/A	N/A	N/A
4.4 Floor space ratio	81.9sqm 0.6:1  Small lot provisions (DCP): 150sqm	Existing: 112.33sqm 0.82:1  Approved DA279/2016: 110.9sqm 0.81:1  Proposed: 112.74sqm 0.824:1 (if small lot provisions applied – 0.451:1)	Merit Assessment – Refer to assessment under Heading Clause 4.4 Floor Space Ratio and Clause 4.6 Exceptions to Development Standards
4.5 Calculation of floor space ratio and site area	Noted	N/A	Noted
4.6 Exceptions to development standards	Noted	Yes – variation proposed to clause 4.4 Floor Space Ratio.	A variation is required for Clause 4.4. It is our professional opinion that sufficient environmental planning grounds allow the proposed variation with a Clause 4.6 report submitted with the application.

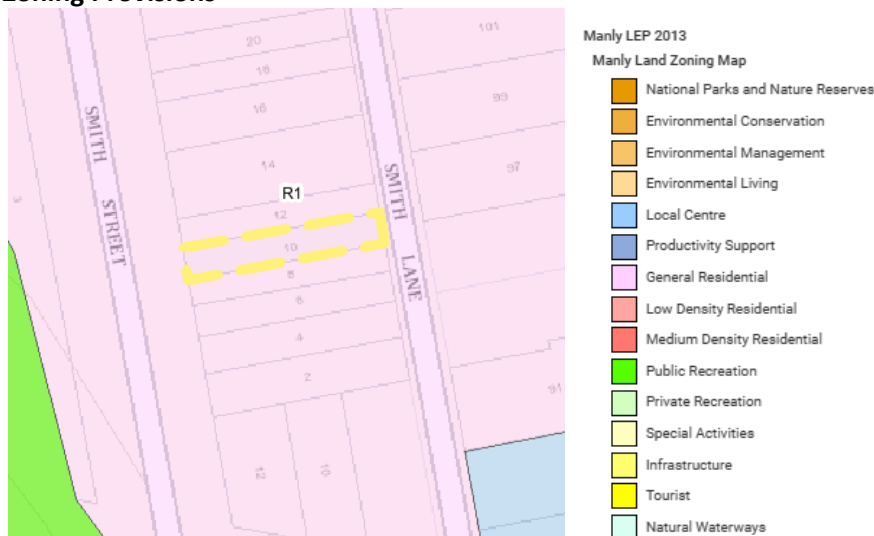
<b>Part 5: Miscellaneous Provisions</b>	
<b>Provisions</b>	<b>Comments</b>
5.1 Relevant acquisition authority	N/A

5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissible uses	N/A
5.5 Controls relating to secondary dwellings on land in a rural zone	N/A
5.6 Architectural roof features	N/A
5.7 Development below mean high water mark	N/A
5.8 Conversion of fire alarms	N/A
5.9 Dwelling house or secondary dwelling affected by natural disaster	N/A
5.9AA (Repealed)	N/A
5.10 Heritage conservation	The subject site is located within a Heritage Conservation Area. The site also adjoins two heritage items, 12 stone kerbs and 1223 street trees. Refer to assessment under Heading 5.10.
5.11 Bush fire hazard reduction	N/A
5.12 Infrastructure development and use of existing buildings of the Crown	N/A
5.13 Eco-tourist facilities	N/A
5.14 Siding Spring Observatory – maintaining dark sky	N/A
5.15 Defence communications facility	N/A
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones	N/A
5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	N/A
5.18 Intensive livestock agriculture	N/A
5.19 Pond-based, tank-based and oyster aquaculture	N/A
5.20 Standards that cannot be used to refuse consent—playing and performing music	N/A
5.21 Flood Planning	A portion of the subject site is identified within the Medium Risk Precinct within Councils Flood Hazard Map. Refer to assessment under Heading 5.21.
5.22 Special Flood considerations	N/A
5.23 Public Bushland	N/A
5.24 Farm stay accommodation	N/A
5.25 Farm gate premises	N/A

<b>Part 6: Relevant Additional Local Provisions</b>	
<b>Provisions</b>	<b>Comments</b>
6.1 Acid sulfate soils	The site is identified as a Class 4 Acid Sulfate Soils site. The proposal does not trigger any requirements for an acid sulfate soils report.
6.2 Earthworks	N/A – no earthworks proposed with this application.
6.3 (Repealed)	N/A
6.4 Stormwater management	Complies – the proposal includes details on relevant stormwater provisions. Refer to Stormwater Plans prepared by NB Consulting Engineers for full details.
6.5 Terrestrial biodiversity	N/A
6.6 Riparian land and watercourses	N/A
6.7 Wetlands	N/A
6.8 Landslide risk	N/A – the site is not identified as a geotechnical hazard or within a landslip area.
6.9 Foreshore scenic protection area	N/A
6.10 Limited development on foreshore area	N/A
6.11 Active street frontages	N/A
6.12 Essential services	Complies – the site has access to relevant essential services.
6.13 Design excellence	N/A
6.14 Requirement for development control plans	N/A
6.15 Tourist and visitor accommodation	N/A
6.16 Gross floor area in Certain Areas	N/A
6.17 Health consulting rooms in Zones C3 and C4	N/A
6.18 (Repealed)	N/A
6.19 Development in St Patrick's Estate	N/A
6.20 Location of sex service premises	N/A
6.21 Noise impacts – licensed premises	N/A
6.22 Development for the purposes of secondary dwellings in certain residential and conservation zones	N/A

<b>Relevant Schedules</b>	
<b>Schedule</b>	<b>Comments</b>
Schedule 1 – Additional permitted uses	N/A
Schedule 2 – Exempt development	N/A
Schedule 3 – Complying development	N/A
Schedule 4 – Classification and reclassification of public land	N/A
Schedule 5 – Environmental heritage	N/A
Schedule 6 – Pond-based and tank-based aquaculture	N/A

## Zoning Provisions



### Zone R1 General Residential

#### 1 Objectives of zone

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

#### 2 Permitted without consent

Home-based child care; Home occupations

#### 3 Permitted with consent

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); Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Tank-based aquaculture; Water recreation structures; Water recycling facilities; Water supply systems

#### 4 Prohibited

Advertising structures; Water treatment facilities; Any other development not specified in item 2 or 3

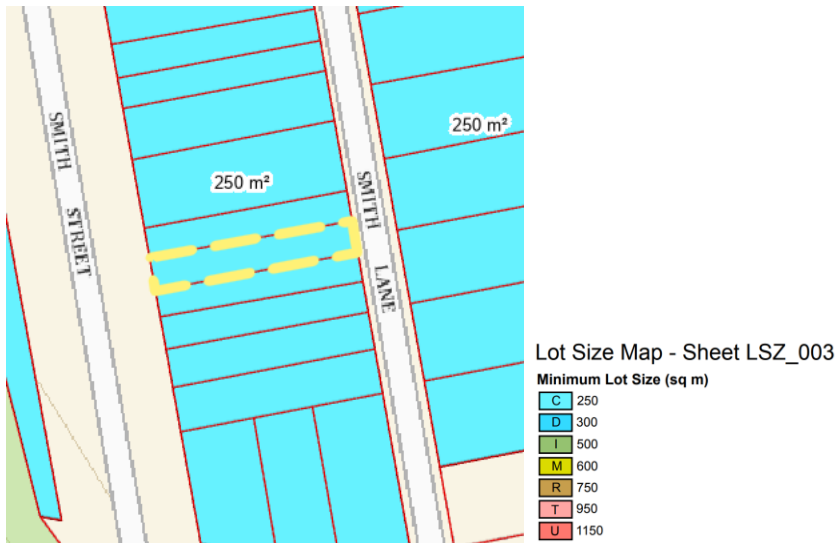
#### Comment:

Complies – the site is zoned R1 General Residential. A semi-detached dwelling is a permissible land use with Council's consent. The proposal is consistent with the relevant objectives of the zone noting that the proposal enhances the existing semi-detached dwelling and retains the use which provides a land use variety noting dwelling houses, terraces and residential flat buildings in the immediate area. The proposal revitalises the site which is consistent with recent works to modernise adjoining properties.



## Part 4 Principal development standards

### 4.1 Minimum subdivision lot size



(1) The objectives of this clause are as follows—

- (a) to retain the existing pattern of subdivision in residential zones and regulate the density of lots in specific locations to ensure lots have a minimum size that would be sufficient to provide a useable area for building and landscaping,
- (b) to maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns,
- (c) to require larger lots where existing vegetation, topography, public views and natural features of land, including the foreshore, limit its subdivision potential,
- (d) to ensure that the location of smaller lots maximises the use of existing infrastructure, public transport and pedestrian access to local facilities and services.

(2) This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

(3A) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.

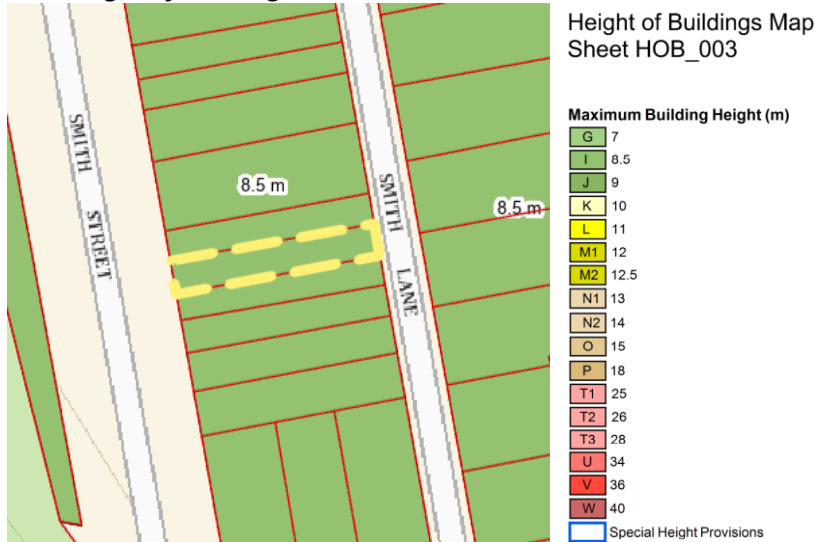
(4) This clause does not apply in relation to the subdivision of any land—

- (a) by the registration of a strata plan or strata plan of subdivision under the [Strata Schemes Development Act 2015](#), or
- (b) by any kind of subdivision under the [Community Land Development Act 1989](#).

#### Comment:

Not applicable – the site has a minimum lot size of 250sqm. The proposal is for alterations and additions to the existing semi-detached dwelling with no changes to the lot size of the property. Whilst the site area of 136.8sqm is well below the minimum subdivision lot size, the application does not include subdivision, therefore Clause 4.1 is not applicable to this assessment.

### 4.3 Height of buildings



(1) The objectives of this clause are as follows—

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

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

**Comment:**

Complies – the proposal has been designed with a maximum height limit of 6.448m which is well below the 8.5m height allowance. It is our professional opinion that the proposed alterations and additions are acceptable which do not give rise to any amenity impacts to adjoining properties. The proposed works are acceptable and will provide visual interest, are consistent with roof forms in the area, are of a bulk and scale consistent with the locality and will not adversely impact views or view corridors. The proposal is supported and in our opinion is consistent with the objectives of the Clause, as outlined below:

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

This objective relates to streetscape character and in this regard the proposed alterations and additions to the dwelling have been designed to be consistent with the bulk and scale of Smith Street. The height, bulk, scale of the development, as reflected by floor space, are entirely consistent with the built form characteristics established by the surrounding development in this precinct. It is our considered opinion that the proposal for 10 Smith Street is consistent with the intent and bulk

and scale of the street, therefore confirming that the proposal is consistent with the prevailing building height, roof forms and the future streetscape of the locality.

*(b) to control the bulk and scale of buildings,*

The proposal has been strategically designed to minimise the impact and bulk and scale of the project. The project designers have worked tirelessly to design alterations and additions to the high-end dwelling that meet the site's small lot constraints and the existing bulk and scale of the area. The proposal has been designed to be compatible with the existing streetscape (noting the building height of the adjoining neighbours) while accommodating a bulk and scale that is complementary to the natural environment.

*(c) to minimise disruption to the following—*

*(i) views to nearby residential development from public spaces (including the harbour and foreshores),*

Having inspected the site and its surrounds I am of the opinion that the building form and height of the proposed development, in particular that associated with the building height elements, has been appropriately located within the site to minimise disruption of views to nearby residential development and from surrounding public spaces. The proposal is consistent with this objective.

*(ii) views from nearby residential development to public spaces (including the harbour and foreshores),*

Having regard to the view sharing principles established by the Land and Environment Court of NSW in the matter of Tenacity Consulting v Warringah [2004] NSWLEC 140 as they relate to an assessment of view impacts, I am satisfied that the proposed building height will not give rise to any unacceptable public or private view affectation. The proposal is consistent with this objective.

*(iii) views between public spaces (including the harbour and foreshores),*

The building form and height has been appropriately distributed across the site such that the proposed building height will have no impact on views between public spaces. The proposal is consistent with this objective.

*(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

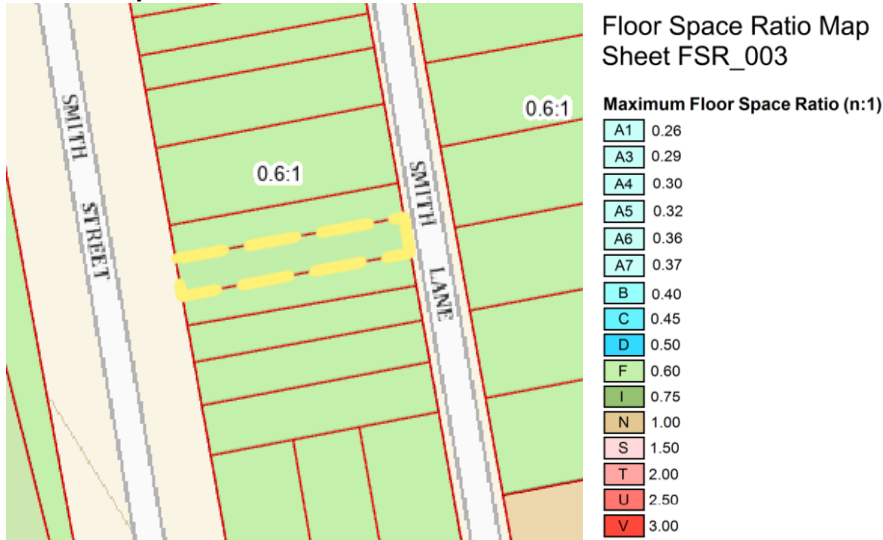
The application is accompanied by shadow diagrams drawings which depict the impact of shadowing on the neighbouring properties. The shadow diagrams show that the proposed development will not be any greater than the approved development under DA279/2016 with acceptable overshadowing which maintain access to sunlight to the adjoining neighbours living room windows and private open space areas with compliant levels of solar access maintained between 9am and 3pm on 21st June for premises at nos. 8 and 12 Smith Street. The proposal is consistent with this objective.

*(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

Not applicable – the site is not located within a recreation or environmental protection zone.

It is our professional opinion that the building by virtue of its height, bulk and scale, is consistent with the locality and desired character of the area. We have formed the considered opinion that the project is a sympathetic design and development with a bulk and scale consistent with the existing and future character of the area. The proposal is not offensive, or unsympathetic in a streetscape context nor the context from Smith Street, and therefore the building height as proposed, can be supported by Northern Beaches Council.

#### 4.4 Floor space ratio



(1) The objectives of this clause are as follows—

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

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

(2A) Despite subclause (2), the floor space ratio for a building on land in Zone B2 Local Centre may exceed the maximum floor space ratio allowed under that subclause by up to 0.5:1 if the consent authority is satisfied that at least 50% of the gross floor area of the building will be used for the purpose of commercial premises.

**Comment:**

Merit assessment – the site has a maximum FSR provision of 0.6:1 (81.9sqm). It has been determined that the proposal, results in a total gross floor area on the site of 112.74sqm. This represents a floor space ratio of 0.824:1 and therefore a non-compliance with the FSR standard by 30.84sqm or 37.66%.

I note that clause 4.1.3 of Manly Development Control Plan 2013 contains FSR exemption provisions applicable to land where the site area is less than the minimum Lot size required on the LEP Lot size map provided the relevant LEP objectives and the provisions of the DCP are satisfied.

The Lot size map identifies the subject site as being in sub zone “C” in which a minimum lot size of 250sqm is required. The site having an area of only 136.8sqm is well below the minimum lot size provision and accordingly the clause 4.1.3 Manly DCP FSR variation provisions apply.

Clause 4.1.3.1 states that the extent of any exception to the LEP FSR development standard pursuant to clause 4.6 of the LEP is to be no greater than the achievable gross floor area for the lot indicated in Figure 30 of the DCP. We confirm that pursuant to Figure 30 the calculation of FSR is to be based on a site area of 250sqm with an achievable gross floor area of 150sqm.

In this regard, the 112.74sqm of gross floor area proposed, representing an FSR of 0.451:1 (based on 250sqm), is well below the maximum prescribed gross floor area of 150sqm and as such complies with the DCP variation provision. We note that such provision contains the following note:

*Note: FSR is a development standard contained in the LEP and LEP objectives at clause 4.4(1) apply. In particular, Objectives in this plan support the purposes of the LEP in relation to maintaining appropriate visual relationships between new development and the existing character and landscape of an area as follows:*

*Objective 1) To ensure the scale of development does not obscure important landscape features.*

*Objective 2) To minimise disruption to views to adjacent and nearby development.*

*Objective 3) To allow adequate sunlight to penetrate both the private open spaces within the development site and private open spaces and windows to the living spaces of adjacent residential development.*

As the proposed GFA/FSR complies with clause 4.1.3.1 MDCP numerical provision it is also “deemed to comply” with the associated objectives as outlined which, if complied with, demonstrate the maintenance of an appropriate visual relationships between new development and the existing character and landscape of an area.

A review of the objectives of Clause 4.4 (and also Manly DCP 4.1.3.1) has been undertaken below:

*(a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*

The objective of Clause 4.4 (1)(a) seeks to ensure buildings are compatible with the height and scale of surrounding and nearby development. The surrounding area varies in size, bulk and scale, ranging from one to two storeys in height and varying setbacks.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191, I have formed the considered opinion that most observers would not find the bulk and scale of the proposed development, as viewed from Smith Street, to be offensive, jarring or unsympathetic in a streetscape context. This objective is satisfied, notwithstanding the non-compliant FSR proposed, as the bulk and scale of development is consistent with the existing and desired streetscape character.

This objective is achieved as the bulk and scale of development is entirely consistent with the existing and desired streetscape character.

*(b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*

Having regard to clause 4.1.3.1 Manly DCP FSR provisions, which inform the 112.74sqm of gross floor area proposed, representing an FSR of 0.451:1 (based on 250sqm), this is below the maximum prescribed gross floor area of 150sqm and as such complies with the DCP variation provision applicable to undersized allotments. We note that Objective 1 of the DCP provision, which relates to establishing building density and bulk, as reflected by FSR, in relation to site area (undersized allotments) is similar to this LEP objective namely:



*Objective 1) To ensure the scale of development does not obscure important landscape features.*

As previously indicated the proposed FSR complies with the DCP numerical FSR control applicable to undersized allotments and is therefore deemed to comply with this objective. It is further noted, this was applied for and accepted in 2016 under DA279/2016 which approved a GFA of 110.9sqm (0.81:1).

Neither the LEP nor DCP identify any important landscape or townscape features either on or within proximity of the subject site. My own observations did not identify any landscape or townscape features that I would consider important in terms of their visual significance.

I am satisfied that the proposal, notwithstanding the FSR non-compliance, achieves this objective as the building density and bulk, in relation to a site area, satisfies Objective 1 of the clause 4.1.3.1 DCP provision applicable to undersized allotments, with the development not obscuring any important landscape and townscape features.

*(c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*

The proposal enhances the existing visual relationship acknowledging the alterations and additions will enhance the existing dwelling on the site. The proposal has been designed to the desired character of the area while creating its own “image” and “identity for the area”. The proposal is consistent with the height, bulk and scale of existing dwellings along Smith Street, noting the one to two storey nature of the streetscape.

It is noted that this objective is the same as the primary purpose/objective outlined at clause 4.1.3 of the DCP as confirmed in the note such provision namely:

*Note: FSR is a development standard contained in the LEP and LEP objectives at clause 4.4(1) apply. In particular, Objectives in this plan support the purposes of the LEP in relation to maintaining appropriate visual relationships between new development and the existing character and landscape of an area as follows:*

*Objective 1) To ensure the scale of development does not obscure important landscape features.*

*Objective 2) To minimise disruption to views to adjacent and nearby development.*

*Objective 3) To allow adequate sunlight to penetrate both the private open spaces within the development site and private open spaces and windows to the living spaces of adjacent residential development.*

As the proposed GFA/ FSR complies with clause 4.1.3.1 MDCP numerical provision it is also “deemed to comply” with the associated objectives as outlined which, if complied with, demonstrate the maintenance of an appropriate visual relationships between new development and the existing character and landscape of an area. That said, it has previously been determined that the proposal achieves objective (a) of the clause 4.4 MLEP FSR standard namely to ensure the bulk and scale of development is consistent with the existing and desired streetscape character. Accordingly, I am satisfied that the development, notwithstanding the FSR non-compliance, maintains an appropriate visual relationship between new development and the existing built form character of the area.

In relation to landscape character, the application does not require the removal of any significant trees or vegetation with a building footprint maintained which does not change the total open space and landscaped area MDCP controls from that existing. An appropriate visual relationship between new development and the existing landscape of the area is maintained.

I am satisfied that the development, notwithstanding its FSR non-compliance, achieves the objective as it maintains an appropriate visual relationship between new development and the existing character and landscape of the area.

*(d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*

In responding to this objective, I have adopted views, privacy, solar access and visual amenity as environmental factors which contribute to the use and enjoyment of adjoining public and private land.

The proposed alterations and additions will not result in any impacts on the use or enjoyment of neighbouring properties or the public areas adjoining the site. It is my professional opinion that the proposal provides a functional building footprint which ensures the amenity and privacy of adjoining properties is maintained.

**Privacy**

Having regard to clause 4.1.3.1 Manly DCP FSR provisions, which inform the 112.74sqm of gross floor area proposed, representing an FSR of 0.451:1 (based on 250sqm), this is below the maximum prescribed gross floor area of 150sqm and as such complies with the DCP variation provision applicable to undersized allotments. We note that the privacy objectives at clause 3.4.2 are also referenced in relation to these provisions namely:

*See also objectives for privacy at paragraph 3.4.2 of this plan.*

*3.4.2 Privacy and Security*

*Objective 1) To minimise loss of privacy to adjacent and nearby development by:*

- *appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings;*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

As previously indicated, the proposed FSR complies with the DCP numerical FSR control applicable to undersized allotments and is therefore deemed to comply with the clause 3.4.2 privacy objectives to the extent that it can be demonstrated that the development minimises loss of privacy to adjacent and nearby development.

Given adequate spatial separation is maintained between the balance of surrounding properties, and the primary orientation of living areas on the ground floor to the east, I am satisfied that the design, although non-compliant with the FSR standard, minimises adverse environmental impacts in terms of privacy and therefore achieves this objective.

**Solar access**

The accompanying shadow diagrams DA12 to DA14 demonstrate that the building, although non-compliant with the FSR standard, will not give rise to any unacceptable shadowing impact to the primary living and open space areas of the adjoining residential properties with compliant levels of solar access maintained.

**Visual amenity/ building bulk and scale**

As indicated in response to objective (a), I have formed the considered opinion that the bulk and scale of the building is contextually appropriate with the floor space appropriately distributed across the site to achieve acceptable streetscape and residential amenity outcomes.

It is my considered opinion that the building, notwithstanding the FSR non-compliance, achieves the objective through skilful design that minimises adverse environmental impacts on the use and enjoyment of adjoining land and the public domain.

*(e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

Not applicable.

Having regard to the above, the proposed building form which is non-compliant with the FSR standard will achieve the objectives of the standard to at least an equal degree as would be the case with a development that complied with the FSR standard. Given the developments consistency with the objectives of the FSR standard strict compliance has been found to be both unreasonable and unnecessary under the circumstances.

#### **4.6 Exceptions to development standards**

*(1) The objectives of this clause are as follows—*

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

*(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

*(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*

*(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

#### **Note—**

*The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).*

*(4) The consent authority must keep a record of its assessment carried out under subclause (3).*

*(5) (Repealed)*

*(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

*(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

#### **Note—**

*When this Plan was made, it did not include land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition or Zone R5 Large Lot Residential.*

*(7) (Repealed)*

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

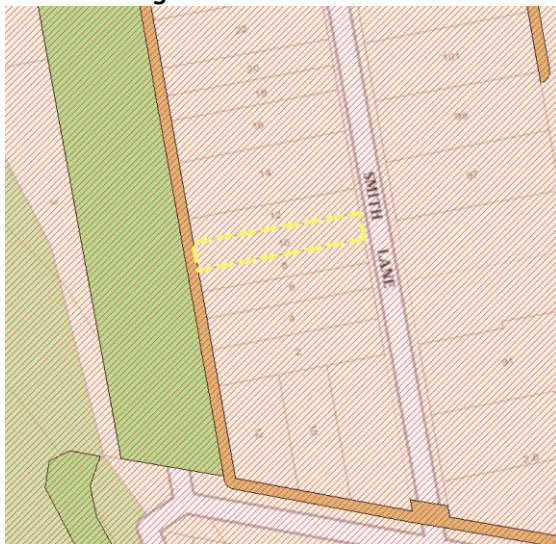
- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (caa) clause 5.5,
- (ca) clause 6.15,
- (cb) a development standard on land to which clause 6.19 applies.

**Comment:**

A Clause 4.6 Written Request for Clause 4.4 - FSR is provided with the application package. It is my considered opinion that the environmental planning grounds are warranted, and it would be unreasonable and unnecessary for full compliance with Clause 4.4.

**Part 5 Miscellaneous provisions**

**5.10 Heritage conservation**



Heritage Map -  
Sheet HER\_003

Heritage	
	Conservation Area - General
	Item - Archaeological
	Item - General
	Item - Landscape

**Note—**

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

(1) **Objectives** The objectives of this clause are as follows—

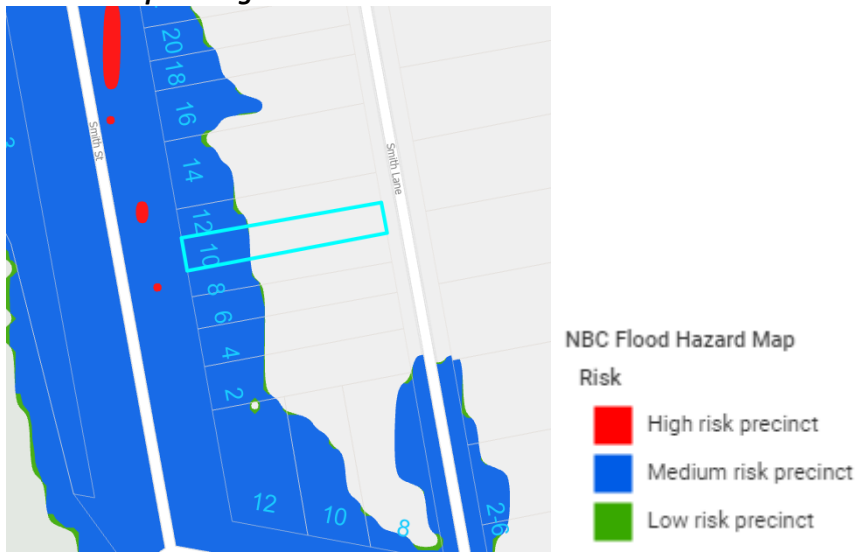
- (a) to conserve the environmental heritage of Manly,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

**Comment:**

Complies – the site located within a heritage conservation area 'C1' – Pittwater Road Conservation Area and is adjacent to heritage item '12' – relating to all stone kerbs within the Manly municipal area, and item '1223' – relating to the street trees within Smith Street (from Pine Street to Carlton Street, and around the intersection with Alexander Street). The proposal is consistent with that

approved under DA279/2016 and will not have an adverse impact to the heritage conservation in which it sits. The merits of the proposal can be supported, as submitted.

**5.21 Flood planning**



(1) The objectives of this clause are as follows—

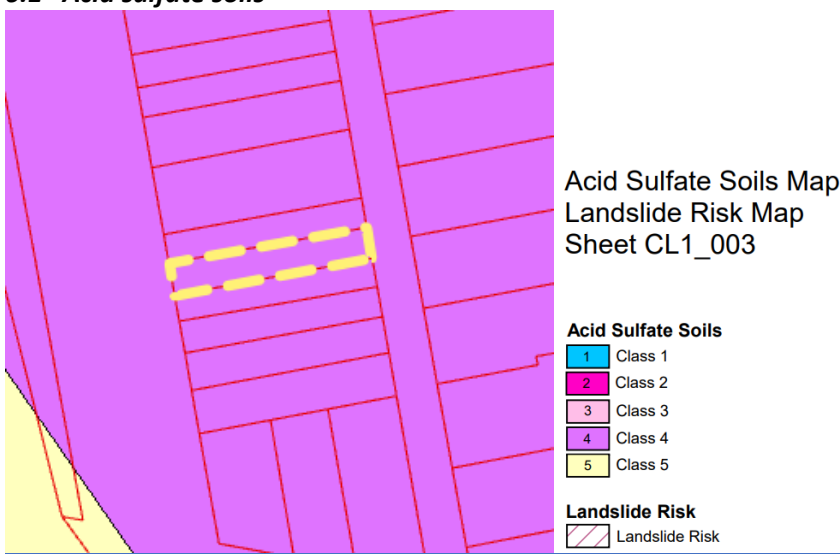
- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,
- (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,
- (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.

**Comment:**

Complies – the front portion of the subject site is identified within the Medium Risk Precinct within Councils Flood Hazard Map. The proposed works are to the rear of the site and a first floor addition not within the impacted area of the site; therefore, a flood risk assessment report will not be required with this application.

**Part 6 Additional local provisions**

**6.1 Acid sulfate soils**





(1) *The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*

(2) *Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.*

**Class of Works  
land**

1 *Any works.*

2 *Works below the natural ground surface.*

*Works by which the watertable is likely to be lowered.*

3 *Works more than 1 metre below the natural ground surface.*

*Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.*

4 *Works more than 2 metres below the natural ground surface.*

*Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.*

5 *Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.*

(3) *Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.*

(4) *Despite subclause (2), development consent is not required under this clause for the carrying out of works if—*

*(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and*

*(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.*

(5) *Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—*

*(a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,*

*(b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),*

*(c) minor work, being work that costs less than \$20,000 (other than drainage work).*

(6) *Despite subclause (2), development consent is not required under this clause to carry out any works if—*

*(a) the works involve the disturbance of less than 1 tonne of soil, and*

*(b) the works are not likely to lower the watertable.*

**Comment:**

Not applicable – the site is identified as Class 4 Acid Sulfate Soils. The proposal does not involve any earthworks therefore the development will not disturb, expose or drain acid sulfate soils or cause any environmental damages. No further assessment is required.

**6.2 Earthworks**

**Comment:**

Not applicable – the proposal does not involve any earthworks.

#### **6.4 Stormwater management**

*(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.*

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

*(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—*

*(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*

*(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*

*(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.*

#### **Comment:**

Complies – the proposal includes a Stormwater Management Plan prepared by NB Consulting Engineers.

#### **6.12 Essential services**

*(1) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—*

*(a) the supply of water,*

*(b) the supply of electricity,*

*(c) the disposal and management of sewage,*

*(d) stormwater drainage or on-site conservation,*

*(e) suitable vehicular access.*

*(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any essential service referred to in this clause.*

#### **Comment:**

Complies – the site will retain existing access to relevant essential services.

#### **General**

The site is not identified on the following maps within MLEP2013:

- Bushfire Map
- Land Reservation Acquisition Map
- Landslide Risk Map
- Terrestrial Biodiversity Map, Wetlands Map, Watercourse Map
- Active Street Frontages Map
- Foreshore Building Line Map
- Foreshore Scenic Protection Map
- Key Sites Map

## 4.4 Manly Development Control Plan (MDCP)

In designing the proposed changes to the built form, due consideration has been given to the respective sections and objectives of MDCP2013, in particular:

- Part 3: General Principles of Development
- Part 4: Development Controls and Development Types

Key components of the DCP have been detailed below. The proposal is compliant with relevant provisions of the MDCP2013.

### **Part 3: General Principles of Development**

#### **3.1 Streetscapes and Townscapes**

##### *3.1 Streetscapes and Townscapes*

*Relevant DCP objectives to be met include the following:*

##### *Streetscape*

*Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.*

*Objective 2) To ensure development generally viewed from the street complements the identified streetscape.*

*Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.*

##### *Townscape*

*Objective 4) To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape.*

*Objective 5) To assist in maintaining the character of the locality.*

*Objective 6) To recognise the importance of pedestrian movements and townscape design in the strengthening and promotion of retail centres.*

*Objective 7) To minimise negative visual impact, in particular at the arterial road entry points into the Council area and the former Manly Council area, so as to promote townscape qualities.*

#### **Comment:**

Complies – the site is located within an established residential precinct and involves alterations and additions to the existing semi-detached dwelling. The existing streetscape consists of a mixture of one to two storey scaled buildings all of which vary in terms of building configuration, front, rear and side setbacks and building heights. The proposal implements a contemporary approach and will positively contribute to the quality of the existing streetscape. The proposal complies with Clause 3.1: Streetscape and Townscape within the Manly Development Control Plan 2013.

#### **3.1.1 Streetscape (Residential areas)**

*Streetscape is defined (see Dictionary in this plan) and represents the inter-relationship between buildings, landscape and open spaces in the street scene. Local amenity and identity are closely linked to streetscape character. Development should recognise predominant streetscape qualities, such as building form, scale, patterns, materials and colours and vegetation which contributes to the character of the local area.*

### **3.1.1.1 Complementary Design and Visual Improvement**

- a) *Development in the streetscape (including buildings, fences and landscaping) should be designed to:*
- i) *complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality;*
  - ii) *ensure the bulk and design of development does not detract from the scenic amenity of the area (see also paragraph 3.4 Amenity) when viewed from surrounding public and private land;*
  - iii) *maintain building heights at a compatible scale with adjacent development particularly at the street frontage and building alignment, whilst also having regard to the LEP height standard and the controls of this plan concerning wall and roof height and the number of storeys;*
  - iv) *avoid elevated structures constructed on extended columns that dominate adjoining sites such as elevated open space terraces, pools, driveways and the like. See also paragraph 4.1.8 Development on Sloping Sites and paragraph 4.1.9 Swimming Pools, Spas and Water Features;*
  - v) *address and compliment the built form and style any heritage property in the vicinity to preserve the integrity of the item and its setting. See also paragraph 3.2 Heritage Considerations;*
  - vi) *visually improve existing streetscapes through innovative design solutions; and*
  - vii) *incorporate building materials and finishes complementing those dominant in the locality. The use of plantation and/or recycled timbers in construction and finishes is encouraged. See also paragraph 3.5.7 Building Construction and Design.*

#### Setback Principles in Low Density Areas

- b) *In lower density areas including LEP Zones R2, E3 & E4, setbacks should be maximised to enable open space to dominate buildings, especially on the foreshore. See also paragraph 3.3 Landscaping and paragraph 4.1.5 Open Space and Landscaping.*

#### Setback Principles in Higher Density Areas

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

#### **Comment:**

Complies – the project designers have skillfully designed alterations and additions to the existing semi-detached dwelling that provides residential amenity and character to the streetscape. The proposal will enhance the existing streetscape of Smith Street and work towards the desired future character of the Manly locality. The proposal introduces a building of exceptional design quality into the existing streetscape where it will contribute to the streetscape quality of the area generally and reflect the desired future character of development in the area.

### **3.1.1.2 Front Fences and Gates**

*See also paragraph 3.2.3 Fencing for Heritage Items and Conservation Areas.  
See also paragraph 4.1.10 Fencing for height controls.*

- a) *Notwithstanding maximum height provisions for fencing at paragraph 4.1.10; the siting, height and form of boundary fences and walls should reflect the fencing characteristic of the locality, particularly those of adjacent properties. All fencing and wall materials must*

- be compatible with the overall landscape character and the general appearance of the building and the streetscape.*
- b) Boundary fences or walls must not be erected where they would conflict with the local character.*
  - c) Front fences and gates must be constructed in materials that complement the architectural style and period of the dwelling and improve the streetscape. In particular, fencing adjacent to a public road or place must not be constructed in metal cladding, powder coated or otherwise.*
  - d) Gates must not encroach on public land when opening or closing.*

**Comment:**

Not applicable – no change proposed to the existing front fence and gate.

**3.1.1.3 Roofs and Dormer Windows**

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

**Comment:**

Complies – the proposal implements a new contemporary roof form with varying lightweight materials to soften the bulk and scale. It is noted that the streetscape does not have a consistent roof form, therefore the proposal complements and will enhance the streetscape with the new design. It is our professional opinion that the proposal is consistent with the streetscape and the roof form complements the predominant form of the locality.

**3.1.1.4 Garages, Carports and Hardstand Areas**

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

**Comment:**

Not applicable – no change proposed to the existing hardstand car space at the rear accessible off Smith Lane.

**3.1.1.5 Garbage Areas**

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

- a) not visible off site;*
  - b) integrated into the building design;*
  - c) unobtrusive and blend in with the design of front fences and walls when forward of the building;*
- and*

*d) located and designed with consideration given to the amenity of adjoining properties.*

**Comment:**

Complies – the existing site has sufficient space for a garbage area in accordance with the objectives of 3.1.1.5.

**3.2 Heritage Considerations**

*Relevant DCP objectives in relation to heritage in this plan include the following:*

*Objective 1) To retain and conserve environmental heritage and cultural significance of Manly including:*

- significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- the foreshore, including its setting and associated views; and*
- potential archaeological sites, places of Aboriginal significance and places of natural significance.*

*Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.*

*Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/ or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.*

*Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.*

*Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.*

**Comment:**

Complies – the site located within a heritage conservation area ‘C1’ – Pittwater Road Conservation Area and is adjacent to heritage item ‘I2’ – relating to all stone kerbs within the Manly municipal area, and item ‘I223’ – relating to the street trees within Smith Street (from Pine Street to Carlton Street, and around the intersection with Alexander Street). Refer to assessment under Heading 5.10 of MLEP2013.

**3.3 Landscaping**

**3.3.1 Landscape Design**

*Objective 1) To encourage appropriate tree planting and maintenance of existing vegetation.*

*Objective 2) To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.*

**Comment:**

Not applicable – no change proposed to landscaping on site. All significant trees and vegetation will be retained on site.

**3.3.2 Preservation of Trees or Bushland Vegetation**

*Objective 1) To protect and enhance the urban forest of the Northern Beaches.*

*Objective 2) To effectively manage the risks that come with an established urban forest through professional management of trees.*



*Objective 3) To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.*

*Objective 4) To protect and enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.*

*Objective 5) To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long term.*

*Objective 6) To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.*

**Comment:**

Complies – the proposed alterations and additions have been designed to comply with the Preservation of Trees or Bushland Vegetation requirements for the site. The proposal will result in no threat to native animal specials threatened species populations and endangered ecological communities. The proposal is supported by an Arborist Report prepared by Hugh the Arborist as the proposed works are located within 5m of the existing palm tree located at the rear of the site.

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

*Relevant DCP objectives to be met in relation to these paragraphs include the following:*

*Objective 1) To protect the amenity of existing and future residents and minimise the impact of new development, including alterations and additions, on privacy, views, solar access and general amenity of adjoining and nearby properties including noise and vibration impacts.*

*Objective 2) To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.*

*Designing for Amenity*

*a) Careful design consideration should be given to minimise loss of sunlight, privacy, views, noise and vibration impacts and other nuisance (odour, fumes etc.) for neighbouring properties and the development property. This is especially relevant in higher density areas, development adjacent to smaller developments and development types that may potentially impact on neighbour's amenity such as licensed premises.*

*b) 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 viewpoints.*

*c) The use of material and finishes is to protect amenity for neighbours in terms of reflectivity. The reflectivity of roofs and glass used on external walls will be minimal in accordance with industry standards. See also Council's Administrative Guidelines regards DA lodgement requirements for materials and finishes.*

**Comment:**

Complies – the proposal has been skillfully designed to ensure that all relevant measures have been undertaken to maximise amenity for neighbouring properties. The proposal has been designed to minimise any impacts on adjoining neighbours to ensure there is no unreasonable overshadowing impacts to nos. 8 and 12 Smith Street. Additionally, all proposed first floor windows are either high sill or have been appropriately offset to not directly overlook no. 8 Smith Steet to the south to ensure privacy is retained to neighbours and to occupants of the dwelling. It is acknowledged that DA279/2016 had a Juliet balcony approved as well which is deleted with this application.

**3.4.1 Sunlight Access and Overshadowing**

*Objective 1) To provide equitable access to light and sunshine.*

*Objective 2) To allow adequate sunlight to penetrate:*

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

*Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:*

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

**Comment:**

Complies – the accompanying shadow diagrams DA12 to DA14 demonstrate that the building, although non-compliant with the FSR standard, will not give rise to any unacceptable shadowing impact to the existing east facing living and open space areas of the adjoining residential properties with compliant levels of solar access maintained. The proposal is acceptable for the following reasons:

- The proposal provides equitable access to light and sunshine.
- The neighbouring dwellings will retain the minimum number of hours of direct solar access to the rear private open spaces.

**3.4.1.1 Overshadowing Adjoining Open Space**

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

*a) New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June) ; or*

*b) Where there is no winter sunlight available to open space of adjacent properties from 9am to 3pm, the calculations for the purposes of sunlight will relate to the equinox in March and September from 9am to 3pm.*

**Comment:**

Complies – as noted above, the proposal complies with the numerical standards and provides equitable solar access to adjoining open space areas.

**3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties**

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

- a) *for adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9am to 3pm on the winter solstice (21 June);*
- b) *for adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 4 hours from 9am to 3pm on the winter solstice (21 June);*
- c) *for all adjacent buildings (with either orientation) no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours specified above.*

**Comment:**

Complies – the proposal will retain adequate sunlight to the living rooms of adjacent properties.

### **3.4.2 Privacy and Security**

*Note: Consideration of privacy are typically balanced with other considerations such as views and solar access. The degree of privacy impact is influenced by factors including the use of the spaces where overlooking occurs, the times and frequency these spaces are being used, expectations of occupants for privacy and their ability to control overlooking with screening devices.*

*Relevant DCP objectives to satisfy in relation to this part include the following:*

*Objective 1) To minimise loss of privacy to adjacent and nearby development by:*

- appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings;*
- mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

*Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.*

*Objective 3) To encourage awareness of neighbourhood security.*

#### **Comment:**

Complies – the proposal has been designed to ensure minimal impacts to the privacy and security of adjoining properties or the occupants of the dwelling. The proposal provides adequate space and view lines for surveillance and privacy to adjoining properties.

#### **3.4.2.1 Window Design and Orientation**

*a) Use narrow, translucent or obscured glass windows to maximise privacy where necessary.*

*b) When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy.*

#### **Comment:**

Complies – the project designer has integrated varying window designs where required for privacy reasons.

#### **3.4.2.2 Balconies and Terraces**

*a) Architectural or landscape screens must be provided to balconies and terraces to limit overlooking nearby properties. Architectural screens must be fixed in position and suitably angled to protect visual privacy.*

*b) Recessed design of balconies and terraces can also be used to limit overlooking and maintain privacy.*

#### **Comment:**

Not applicable – no balconies or terraces proposed with this application.

#### **3.4.2.3 Acoustical Privacy (Noise Nuisance)**

*a) Consideration must be given to the protection of acoustical privacy in the design and management of development.*

*b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.*

*c) Council may require a report to be prepared by a Noise Consultant that would assess likely noise and vibration impacts and may include noise and vibration mitigation strategies and measures. See particular requirements for noise control reports for licenced premises below at paragraph g) below.*

**Comment:**

Complies – any noise generated from the proposed development will be associated with a ‘dwelling house’ and is an acceptable form of development within the R1: General Residential zoning of the site.

**3.4.3 Maintenance of Views**

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

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

*Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).*

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

*a) The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.*

*b) Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.*

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

**Comment:**

Complies – it is my professional opinion that the proposal will not have any impacts to views or view corridors. The proposal has been reviewed under the planning principle of Tenacity Consulting vs. Warringah City Council [2004] NSWLEC 140. It is submitted that the four-step assessment for view loss is not required for this application.

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

*Relevant objectives in relation to this part include the following:*

*Objective 1) To ensure the principles of ecologically sustainable development are taken into consideration within a consistent and integrated planning framework that achieves environmental, economic and social sustainability in the short, medium and long term.*

*Objective 2) To encourage the retention and adaptation of existing dwellings including a preference for adaptive reuse of buildings rather than total demolition. Where retention and adaptation is not possible, Council encourages the use of building materials and techniques that are energy efficient, non-harmful and environmentally sustainable.*

*Objective 3) To minimise waste generated by development and embodied in the building materials and processes through demolition.*

*Objective 4) To encourage the use of recycled materials in landscape construction works.*

*Objective 5) To encourage the establishment of vegetable gardens and the planting of fruit trees.*

*Objective 6) To encourage energy efficient building design, construction and practices, that reduce energy consumption (primarily for heating and cooling), reduce the use of non-renewable fossil fuels, minimise air pollution, greenhouse gas emissions and reduce energy bills.*

*Objective 7) To require that residential site planning and building design optimise solar access to land and buildings.*

*Objective 8) To site and design development to optimise energy conservation and sustainability in accordance with BASIX legislation and encourage development to exceed requirement particularly to ensure energy efficient use of energy for internal heating and cooling.*

*See also Council's Administrative Guidelines*

*Objective 9) To site and design development to optimise energy conservation (in accordance with the energy hierarchy) and sustainability to which BASIX does not apply.*

*Objective 10) To ensure non-residential development involving a gross total floor area of greater than 500 sqm set and meet criteria for energy efficiency/conservation through an Energy Performance Report.*

*Objective 11) To ensure non-residential development complies with the Building Code of Australia energy efficiency provisions.*

**Comment:**

Complies – the Development Application is supported by a BASIX Certificate which ensures the development will comply with the relevant BASIX commitments under the SEPP (Sustainable Buildings) 2022.

The proposal will comply with the objectives and controls for Sustainability under the Manly Development Control Plan 2013.

**3.6 Accessibility**

**Comment:** Not applicable.

**3.7 Stormwater Management**

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

*Objective 1) To manage urban stormwater within its natural catchments and within the development site without degrading water quality of the catchments or cause erosion and sedimentation.*

*Objective 2) To manage construction sites to prevent environmental impacts from stormwater and protect downstream properties from flooding and stormwater inundation.*

*Objective 3) To promote ground infiltration of stormwater where there will be no negative (environmental) impacts and to encourage on-site stormwater detention, collection and recycling.*

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

**Comment:**

Complies – the proposal is supported by a stormwater management plan prepared by NB Consulting Engineers.

**3.8 Waste Management**

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

*Objective 1) To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development (ESD).*

*Objective 2) Encourage environmentally protective waste management practices on construction and demolition sites which include:*

- *sorting of waste into appropriate receptors (source separation, reuse and recycling) and ensure appropriate storage and collection of waste and to promote quality design of waste facilities;*
- *adoption of design standards that complement waste collection and management services offered by Council and private service providers;*

- *building designs and demolition and construction management techniques which maximises avoidance, reuse and recycling of building materials and which will minimise disposal of waste to landfill; and*
- *appropriately designed waste and recycling receptors are located so as to avoid impact upon surrounding and adjoining neighbours and enclosed in a screened off area.*

*Objective 3) Encourage the ongoing minimisation and management of waste handling in the future use of premises.*

*Objective 4) To ensure waste storage and collection facilities complement waste collection and management services, offered by Council and the private service providers and support on-going control for such standards and services.*

*Objective 5) To minimise risks to health and safety associated with handling and disposal of waste and recycled material, and ensure optimum hygiene.*

*Objective 6) To minimise any adverse environmental impacts associated with the storage and collection of waste.*

*Objective 7) To discourage illegal dumping.*

**Comment:**

Complies – a Waste Management Plan is submitted with the DA package. It is envisaged that all waste generated during the construction of the building will be reused, recycled and disposed of waste in an environmentally friendly and sustainable manner.

In accordance with Northern Beaches Council’s waste minimisation plan/policy, where appropriate and achievable, materials will be recycled and reused to ensure that waste avoidance is incorporated into the development.

### **3.9 Mechanical Plant Equipment**

**Comment:**

Not applicable.

### **3.10 Safety and Security**

*Relevant DCP objectives to be met in relation to these paragraphs include the following:*

*Objective 1) To ensure all development are safe and secure for all residents, occupants and visitors of various ages and abilities.*

*Objective 2) To ensure that the design process for all development integrate principles of ‘Safety in Design’ to eliminate or minimise risk to safety and security.*

*Objective 3) To contribute to the safety and security of the public domain.*

**Comment:**

Complies – the proposed alterations and additions have been designed with due regard to safety and security for both the occupants of the dwelling and adjoining neighbours. The proposal allows for passive surveillance of Smith Street, while ensuring the privacy of the occupants is maintained.

## **Part 4: Development Controls and Development Types**

### **4.1 Residential Development Controls**

*Relevant DCP objectives to be met in relation to residential development include the following:*

*Objective 1) To delineate by means of development control the nature and intended future of the residential areas of the former Manly Council area.*



*Objective 2) To provide for a variety of housing types and densities while maintaining the exiting character of residential areas of the former Manly Council area.*

*Objective 3) To ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residences, the existing environmental quality of the environment or the aesthetic quality of the former Manly Council area.*

*Objective 4) To improve the quality of the residential areas by encouraging landscaping and greater flexibility of design in both new development and renovations.*

*Objective 5) To enable population growth without having adverse effects on the character, amenity and natural environment of the residential areas.*

*Objective 6) To enable other land uses that are compatible with the character and amenity of the locality.*

*Objective 7) To ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increased demand.*

**Comment:**

Complies – the proposed development is consistent with the objectives for residential development. The development is deemed to be consistent with the desired future character of the area, will not compromise the amenity of the surrounding properties or the aesthetic qualities of the locality or the Manly precinct.

**4.1.1 Dwelling Density, Dwelling Size and Subdivision**

*Relevant DCP objectives to be satisfied in relation to this part include:*

*Objective 1) To promote a variety of dwelling types, allotment sizes and residential environments in Manly.*

*Objective 2) To limit the impact of residential development on existing vegetation, waterways, riparian land and the topography.*

*Objective 3) To promote housing diversity and a variety of dwelling sizes to provide an acceptable level of internal amenity for new dwellings.*

*Objective 4) To maintain the character of the locality and streetscape.*

*Objective 5) To maximise the use of existing infrastructure.*

**Comment:**

Complies – the proposal is for alterations and additions to an existing dwelling with no subdivision works proposed. The proposal is consistent with the streetscape of Smith Street and maintains the character of the locality both existing and desired for the future.

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

*a) LEP Zones where numeric height controls in this DCP apply*

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

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

*b) Exceptions to Height*

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

*See also paragraph 4.1.7.2 Habitable Rooms in the Roof Structure.*

**Comment:**

Complies – the site has a maximum building height control of 8.5m. The proposal has been designed to comply with the MLEP requirements. Refer to Clause 4.3 under Manly Local Environmental Plan 2013 for further details.

**4.1.2.1 Wall Height**

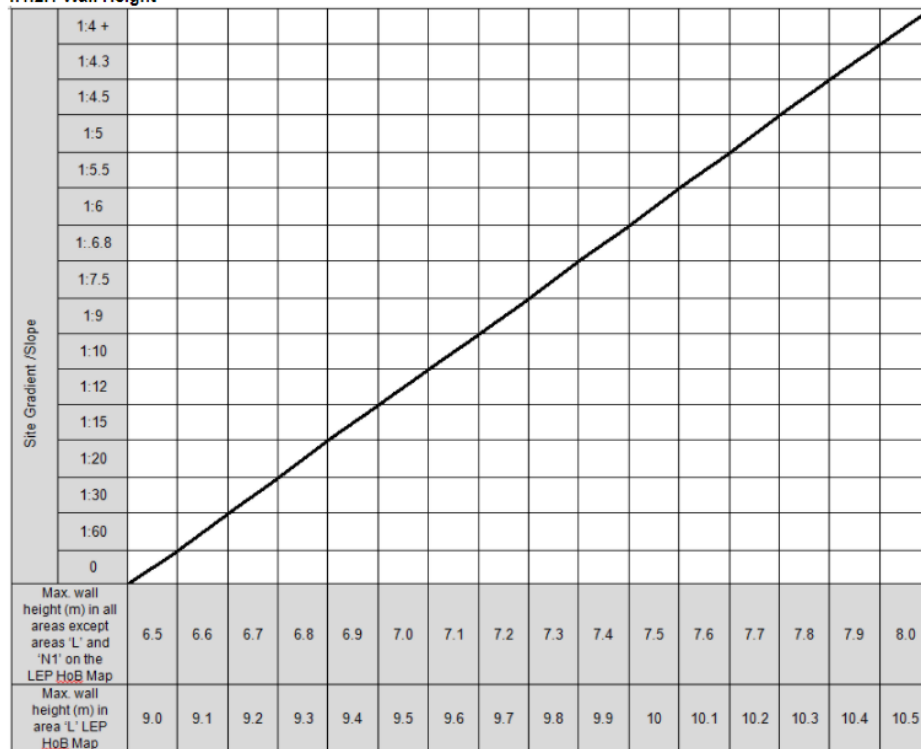
a) Within the LEP Height of Buildings development standard, the maximum external wall height is calculated based on the slope of the land under the proposed wall. Figures 26, 27 and 28 provide guidelines for determining the maximum height of external walls based on the particular slope of the land along the length of these proposed walls. The maximum wall height control will also vary from one building, elevation or part elevation to another depending on the slope of land on which the wall is sited. Within the range of maximum wall heights at Figures 26 and 28, the permitted wall height increases as the slope of the land increases up to a gradient of 1 in 4, at which point the permitted maximum wall height is capped according to Figure 26.

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

Subzones on the LEP Height of Buildings (HoB) Map *	Maximum Wall Height on flat land (no gradient)
Area 'L' on HoB Map (11m)	9m
Area 'N1' on HoB Map (13m)	12m
All other areas on HoB map	6.5m

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

**4.1.2.1 Wall Height**



**Comment:**

Complies – the proposed works have been designed with a compliant wall height to the southern elevation. In accordance with the table above, the maximum wall height permissible is 6.5m. The proposed maximum wall height as measured from the ground level (existing) for the southern elevation is 5.75m. The proposal represents a skilful contextually appropriate design with the wall

height complying and fitting in with the bulk and scale of the streetscape. Therefore, the proposal will not give rise to any unacceptable residential amenity or streetscape impacts.

#### **4.1.2.2 Number of Storeys**

- a) Buildings must not exceed 2 storeys, except on land in areas 'L' and 'N1' on the LEP Height of Building Map and notwithstanding the wall and roof height controls in this plan.*
- b) Buildings on land in areas 'L' and 'N1' on the LEP Height of Building Map Buildings must not exceed 3 storeys notwithstanding the wall and roof height controls in this plan.*
- c) Variation to the maximum number of storeys may be considered:
  - i) where specific physical site constraints warrant an exception to this requirement. In these circumstances the development must still fully comply with other numeric height controls and development standards; and*
  - ii) to allow an additional understorey where that storey satisfies the meaning of basements in the LEP**

#### **Comment:**

Complies – the proposal is for a 2-story semi-detached dwelling which complies with control 4.1.2.2.

#### **4.1.2.3 Roof Height**

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

#### **Comment:**

Complies – the proposal includes a new roof system which has been designed to comply with the controls under 4.1.2.3.

#### **4.1.3 Floor Space Ratio (FSR)**

*Note: FSR is a development standard contained in the LEP and LEP objectives at clause 4.4(1) apply. In particular, Objectives in this plan support the purposes of the LEP in relation to maintaining appropriate visual relationships between new development and the existing character and landscape of an area as follows:*

- Objective 1) To ensure the scale of development does not obscure important landscape features.*
- Objective 2) To minimise disruption to views to adjacent and nearby development.*
- Objective 3) To allow adequate sunlight to penetrate both the private open spaces within the development site and private open spaces and windows to the living spaces of adjacent residential development.*

#### **4.1.3.1 Exceptions to FSR for Undersized Lots**

*See also LEP clause 4.6 Exceptions to Development Standards.*

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

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

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

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

**Figure 30 - Extent of FSR Variation for Undersized Lots**

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

**Comment:**

Complies – the site is located within Area ‘C’ which calculates FSR based off 250sqm lot size. It is noted the site area of 10 Smith Street is 136.8sqm. As a result, 4.1.3.1 allows a calculation based on 250sqm of site area. As a result, the proposal for 112.74sqm, therefore complies with the undersize lot exception with a proposed FSR of 0.451:1. Refer to full assessment under Clause 4.4 Floor Space Ratio and Clause 4.6 Exceptions to development standards under MLEP2013.

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

*Relevant DCP objectives to be met in relation to this part include:*

*Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

*Objective 2) To ensure and enhance local amenity by:*

- providing privacy;*
- providing equitable access to light, sunshine and air movement; and*
- facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

*Objective 3) To promote flexibility in the siting of buildings.*

*Objective 4) To enhance and maintain natural features by:*

- accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*

- ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and
- ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.

Objective 5) To assist in appropriate bush fire asset protection zones.

#### 4.1.4.1 Street Front setbacks

a) Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.

b) Where the street front building lines of neighbouring properties are variable and there is no prevailing building line in the immediate vicinity i.e. where building lines are neither consistent nor established, a minimum 6m front setback generally applies. This street setback may also need to be set further back for all or part of the front building façade to retain significant trees and to maintain and enhance the streetscape.

c) Where the streetscape character is predominantly single storey building at the street frontage, the street setback is to be increased for any proposed upper floor level. See also paragraph 4.1.7.1.

d) Projections into the front setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, chimneys, meter boxes and the like, where no adverse impact on the streetscape or adjoining properties is demonstrated to Council's satisfaction.

#### Comment:

Complies – the proposal retains the existing front setback of 2.87m for the ground floor. The proposed first floor has been setback 6.224m, 0.110m forward of the existing first floor front façade, to maintain full compliance with the 6m requirement. The proposed first-floor setback is broadly consistent with the front setback of both adjoining neighbours and the 0.110m change will have a negligible impact to the privacy, amenity and solar access of the adjoining neighbours. The proposal is consistent with the intent of the prevailing street setbacks where numerous dwellings exhibit similar front setbacks. The proposal provides a good level of visual articulation to the street and a balance to the proposed setback of the building generally.

#### 4.1.4.2 Side setbacks and secondary street frontages

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

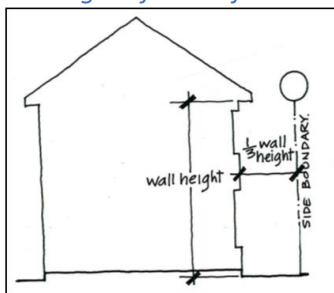


Figure 31 - Side Setback Diagram

b) Projections into the side setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, and the like, if it can demonstrate there will be no adverse impact on adjoining properties including loss of privacy from a deck or balcony.

c) All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;

d) For secondary street frontages of corner allotments, the side boundary setback control will apply unless a prevailing building line exists. In such cases the prevailing setback of the neighbouring properties must be used. Architecturally the building must address both streets.



*e) Side setbacks must provide sufficient access to the side of properties to allow for property maintenance, planting of vegetation and sufficient separation from neighbouring properties. See also paragraph 4.1.4.3.b.vi. of this plan.*

*f) In relation to the setback at the street corner of a corner allotment the setback must consider the need to facilitate any improved traffic conditions including adequate and safe levels of visibility at the street intersection. In this regard Council may consider the need for building works including front fence to be setback at this corner of the site to provide for an unobstructed splay. The maximum dimension of this triangular shaped splay would be typically up to 3m along the length of the site boundaries either side of the site corner.*

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

*Note: The following paragraphs apply to residential density areas D3 to D9 identified in Schedule 1 - Map A of this plan. In this regard the variations in this paragraph do not apply to density areas D1 and D2.*

*a) Council may consider an exception to the side setback control to enable windows at 90 degrees to the boundary to provide some flexibility in the siting and design of buildings which assist in satisfying setback objectives relating to privacy subject to the following:*

*i) The average distance to the boundary over the length of the wall is to be no less than the required setback control. In relation to the average distance to boundary, the area of building protruding into the minimum setback must be no greater than the area of land at the side boundary that is setback more than what is required by the minimum setback line.*

*ii) The wall protruding into the minimum setback must not provide windows facing the side boundary.*

*iii) The subject side elevation must provide a window(s) at some 90 degrees to the boundary.*

*b) Walls located within 0.9m of any one of the side boundaries may be considered but must:*

*i) contain no windows; \**

*ii) be constructed to one side boundary only;*

*iii) limit height to 3m; \**

*iv) limit length to 35 percent of the adjoining site boundary; \*\**

*v) submit a standard of finish and materials for external surfaces which complement the external architectural finishes of adjacent properties and/or the townscape character;*

*vi) obtain a right-of-way to provide access for maintenance; and*

*vii) satisfy the objectives for setback in this plan and the applicant can demonstrate no disadvantage to the adjacent allotment through increased overshadowing, or loss of view and no impediment to property maintenance.*

#### **Comment:**

Merit assessment – the proposal retains the existing side setback lines of the dwelling existing. The following setbacks are proposed:

#### Ground Floor

Northern Side Setback – Nil

Southern Side Setback – Nil to 0.789m

#### First Floor

Northern Side Setback – Nil

Southern Side Setback – 0.889m - 0.900m

The proposal is consistent with the intent of approval DA279/2016 maintaining the existing northern and southern side setback of the semi-detached dwelling. It would be unreasonable for Council to expect full compliance noting site width of 4.395m. It is my opinion that the setbacks provide visual interest, retain the intent of approval DA279/2016, provide adequate articulation and modulation and will be consistent with the character of the streetscape. Further, the proposed setbacks do not give rise to any additional privacy or overshadowing impacts to the adjoining neighbours. On this basis, the proposed variations can be supported, as submitted.

#### **4.1.4.4 Rear Setbacks**

- a) The distance between any part of a building and the rear boundary must not be less than 8m.*
- b) Rear setbacks must allow space for planting of vegetation, including trees, other landscape works and private and/or common open space. The character of existing natural vegetated settings is to be maintained. See also paragraph 3.3 Landscaping.*
- c) On sloping sites, particularly where new development is uphill and in sensitive foreshore locations, consideration must be given to the likely impacts of overshadowing, visual privacy and view loss.*
- d) Rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity to minimise overshadowing, visual privacy and view loss.*

#### **Comment:**

Merit assessment – the proposal retains the existing 6.327m rear building setback. The proposed first floor has been designed with a 11.432m rear setback to comply with the 8m requirement. The proposal is consistent with the intent of approval DA279/2016 maintaining the existing rear setback. It would be unreasonable for Council to expect full compliance noting the constraints imposed by the considerably undersized allotment. It is my opinion that the setbacks proposed provide visual interest, retain the intent of approval DA279/2016, provide adequate articulation and modulation and will be consistent with the character of the streetscape. Further, the proposed setbacks do not give rise to any additional privacy or overshadowing impacts to the adjoining neighbours. On this basis, the proposed variations can be supported, as submitted.

#### **4.1.5 Open Space and Landscaping**

*Relevant DCP objectives to be met in relation to these paragraphs include the following:*

*Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.*

*Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.*

*Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.*

*Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.*

*Objective 5) To minimise the spread of weeds and the degradation of private and public open space.*

*Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.*

#### **4.1.5.1 Minimum Residential Total Open Space Requirements**

*Numeric Controls*

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

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

*Minimum dimensions and areas for Total Open Space*

*b) Total Open Space (see Dictionary meanings including landscape area, open space above ground and principal private open space) must adhere to the following minimum specifications:*

- i) horizontal dimension of at least 3m in any direction; and*
- ii) a minimum unbroken area of 12sqm.*
- iii) A variation to the minimum specifications in i) and ii) above may only be considered for Above Ground Open Space where it can be demonstrated that lesser dimensions or areas will better serve to minimise amenity impacts on neighbours. A lesser areas of above ground open space may be included or calculated under the minimum requirements in the circumstances of the case. In all other cases open space that does not comply with the minimum specification is not included or calculated under the minimum requirements for total open space.*

*Provisions for Total Open Space Above Ground*

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

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

*Amenity Considerations*

- i) Areas of total open space that are above ground are considered to have a potentially greater impact on the amenity of neighbours. Accordingly the provision of open space that is above ground is to be confined to a maximum percentage of the total open space for any development. In particular, roof terraces and large decks are discouraged and are not a preferred design option when providing open space above ground.*
- ii) All open space above ground including verandas, balconies, terraces, are not to be enclosed.*
- iii) The Total Open Space Above Ground as provided for in Figure 34 may be refused by Council where privacy and/or view loss are issues and where development does not satisfy particular considerations in the following paragraphs iv) and v).*
- iv) Roof terraces are not permitted unless designed for privacy with no direct lines of sight to adjoining private open spaces or habitable window openings both within the development site and within adjoining sites.*

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

**Comment:**

Merit assessment – the proposal retains the intent of approval DA279/2016. In that regard, the extent of open space will be retained as existing, with the following proposed:

Total Open Space

Required – 75.24sqm (55%)

Existing – 27.93 (20.4%)

Proposed – Unchanged

Landscape Open Space

Required – 26.33sqm (35% of TOS [55%])

Existing – 3.89sqm (2.93% of TOS [55%])

Proposed – Unchanged

The proposal has been designed off the existing building footprint and the intent of the approval granted for DA279/2016 (noting TOS approval of 8.9% - 12.17sqm). It is my professional opinion that a variation is warranted and will not impact the natural landscape of the surrounding area.

**4.1.5.2 Landscaped Area**

*Numeric Controls*

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

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

*Minimum Dimensions and Areas*

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

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

*c) Minimum Tree Plantings*

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

*Figure 37 - Minimum Number of Native Trees Required*

*Note: to be read in conjunction with the LEP Lot Size Map.*

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

#### Landscaping Driveways

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

#### Comment:

Not applicable – no change to existing. All significant trees and vegetation will be retained onsite.

#### 4.1.5.3 Private Open Space

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

#### Principal Private Open Space

a) Principal private open space is to be provided in accordance with the following minimum specifications:

- i) Minimum area of principal private open space for a dwelling house is 18sqm; and
- ii) Minimum area of principal private open space for residential accommodation with more than 1 dwelling on the site is 12sqm for each dwelling.

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

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

#### Comment:

Complies – the existing principal private open space area onsite of 27.93sqm meets the minimum 18sqm requirement and will remain unchanged.

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

Relevant DCP objectives to be met in relation to these paragraphs include:

Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).

Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.

Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.



*Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.*

*Objective 5) To ensure the width and number of footpath crossings is minimised.*

*Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.*

*Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.*

**Comment:**

Not applicable.

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

*See also paragraph 3.1.1 Streetscape.*

a) *The design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality.*

b) *Garage and carport structures forward of the building line must be designed and sited so as not to dominate the street frontage. In particular:*

i) *garages and carports adjacent to the front property boundary may not be permitted if there is a reasonably alternative onsite location;*

ii) *carports must be open on both sides and at the front; and*

c) *the maximum width of any garage, carport or hardstand area is not to exceed a width equal to 50 percent of the frontage, up to a maximum width of 6.2m.*

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

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

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

**Comment:**

Not applicable.

**4.1.6.3 Bicycle Storage**

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

**Comment:**

Complies – adequate space is provided onsite for storage of bicycles.

#### **4.1.6.4 Vehicular Access**

- a) *All vehicles should enter and leave the site in a forward direction.*
- b) *Vehicular access and parking for buildings with more than 1 dwelling is to be consolidated within one location, unless an alternative layout/design would better reflect the streetscape or the building form.*
- c) *Vision of vehicles entering and leaving the site must not be impaired by structures or landscaping.*
- d) *Particular attention should be given to separating pedestrian entries and vehicular crossings for safety.*
- e) *Vehicular access will not be permitted from pedestrianised areas in Manly Town Centre.*
- f) *In relation to the development of 15-17 Suwarrow Street and 28-34 Balgowlah Road Fairlight, should vehicular access for future development be through L M Graham Reserve, a right of way will be required at the eastern most part of the site, being a 1 metre right of way required for lots 29 and 30 in Sec 5, DP 939916. The right of way should nominate Council or any person nominated by Council as the beneficiary as well as Lot 1 in DP1022202, the other lots of the site, lots 29, 30, 31 and 32 in Section 5 of DP 939916, known as 15-17 Suwarrow Street Fairlight.*

**Comment:**

Not applicable.

#### **4.1.7 First Floor and Roof Additions**

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

**Comment:**

Complies – the proposal retains the intent of DA279/2016 and includes a roof pitch lower than what is existing. The proposal will not have any adverse overshadowing, view loss or privacy impacts. The proposed alterations and additions are consistent with the architectural quality and design of the dwelling which enhance the sustainable and usable nature of the premises for the occupants.

#### **4.1.8 Development on Sloping Sites**

*Relevant DCP objectives to be met in relation to these paragraphs include:*

*Objective 1) To ensure that Council and the community are aware of, and appropriately respond to all identified potential landslip & subsidence hazards.*

*Objective 2) To provide a framework and procedure for identification, analysis, assessment, treatment and monitoring of landslip and subsidence risk and ensure that there is sufficient information to consider and determine DAs on land which may be subject to slope instability.*

*Objective 3) To encourage development and construction this is compatible with the landslip hazard and to reduce the risk and costs of landslip and subsidence to existing areas.*

**Comment:**

Not applicable – the site is not a sloping site.

**4.1.9 Swimming Pools, Spas and Water Features**

**Comment:**

Not applicable.

**4.1.10 Fencing**

**Comment:**

Not applicable – no new fencing proposed with this application.

**Part 4.4 Other Development (all LEP Zones)**

**4.4.1 Demolition**

*Relevant DCP objectives in this plan in relation to these paragraphs include:*

*Objective 1)*

*To protect the environment during demolition, site works, and construction phases of development.*

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

*a) Meet ecologically sustainable development principles by conserving resources and energy and reducing waste from any demolition process; and*

*b) Conserve the cultural heritage of the existing building and that of the locality. An appropriate assessment of potential heritage significance must accompany any DA in relation to demolition. If the property has merit as a potential heritage item, the heritage controls and considerations in this plan apply, and*

*c) Comply with the requirements of the Northern Beaches Waste Management Policy*

**Comment:**

Complies – the proposal includes demolition works of the existing dwelling. Where possible the building will retain materials for reuse, otherwise as per the Waste Management Plan they will be reused or recycled off-site.

**4.4.5 Earthworks (Excavation and Filling)**

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

*Relevant DCP objectives in this plan in relation to these paragraphs include:*

*Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:*

- Limiting excavation, “cut and fill” and other earthworks;*
- Discouraging the alteration of the natural flow of ground and surface water;*
- Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*

- *Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.*

*See also paragraph 4.1.8 Development on Sloping Sites (Planning Principles).*

*See also paragraph 3.3.2 Preservation of Trees and Bushland V.*

**Comment:**

Not applicable – no earthworks proposed with this application.

**Part 5 – Special Character Precincts, Areas and Sites**

**5.2 Pittwater Road Conservation Area**

**5.2.1 Statement of Significance**

*a) The Pittwater Road Conservation Area street pattern is distinctive and underpins the urban character of the area. This street pattern comprises the alignment, detailing and silhouette of the street facades and the overall scale of building in Pittwater Road is important. The streets remain unaltered in their alignment, although the names of Malvern, Pine and North Steyne are now names for what were Whistler, Middle Harbour and East Steyne respectively. In particular, the streetscape along Pittwater Road from Dennison Road to Collingwood Street is a fine example of a remaining vista of the early settlement period in the Municipality specifically its scale and architectural interest and mixed use and for its association with the tram route and the major northern transport route.*

*b) New development should recognise the linear nature of the buildings in Pittwater Road for their contribution to the visual character of this street. New development should not visually overwhelm the four groups of individual heritage items in that part of the street which is zoned for business purposes in the LEP.*

**Comment:**

Complies – the subject site is located within a heritage conservation area ‘C1’ – Pittwater Road Conservation Area. The development has been sensitively designed to remain consistent with the character of the area including the distinctive pattern and alignment of development within the street noting the two-storey bulk and scale of Smith Street.

**5.2.2 Development fronting Pittwater Road**

**Comment:**

Not applicable.

**5.4 Environmentally Sensitive Lands**

**5.4.3 Flood Prone Land**

Objectives

- *Protection of people.*
- *Protection of the natural environment.*
- *Protection of private and public infrastructure and assets.*

Requirements

*1. Development must comply with the prescriptive controls set out in the Matrix below. Where a property is affected by more than one Flood Risk Precinct, or has varying Flood Life Hazard Category across it, the assessment must consider the controls relevant at each location on the property.*

*2. Development on flood prone land requires the preparation of a Flood Management Report by a suitably qualified professional.*

**Comment:**

Complies – a portion of the subject site is identified within the Medium Risk Precinct within Councils Flood Hazard Map. The proposed works are not within the impacted area of the site; therefore, a flood risk assessment report will not be required with this application.

**Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles**

**Dwelling-houses, Semi-detached Dwellings and Secondary Dwellings**

- *2 parking spaces for each dwelling house, semi-detached dwellings and secondary dwellings.*

*Note: While no visitor parking is required for a dwelling house or semi-detached dwellings; one of the two spaces required for a Secondary Dwelling may be used as a visitor space for both the secondary and principle dwelling. See paragraph 4.1.6 for exceptions which may be considered by Council.*

**Comment:**

Not applicable.



## 5. Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979

The following matters are to be taken into consideration when assessing an application pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). Guidelines (in *italic*) to help identify the issues to be considered have been prepared by the Department of Planning and Environment. The relevant issues are:

### **(a) The provisions of:**

#### *(i) The provision of any Environmental Planning Instrument*

**Comment:** The proposal is permissible and consistent with the intent of the Manly Local Environmental Plan and Development Control Plan as they are reasonably applied to the proposed works.

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

**Comment:** Not applicable.

#### *(iii) Any development control plan*

**Comment:** The proposal has been reviewed and assessed under Manly Development Control Plan.

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

**Comment:** Not applicable.

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

**Comment:** Not applicable.

#### *(v) (repealed)*

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

#### **Context and Setting:**

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

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

**Comment:** The proposed development has been designed to the character and amenity of the locality. The proposal is of a height, bulk and scale which is consistent with recent approvals and the future character of the precinct. The proposal will have minimal residential amenity impacts in terms of views, privacy or overshadowing to the neighbouring properties.

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

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

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

***Access, transport and traffic:***

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

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

**Comment:** No change proposed to the existing onsite parking provisions approved under DA279/2016. Adequate storage for bicycles is provided on-site.

***Public Domain***

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

***Utilities***

**Comment:** Existing utility services will connect to service the dwelling.

***Flora and Fauna***

**Comment:** The total landscaped open space will remain unchanged and all significant trees and vegetation will be retained onsite. The proposed works will have a negligible impact on fauna and flora in the area.

***Waste Collection***

**Comment:** Normal domestic waste collection applies to the existing semi-detached dwelling.

***Natural hazards***

**Comment:** The subject site is partially identified in the Medium Risk Precinct within Councils Flood Hazard Map. These matters have been discussed earlier in this report.

***Economic Impact in the locality***

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

***Site Design and Internal Design***

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

- *size, shape and design of allotments*

- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*
- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

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

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

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

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

### **Construction**

*i) What would be the impacts of construction activities in terms of:*

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

**Comment:** The proposal will employ normal site safety measures and procedures will ensure that no safety or environmental impacts will arise during construction.

### **(c) The suitability of the site for the development**

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

**Comment:** The site is located in an established residential area. The locality has a variety of property types and sizes. The existing surrounding development comprises a mix of one and two storey dwelling houses. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause unmanageable levels of transport demand with no change of use to the existing dwelling proposed.

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

**Comment:** No submissions are available at this time.

***(e) The public interest***

**Comment:** The proposed works are permissible and consistent with the intent of MLEP2013 and MDCP controls as they are reasonably applied to the proposed alterations and additions to the existing semi-detached dwelling and associated works. The development would not be contrary to the public interest.

In our opinion, the development satisfies the planning regime applicable to development on this particular site having regards to the considerations arising from its context.

The proposal is acceptable when assessed against the heads of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (as amended), and is appropriate for the granting of consent and accordingly, is in the public interest.

## 6. Summary and Conclusion

The proposal for alterations and additions to the existing semi-detached dwelling and associated works at 10 Smith Street, Manly, being Lot B within Deposited Plan 437840, is permissible and consistent with the intent of the built form controls as they are reasonably applied to the proposed works. It is considered that the proposal is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The merits of the application have been assessed in accordance with the provisions of the relevant requirements of MLEP 2013 and the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). There is no evidence that the impacts of the development would warrant amendment to the subject proposal or justify refusal. Where a variation is proposed, adequate documentation has been provided to support the application.
- The nature of the development is appropriate having regard to the area of the site, its geographical location, site constraints and adjoining land uses.
- The proposal has been designed with a sympathetic building design, therefore no adverse impacts on the visual amenity of adjoining developments or to public views. The proposal will not have an adverse impact to the scenic qualities to the area.

Accordingly, the proposal for alterations and additions to the existing semi-detached dwelling and associated works at 10 Smith Street, Manly, is acceptable from environmental, heritage, social, and planning perspectives and approval should therefore be granted by Council.