



# **STATEMENT OF ENVIRONMENTAL EFFECTS**

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## **7 new street east balgowlah heights nsw**

**Planning Approvals**  
Level 4, 29 Kiora Road  
Miranda NSW

Phone 02 9521 4310  
Email [jeremy@planningapprovals.com.au](mailto:jeremy@planningapprovals.com.au)  
[www.planningapprovals.com.au](http://www.planningapprovals.com.au)

# Table of Contents

SECTION 1   Introduction	3
Section 1.1   Development Application Summary	3
Section 1.2   Author	3
Section 1.3   Executive Summary	4
SECTION 2   The Development Site	5
Section 2.1   Locality	5
Section 2.2   Site Description	5
Section 2.3   Easements and Restrictions	7
Section 2.4   Site Photography	8
SECTION 3   Proposed Development	11
Section 3.1   Site Preparation / Demolition	12
Section 3.2   Construction	12
Section 3.3   Proposed Use	12
SECTION 4   Evaluation	13
Section 4.1   State Environmental Planning Policies	13
Section 4.2   Local Environmental Plans	13
Section 4.3   Development Control Plans	19
Section 4.3.1   DCP Compliance Table	20
Section 4.3.2   Reasonable Alternative Solutions to certain DCP controls	59
Section 4.3.2.1   Reasonable alternative solution to the Total Open Space control	60
Section 4.4   Likely Impacts of the Proposed Development	63
Section 4.5   Suitability of the Site for the Development	64
Section 4.6   Submissions	65
Section 4.7   The Public Interest	65
SECTION 5   Conclusion	65

## SECTION 1 | Introduction

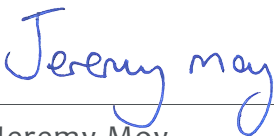
This report has been prepared on behalf of the property owner/s of the subject site.

This Statement has been prepared pursuant to Section 4.12 of the Environmental Planning and Assessment Act 1979 and Clause 24 of the Environmental Planning and Assessment Regulation 2021. The purpose of this document is to describe the existing characteristics of the site, describe the proposed development, review the applicable planning controls relating to the proposal and site, assess the degree of compliance and examine the environmental effects of the development when measured against the Evaluation Criteria prescribed under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. In respect of the assessment of the proposal, where impacts are identified, measures proposed to mitigate any detriment to environmental amenity have been addressed in this report.

### Section 1.1 | Development Application Summary

Site Address	7 New Street East Balgowlah Heights NSW 2093
Legal Title Identifier	Lot 10 DP 9561
Local Government Area	Northern Beaches Council
Proposed Development	Demolition of a dwelling house; removal of vegetation; construction of a new single storey dwelling house and associated landscape works.

### Section 1.2 | Author



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Jeremy Moy

Director | Planning Approvals ABN 21 108 969 624

Contact 02 9521 4310 or [jeremy@planningapprovals.com.au](mailto:jeremy@planningapprovals.com.au)

Dated | 4 May 2023

## Section 1.3 | Executive Summary

The development proposal relates to the construction of a single storey dwelling house and associated landscaping that will replace the existing dwelling house at the site.

Our firm with the property owners, attended a pre lodgement meeting with Council's planning staff on 24/8/22 (application no. PLM2022/0167) which was then followed by meeting notes provided by Council.

In that meeting, proposed variation of the total open space control was discussed and Council advised that the variation proposed was acceptable conditional upon providing appropriate deep soil planting zones to the front and rear setback areas. We believe this is achieved through the landscape design (provided with the application). Generally, the proposal was well received by Council who indicated a supportive position.

The site is subject to a high level of bushfire risk, particularly at the front of the lot which reduces towards the rear of the site. To address the risk, the garage is provided (and fire isolated from the rest of the dwelling) to front of the building and will take up the BAL-40 area of the site. The habitable parts of the dwelling will be subject to BAL-29 or lower.

To assist with providing a favourable impact on the streetscape, the garage access is directed to the side elevation and windows will be provided to the front elevation which will disguise the garage.

However, the side access to the garage, along with a small reversing bay to allow vehicles to enter and egress the site in a forward direction, will result in a slightly larger area of driveway than is typical. As such, the driveway is a major contributor to the non compliance with the Total Open Space control, along with proposing a single (as opposed to multi level) dwelling structure.

Despite the proposal not technically complying with the TOS control, the overall development will have substantial and appropriate deep soil zones to both front and rear yards. Soft landscaping provided well exceeds the minimum control. As such, the consent authority is in a strong position to accept the proposal in its current form with the reasonable alternative solution provided for the TOS numerical control.

The proposal complies with all other development controls and all principal development standards.

Heads of consideration are discussed as follows.

## SECTION 2 | The Development Site

### Section 2.1 | Locality

The suburb of Balgowlah Heights predominantly consists of low density residential uses (typically 1-2 storey dwelling houses). Balgowlah Heights contains several public reserves, beach areas, forested areas, a school, public recreation facilities and a neighbourhood shopping village.

The subject site is within a subdivision which dates back to 1919, however, most dwellings in the vicinity were constructed in the post WWII or Late 20<sup>th</sup> Century eras. The building on the adjacent property (9 New St E) was constructed prior to 1943 (evidenced on SIX Maps) but has undergone major additions and renovations over time. Generally, the locality contains a varied style of architecture which spans over 100 years and a wide range of styles which are representative of their respective era.

There are examples of recent development in the locality where original development has been replaced with contemporary style dwelling houses, generally two or more storeys in height.

Residential properties predominantly comprise soft landscaping to front setback areas except for a driveway and often a pedestrian path to the entry. Front fencing is generally low rise and/or semi transparent, where there is front fencing.

### Section 2.2 | Site Description

The subject site is located on the Southern side of New Street East, approximately 40m West of the Tutus Street corner.

The site is located opposite a heavily forested area, Wellings Reserve.

The site is a regular shaped lot with the following dimensions:

Primary Frontage	North	15.24m
Rear	South	15.24m
Side	East	51.99m
Side	West	51.99m
Lot size		792.3 m <sup>2</sup>



The site is relatively flat with a very slight fall to the rear and cross fall to the West.

At the time of this Statement, the site contained a single storey dwelling house (approx. 60-70 years old and renovated over time), a concrete driveway, detached garage at the rear, pathways, rock formations, vegetation, gardens and turfed areas.

### **Section 2.2.1 | Existing Use**

The existing use of the site is Dwelling House.

### **Section 2.2.2 | Bushfire Prone Land**

The site is Bushfire Prone Land according to RFS maps. Additionally, the site is within the 10/50 vegetation clearing entitlement area.

Australian Bushfire Consulting Services have established that the proposed development is subject to a BAL-40 rating to the front (North) portion of the structure (garage area only) with the rating reducing to BAL-29 to adjacent habitable areas then BAL-19 at the rear of the dwelling.

In their report, recommendations are made to enable compliance with relevant bushfire construction requirements.

### **Section 2.2.3 | Flood Planning**

The site does not contain land below the flood planning level per 10.7(2&5) Planning Certificate no. ePLC2021/8914.

### **Section 2.2.4 | Heritage**

The site does not contain a heritage item and is not within a Heritage Conservation Area.

The subject site is opposite Wellings Reserve which is listed as a local heritage item (Item no. 128) under Manly LEP 2013.

From NSW Heritage database:

*Physical description - Remnant natural bushland of low woodland character. Some intrusions of weed species adjacent to roads and suburban development. Generally in good condition. Commemorative reserve named after former Shire Clerk.*

Impacts by the proposed development

The proposed development will not involve removal of the remnant bushland or the planting of invasive species. Therefore, the development will have no impact on the item.

**Section 2.2.5 | Services**

According to a recent Dial Before You Dig application, the availability of services to the site are as follows:

- Reticulated water supply –available (Sydney Water Corporation)
- Reticulated sewerage drainage – available (Sydney Water Corporation)
- Electricity – available (Ausgrid)
- Reticulated gas – available (Jemena)
- Telecommunications – available (Telstra & NBN Co)

**Section 2.3 | Easements and Restrictions**

Type	Description	Response
-	No easements or restrictions as to user on the title.	-

## Section 2.4 | Site Photography



Image – Aerial view of the subject site (courtesy of Northern Beaches Council)



Image – Subject site as seen from the street (New St East)





Image – Streetscape – New St E facing West (courtesy of Google)



Image – Streetscape – New St E facing East (courtesy of Google)





Images – Streetscape – view of Wellings Reserve opposite the subject site.  
(courtesy of Google)



## SECTION 3 | Proposed Development



Front perspective



Rear perspective

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Photomontages – proposed dwelling (courtesy of Atria Designs)

## Section 3.1 | Site Preparation / Demolition

- Demolition of single storey dwelling house
- Demolition of detached garage
- Removal of vegetation
- Removal of driveway and pathways
- Demolition of part of the retaining wall in the rear yard
- Site benching as required

## Section 3.2 | Construction

### Dwelling House:

#### Ground Floor level

- Front porch to main entry
- Foyer
- Integrated double garage
- 3 Bedrooms
- Open plan kitchen / living / family area
- Study
- Bathroom / WC / Vanity
- 1 Ensuite
- Laundry
- “Alfresco” courtyard to the Western side with retractable shade cover
- Patio with open roof pergola over to the rear

### Exterior Works:

- Replacement driveway in new position to allow for landscape verge adjacent to boundary
- Pathways and steps
- Plantings and turfed areas
- Landscape retaining wall

## Section 3.3 | Proposed Use

The proposed use will not change from the existing use being a “Dwelling House”.



## SECTION 4 | Evaluation

Evaluation Criteria prescribed under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 is considered in this section of the Statement of Environmental Effects.

### Section 4.1 | State Environmental Planning Policies

The SEPPs relevant to this proposal and considered are:

- SEPP (Building Sustainability Index: BASIX) 2004

#### Section 4.1.1 | SEPP (Building Sustainability Index: BASIX) 2004

The proposed building (new dwelling house) is a Basix Affected building and will require Basix Certification.

As such, the Basix Certification and plan requirements are included with the development application.

### Section 4.2 | Local Environmental Plans

The following Local Environmental Plans are applicable to the subject site:

- Manly Local Environmental Plan 2013

#### Section 4.2.1 | Manly Environmental Plan 2013

The following clauses of the LEP are considered as relevant to the proposal:

#### Clause 2.3 | Zone objectives and Land Use Table

The site is zoned **R2 Low Density Residential**

**Dwelling Houses** are permissible subject to development consent within an R2 land use zone.

The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The objectives of the zone are met by the proposal in the following ways:

1. The proposal offers a high quality contemporary design that is sympathetic to the existing streetscape character and will make a positive contribution to the streetscape;
2. The proposed development is architecturally detailed and modulated to respect surrounding development in terms of bulks and height, building separation, privacy and solar access;
3. The design and siting of the proposed development maintains view corridors between dwellings from the street and surrounding development;
4. The proposal represents a contemporary style that is suited to the locality on a site which is due for redevelopment;
5. The proposed dwelling improves amenity for occupants through provision of quality private open space, landscaping and appropriate but modest floor area for current trends;
6. The proposed development contemplates and respects development controls that apply to the site.
7. The proposed development will not prevent or interfere with other land uses in the locality.

Overall, the proposed development meets the objectives of the R2 Low Density Residential zone.

### Clause 4.3 | Height of Buildings

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

According to the HOB Map, the maximum height permissible is 8.5m.

#### The proposal

Will have a maximum building height of 6.09m.

- Complies with the building height development standard.

## Clause 4.4 | Floor Space Ratio

*(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.*

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According to the FSR Map, the maximum FSR permissible is 0.4:1 which gives a maximum Gross Floor Area of 316.92m<sup>2</sup>.

### The proposal

Will have a gross floor area of 229.5m<sup>2</sup> giving an FSR of 0.29:1.

A GFA calculation plan is provided in the master plan set (drawing page number 3) to demonstrate calculation of the proposed gross floor area.

- Complies with the FSR development standard.

## Clause 6.1 | Acid Sulphate Soils

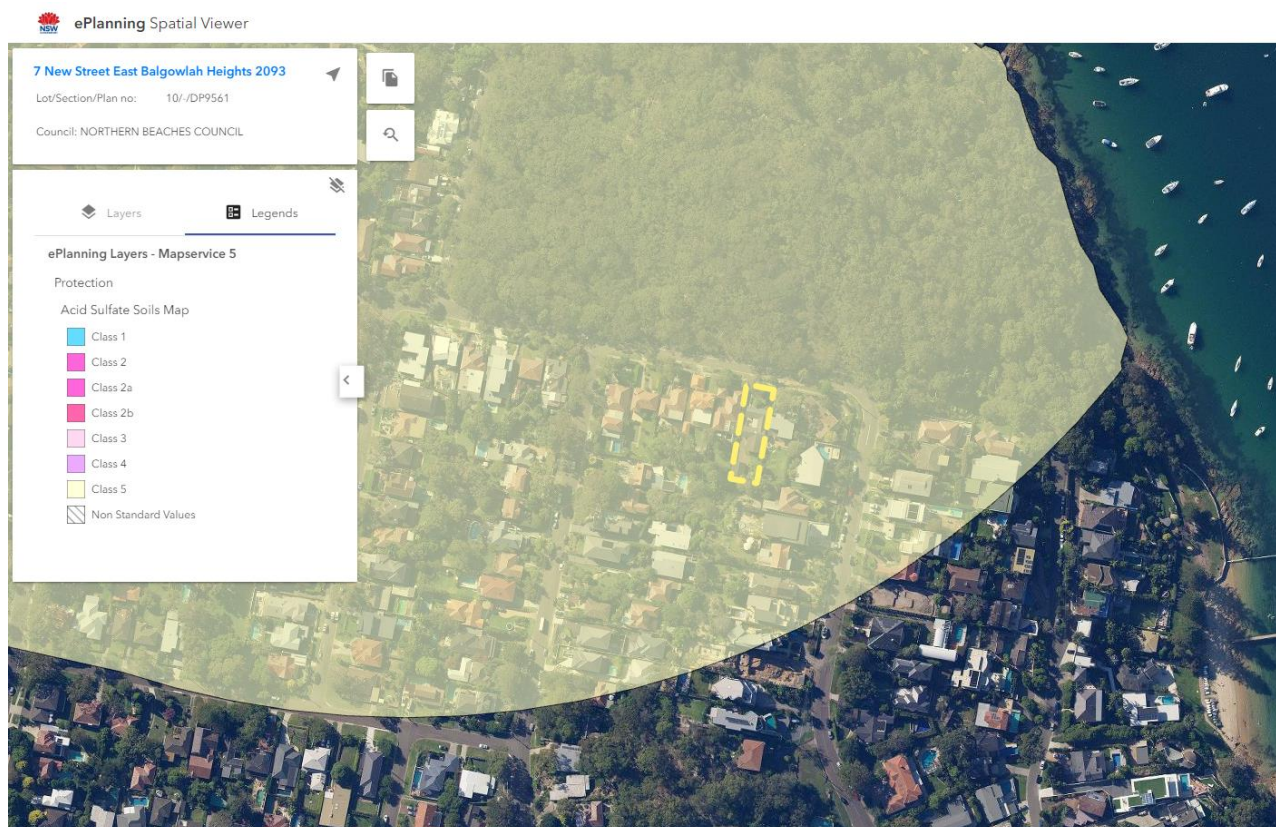


Image – Subject is within Class 5 lands (courtesy of NSW Spatial Viewer)

(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.

<b>Class of land</b>	<b>Works</b>
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	<b>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.</b>

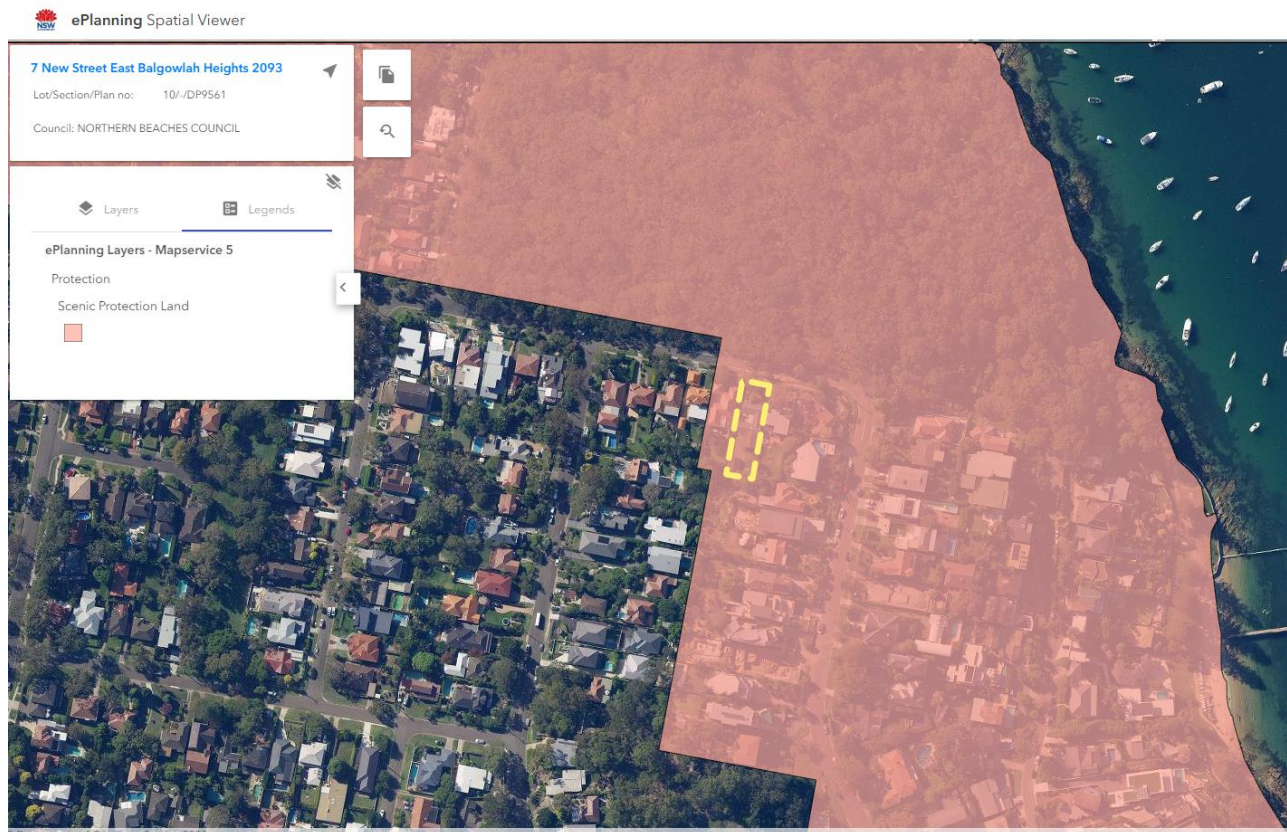


- (3) *Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.*
  - (4) *Despite subclause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

According to the Acid Sulphate Soils Map, the subject site is Class 5. The site is not within 500m of adjacent Class 1 - 4 land and earthworks will not lower the watertable below 1m AHD.

Acid Sulphate Soils Management Plan is not required in this instance.

## Clause 6.9 | Foreshore scenic protection area



**Image – Subject is within the Foreshore Scenic Protection Area**  
(courtesy of NSW Planning Portal)

- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters—*
- (a) *impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
  - (b) *measures to protect and improve scenic qualities of the coastline,*
  - (c) *suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
  - (d) *measures to reduce the potential for conflict between land-based and water-based coastal activities.*

### The Proposal

The proposal relates to a single storey dwelling house positioned to the far side of the FSPA. The dwelling house is not visible from the foreshore itself and will not impact views of the foreshore from other properties. The proposal will have no impact on the foreshore area or the FSPA.

**Overall, the development proposal complies with all principal development standards.**

## Section 4.3 | Development Control Plans

The following Development Control Plans are applicable to the subject site and proposed works:

- Manly Development Control Plan 2013 (amendment 11 – in force 28/8/17). The parts relevant to the proposal are:
  - Part 3 General Principles of Development
  - Part 4 Development Controls and Development Types
  - Part 5 Special Character Areas and Sites

Section 4.3.1 | DCP Compliance Table

Manly Development Control Plan:

PROVISIONS	PROPOSED	COMPLIANCE
Part 3 – General Principles of Development		
3.1 Streetscapes and Townscapes		
3.1.1 Streetscape (Residential areas)		
3.1.1.1 Complementary Design and Visual Improvement:		
a) Development in the streetscape (including buildings, fences and landscaping) should be designed to: a) complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality; b) 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; c) maintain building heights at a compatible scale with adjacent development particularly at the street frontage	The proposed replacement dwelling house is similar in bulk and scale to the existing building being replaced.  The proposed development, whilst contemporary in style, has characteristics and cues which complement the existing streetscape character including, but not limited to, single storey height, pitched tiled roof with eaves, appropriate external colour scheme and materials and appropriate boundary setbacks.	✓



<p>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;</p> <p>d) 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;</p> <p>e) 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;</p> <p>f) visually improve existing streetscapes through innovative design solutions; and</p> <p>g) 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.</p>	<p>The proposed development will provide landscaping opportunities which will assist the new development to sit well amongst older existing development and ultimately provides a positive contribution to the streetscape character.</p>	
<p>b)</p> <p>Setback Principles in Low Density Areas:</p> <p>In lower density areas including LEP Zones R2, E3 &amp; E4, setbacks should be maximised to enable open space to dominate buildings, especially on the foreshore.</p>	<p>The proposed siting of the replacement dwelling is carefully contemplated in the context of a nearby bushfire hazard (to the North of the site), yet provides appropriate spacing from adjoining development and allows for adequate landscaping of front and rear setback areas.</p>	<p>✓</p>

3.1.1.2 Front Fences and Gates		
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.	<p>The proposed front fence will be a transparent style and limited to a height of 1.2m.</p> <p>The proposed fencing in terms of style and height is compatible with the existing streetscape character with similar styles evident to the locality.</p>	✓
b) Boundary fences or walls must not be erected where they would conflict with the local character.	<p>The proposed front fencing is appropriate to the context of the neighbourhood.</p>	✓
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.	<p>The proposed front fencing, a dark grey palisade style fence at 1.2m height will complement the new dwelling, also contemporary in style.</p>	✓
d) Gates must not encroach on public land when opening or closing.	<p>No gates proposed.</p>	✓

<b>3.1.1.3 Roofs and Dormer Windows</b>		
a) Roof forms should complement, but not necessarily replicate the predominant form in the locality and in particular those of adjacent buildings.	The proposed dwelling house will have a tiled pitched roof which will integrate well with existing adjoining and nearby development.	✓
b) Roofs should be designed to avoid or minimise view loss and reflectivity.	The proposed roof, although a pitched form, relates to a single storey structure and would have less impact on views than say a 2 storey design. The roof tiles will be medium-dark in colour and have a low 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.	Not proposed.	N/A
<b>3.1.1.4 Garages, Carports and Hardstand Areas</b>		
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.	The proposed garaging is integrated with the dwelling house.  The siting of the garaging, to the front of the proposed development, is entirely appropriate for the site which is subject to a high level	✓

	<p>bushfire risk. The garage will be within a higher risk bushfire zone than the remaining (habitable) areas of the dwelling.</p> <p>To assist with avoiding streetscape dominance, the garage has been designed so that the garage door faces the side boundary and the garage wall facing the street will contain windows which match the living areas which also face the street.</p> <p>The roof of the garage is continuous to the remainder of the dwelling providing a seamless integration to the development overall.</p>	
<p>b) Exceptions to setback criteria referred to in this paragraph may be considered where parking structures are a positive element of the streetscape.</p>	<p>As mentioned, the garage is deliberately sited within a higher risk bushfire zone than the living areas of the dwelling. The garage entry which has been designed to face the side boundary will assist the development to make a positive contribution to the streetscape character.</p>	<p>✓</p>
<p>3.1.1.5 Garbage Areas</p>		
<p>Buildings with more than 1 dwelling require garbage storage enclosures which are:</p> <p>a) not visible off site; b) integrated into the building design;</p>	<p>Not applicable to the proposed development, being a single dwelling house only.</p>	<p>N/A</p>



<div><div>c)unobtrusive and blend in with the design of front fences and walls when forward of the building; and</div><div>d)located and designed with consideration given to the amenity of adjoining properties.</div></div>		
<div>3.3 Landscaping</div>		
<div>Refer to landscape design plan provided with the application.</div>		
<div>3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)</div>		
<div>3.4.1 Sunlight Access and Overshadowing</div>		
<div><div>3.4.1.1 Overshadowing Adjoining Open Space</div><div>In relation to sunlight to private open space of adjacent properties:</div><div><div>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</div><div>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.</div></div></div>	<div>The proposal relates to a single storey dwelling house which will have minimal impact on adjacent properties. The proposed dwelling house is similar in height and scale to the existing dwelling.</div>	<div>✓</div>

<p><b>3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties</b></p> <p>In relation to sunlight to the windows or glazed doors to living rooms of adjacent properties:</p> <div><div>a)</div><div>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);</div><div>b)</div><div>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);</div><div>c)</div><div>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.</div></div>	<p>The proposal relates to a single storey dwelling house which will have minimal impact on adjacent properties. The proposed dwelling house is similar in height and scale to the existing dwelling.</p>	<div>✓</div>
<p><b>3.4.1.3 Overshadowing Solar Collector Systems</b></p> <p>A minimum of 6 hours solar access be retained to solar collectors on neighbouring properties.</p>	<p>The proposal will not impact solar collectors.</p>	<div>✓</div>
<p><b>3.4.1.4 Overshadowing Clothes Drying Areas</b></p> <p>A minimum of 6 hours solar access be retained to a suitable clothes drying area.</p>	<p>The proposal will not impact clothes drying areas.</p>	<div>✓</div>

<p><b>3.4.1.5 Excessive Glare or Reflectivity Nuisance</b></p> <p>See also Council’s Administrative Guidelines in relation to the lodgement of appropriate details of building material and finishes.</p> <p>All external material and finishes incorporated into the development must consider and mitigate any excessive glare or reflectivity nuisance.</p>	<p>All selected building materials and finishes will be factory pre-coloured materials and low in reflectivity.</p>	<p>✓</p>
<p><b>3.4.1.6 Sunlight Access to Communal Living Areas</b></p>	<p>Not applicable to the proposed development type.</p>	<p>N/A</p>
<p><b>3.4.2 Privacy and Security</b></p>		
<p><b>3.4.2.1 Window Design and Orientation</b></p> <p>a) Use narrow, translucent or obscured glass windows to maximise privacy where necessary.</p> <p>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.</p>	<p>The proposal relates to a single storey development with a floor level close to natural ground level. Siting of the dwelling incorporates appropriate setbacks from boundaries.</p> <p>Due to the height and siting of the proposal, glazing treatment is not necessary to retain existing levels of privacy.</p>	<p>✓</p>

<p><b>3.4.2.2 Balconies and Terraces</b></p> <p>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.</p> <p>b) Recessed design of balconies and terraces can also be used to limit overlooking and maintain privacy.</p>	<p>The proposed development does not include any elevated balconies, decks or terraces.</p>	<p>✓</p>
<p><b>3.4.2.3 Acoustical Privacy (Noise Nuisance)</b></p> <p>Not applicable to the proposed development type.</p>		
<p><b>3.4.3 Maintenance of Views</b></p> <p>The proposed development will not impact significant views.</p>		
<p><b>3.4.4 Other Nuisance (Odour, Fumes etc.)</b></p> <p>Not applicable to the proposed development type.</p>		
<p><b>3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)</b></p>		
<p>The proposed development type is regulated through BASIX certification which sets down sustainability standards for NSW. A BASIX certificate and BASIX compliant plans are provided with the development application.</p>		



3.7 Stormwater Management		
A stormwater management plan by an engineer is provided with the application.		
3.8 Waste Management		
A waste management plan is provided with the application.		
3.9 Mechanical Plant Equipment		
3.9.3 Noise from Mechanical Plant  External mechanical plant systems (for pools, air conditioning and the like) must be acoustically enclosed and located centrally and away from neighbours living areas of neighbouring properties and side and rear boundaries.	The proposed air conditioning unit will be sited to the Eastern side of the dwelling. The unit will be forward of the front building line of the adjoining property to the East and not adjacent to any rooms of that property.	✓

3.10 Safety and Security

3.10.1 Safety

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

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

The proposed dwelling house design is consistent with CPTED principles.

Car parking will be provided within a secure garage integrated with the dwelling.

The front entry is centred to the building and provided with a direct path and sight line from the street. Motion sensor lighting will be installed to provide an illuminated path of travel between the street and entry/porch area.

The driveway and pedestrian access will be shared, however, number of vehicles entering and egressing the site will be infrequent and relates to a low density residential use. The driveway is flat and high visibility between the site entry point and front door.

Additionally, a reversing bay is provided which will enable vehicles to enter and egress the site in a forward direction to further improve safety of pedestrians.



<p><b>3.10.2 Security (Casual Surveillance)</b></p> <p>In order to promote safety and security, all development is to be designed to maximise opportunities for passive surveillance of public and communal areas by:</p> <ul style="list-style-type: none"><li>a) orientating some rooms to the street;</li><li>b) providing sight lines to the street frontage from the window(s) of at least one habitable room unobscured by trees or any other object;</li><li>c) ensuring the design of fences, walls and landscaping minimise opportunities for concealment and encourage social interaction; and</li><li>d) preferring double glazing on windows in areas of high street noise rather than the high fences or walls as a sound attenuation measure.</li></ul>	<p>The proposal has a living room (Study) with 2 windows facing the street.</p> <p>Landscaping to the front setback area will be low scale, given the area is in a high risk bushfire area. Generally, vegetated areas will be predominantly turf, low growing shrubs and small trees.</p> <p>The proposed front fencing will be in a transparent style and will not fully obscure sight lines from within the subject property.</p>	<p>✓</p>
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Part 4 – Development Controls and Development Types		
4.1 Residential Development Controls		
4.1.1 Dwelling Density, Dwelling Size and Subdivision		
<b>4.1.1.1 Residential Density and Dwelling Size</b>  This section contains maximum permissible residential density controls which generally apply to land identified on the LEP Lot Size Map and determine the maximum number of dwellings that may be achieved on any one parcel of land.		
a) The maximum permissible residential density control at Figure 24 - Minimum Residential Density applies to land identified in Residential Density Areas on the Minimum Residential Density Map at Schedule 1 - Map A in this plan.  Figure 24 - Minimum Residential Density determines the maximum number of dwellings that may be achieved on any one development site. This figure indicates the minimum site area required for every dwelling contained on a site. For example, if a density control of 300sqm per dwelling applies to a site with a site area of 600sqm the density control would allow for a maximum of 2 dwellings.	The subject site is in Density Area D7 which allows 1 unit per 750 sqm Site Area.  The proposed development relates to a single occupancy dwelling house, complying with the control.	✓

b) For the purposes of calculating the residential density control for battle-axe lots, the area of the access handle is excluded from the site area, consistent with the provisions for minimum subdivision lot size in LEP clause 4.1(3A).	Not applicable.	N/A
c) Notwithstanding the minimum Residential Density in Figure 24, no more than 2 dwellings may be constructed on lots 29, 30, 31 and 32 in Section 5 of DP 939916, known as 15 -17 Suwarrow Street Fairlight.	Not applicable.	N/A
d) Dwelling Size: Dwellings are required to have the following minimum internal areas: <ul style="list-style-type: none"><li>- Studio dwellings: 35sqm</li><li>- 1 bedroom dwellings: 50sqm</li><li>- 2 bedroom dwellings: 70sqm</li><li>- 3 bedroom dwellings: 90sqm</li></ul> <ul style="list-style-type: none"><li>▪ The minimum internal areas include only 1 bathroom.</li><li>▪ Additional bathrooms increase the minimum internal area by 5sqm.</li><li>▪ 4th bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.</li></ul>	<p>The proposed 3 bedroom dwelling will have an “internal area” of 224.2m<sup>2</sup>.</p> <p>Calculation: <i>Total Gross Floor Area = 229.5 m<sup>2</sup></i> <i>Minus Ensuite = -10.3 m<sup>2</sup></i> <i>Add “additional bathroom” = +5.0 m<sup>2</sup></i></p>	✓



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

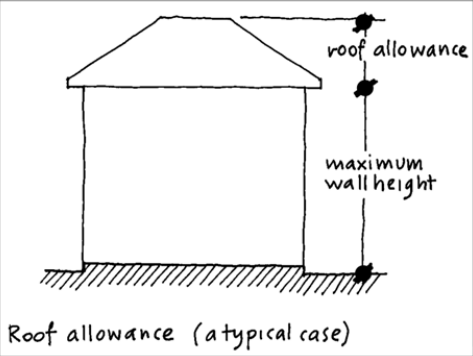
4.1.2.1 Wall Height

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 (see below).	The maximum Wall Height permissible for the subject site is 6.5-6.6m.  The proposed development will have a maximum wall height of 4.48m.	✓
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<b>Figure 26 - Wall Height in relation to the LEP Height of Buildings Map</b>			
Subzones on the LEP Height of Buildings (HoB) Map *	Maximum Wall Height on flat land (no gradient)	Maximum Wall Height on land with a site gradient less than 1:4	Maximum Wall Height on land with a site gradient of 1:4 or steeper
Area 'L' on HoB Map (11m)	9m	See Figure 28 - Maximum Wall Height Determined by the Slope.	10.5m
Area 'N1' on HoB Map (13m)	12m		12m
All other areas on HoB map	6.5m		8m

<p>b)</p> <p>For the purpose of determining maximum wall height, the slope of the land is calculated at natural ground level along the full length of the proposed wall expressed as a ratio that is applied in Figure 27 - Interpretation of Wall Height based on Slope. The slope of land on which the wall is sited will differ from one building to another and from one elevation of that building to another elevation and will be used in Figure 28 below to determine the maximum wall height in each case.</p>	<p>Applied to the calculations.</p>	<p>Applied</p>
<p><b>4.1.2.2 Number of Storeys</b></p>		
<p>a)</p> <p>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.</p>	<p>The proposal is limited to 1 storey.</p>	<p>✓</p>
<p>b)</p> <p>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.</p>	<p>Not applicable to the subject site.</p>	<p>N/A</p>
<p>c)</p> <p>Variation to the maximum number of storeys may be considered:</p> <ul style="list-style-type: none"><li>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</li><li>ii) to allow an additional understorey where that storey satisfies the meaning of basements in the LEP.</li></ul>	<p>No variation sought.</p>	<p>N/A</p>

4.1.2.3 Roof Height

<p>a)</p> <p>Pitched roof structures must be no higher than 2.5m above the actual wall height *, calculated in accordance with Figure 29.</p> <p><i>*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.</i></p> <div data-bbox="118 619 589 976"><p>The diagram shows a cross-section of a building with a pitched roof. A vertical line on the right side of the building indicates the 'maximum wall height' from the ground level to the top of the wall. Another vertical line on the left side of the roof indicates the 'roof allowance' from the top of the wall to the peak of the roof. The caption below the diagram reads 'Roof allowance (a typical case)'.</p></div>	<p>The majority of the pitched roof will have a height of 2.0m.</p> <p>The small section of roof, at the centre of the building where the footprint is at its widest, will have a height of 2.59 - 3.38m. This particular section of roof is well setback into the site and front of the building, and is in the centre of the building away from side boundaries.</p> <p>Despite non compliance with the numerical control, the roof form will appear proportionate to the structure and will not dominate the building appearance.</p> <p>The proposed building is well under the building height standard and wall height control.</p>	<p>✓</p> <p>Merit – Small section of roof exceeds the numerical control but is well setback from all boundaries</p>
<p>b)</p> <p>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.</p>	<p>Not applicable to the design.</p>	<p>N/A</p>

<i>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.</i>		
c) The maximum roof pitch must be generally no steeper than 35 degrees. A roof with a steeper pitch will be calculated as part of the wall height. In this regard the wall height controls at paragraph 4.1.2.1 of this plan will apply to the combined wall height and the height of the roof steeper than 35 degrees.	The proposed dwelling will have a 27° roof pitch.	✓
<b>4.1.2.4 Application of DCP Controls in respect of Land Identified under ‘Special Height Provisions’ under Clause 4.3A of the LEP</b>  Not applicable to the subject site.		
<b>4.1.3 Floor Space Ratio (FSR)</b>		
The proposed development complies with the FSR standard and the subject site is not an undersized lot.		

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

4.1.4.1 Street Front setbacks

<p>a)</p> <p>Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.</p> <p><i>Note - Reference to ‘prevailing building lines’ in this paragraph means the building lines determined in undertaking the context and site analysis required to accompany all DAs (see Council’s Administrative Guidelines) including, in this case, demonstrated survey of all building lines and street frontages in the vicinity i.e. the visual catchment along the street.</i></p>	<p>The current ‘prevailing building line’ of neighbouring properties is calculated as follows:</p> <ul style="list-style-type: none"><li>- 5 New Street setback = 13.3m</li><li>- 9 New Street setback (excl carport) = 5.9m</li><li>- Average = 9.6m</li></ul> <p>A development application (DA2022/1826) has been made for 5 New Street. If the plans are approved with the front setbacks proposed (6.0m), the revised average will be 5.95m.</p> <p>The proposed development provides for a front setback of 7.5m.</p> <p>The proposal is within range of the existing front setbacks of adjoining properties and will be close to the average setbacks if DA2022/1826 is approved as presented in the application.</p>	<p>✓</p>
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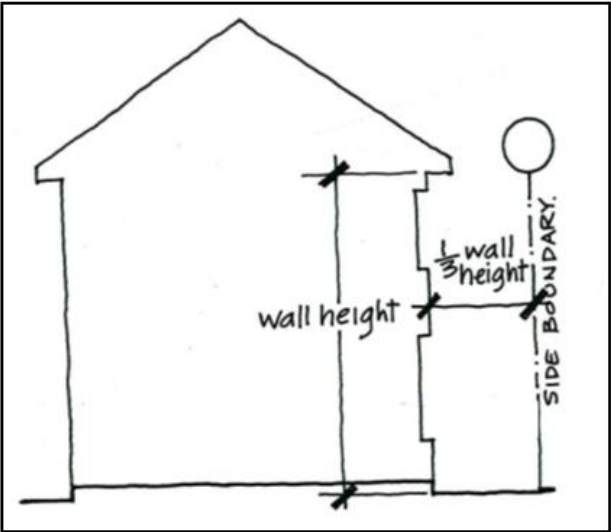


<p>b)</p> <p>Where the street front building lines of neighbouring properties are variable and there is no prevailing building line in the immediate vicinity i.e. where building lines are neither consistent nor established, a minimum 6m front setback generally applies. This street setback may also need 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.</p>	<p>The current existing front building lines of neighbouring properties are variable.</p> <p>The proposed front setback of 7.5m will comply with the minimum front setback control.</p>	<p>✓</p>
<p>c)</p> <p>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.</p>	<p>No upper floor proposed.</p>	<p>N/A</p>
<p>d)</p> <p>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.</p>	<p>No projections within the minimum front setback control are proposed.</p>	<p>N/A</p>

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.

Fig 31



Eastern side

- Closest element:
- Height = 2.4m (above EGL).
  - Required setback = 0.8m
  - Proposed setback = 1.09m



- Highest element:
- Height = 2.59m (above EGL).
  - Required setback = 0.86m
  - Proposed setback = 1.54m



Western side

- Closest element:
- Height = 2.82m (above EGL).
  - Required setback = 0.94m
  - Proposed setback = 1.49m



- Highest element:
- Height = 2.85m (above EGL).
  - Required setback = 0.95m
  - Proposed setback = 2.21m



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.	The proposal includes eaves, however, the eaves do not project within the minimum required side setback area.	✓
c) All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;	<p>All windows relate to a ground floor storey with the floor level being close to natural ground level.</p> <p>A standard 1.8m height dividing fence would protect the privacy of adjoining properties.</p> <p>Furthermore, control 4.1.4.3(a) below allows a variation subject to certain conditions. Those conditions are satisfied in this instance.</p>	✓
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.	Not applicable to the site.	N/A
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.	The siting of the dwelling will have setbacks from boundaries which would allow for unimpeded access down both sides, along with landscaping opportunities.	✓

<p>f)</p> <p>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.</p>	<p>Not applicable to the site.</p>	<p>N/A</p>
<p><b>4.1.4.3 Variations to Side Setback in Residential Density Areas D3 to D9 (see paragraph 4.1.1 of this plan)</b></p>		
<p>a)</p> <p>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:</p> <ul style="list-style-type: none"><li>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.</li><li>ii) The wall protruding into the minimum setback must not provide windows facing the side boundary.</li><li>iii) The subject side elevation must provide a window(s) at some 90 degrees to the boundary.</li></ul>	<p>The proposal meets all the conditions set out by the control, allowing consideration of an exception to the side setback control.</p>	<p>✓</p>



<p>b)</p> <p>Walls located within 0.9m of any one of the side boundaries may be considered but must:</p> <ul style="list-style-type: none"><li>i) contain no windows; *</li><li>ii) be constructed to one side boundary only;</li><li>iii) limit height to 3m; *</li><li>iv) limit length to 35 percent of the adjoining site boundary**</li><li>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;</li><li>vi) obtain a right-of-way to provide access for maintenance; and</li><li>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.</li></ul>	<p>Not proposed.</p>	<p>N/A</p>
<p>4.1.4.4 Rear Setbacks</p>		
<p>a)</p> <p>The distance between any part of a building and the rear boundary must not be less than 8m.</p>	<p>The proposed development will have a minimum rear setback of 12.347m to the dwelling wall.</p> <p>However, an attached pergola (open roof) is proposed and will have a rear setback of 7.15m. The pergola does not protrude above the gutter line of the single storey dwelling, is a lightweight structure and open sided. The impact of the non compliance with the rear setback would be very minimal, if any.</p>	<p>✓</p> <p>Minor non compliance</p>

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.	The rear setback area will contain turf and gardens.	✓
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.	Not applicable, the site is relatively flat.	N/A
d) Rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity to minimise overshadowing, visual privacy and view loss.	<p>Although the proposed dwelling will extend past the prevailing rear setback pattern of adjoining development, the proposal relates to a single storey structure with a floor level at or close to natural ground level.</p> <p>The proposal will not significantly impact solar access, visual privacy or view loss relating to adjoining properties.</p>	Merit – Single storey structure will be low impact on adjoining properties
<b>4.1.4.5 Foreshore Building Lines and Foreshore Area</b>  Not applicable to the subject site.		
<b>4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2</b>  Not applicable to the subject site.		

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

Not applicable to the subject site.

4.1.5 Open Space and Landscaping

4.1.5.1 Minimum Residential Total Open Space Requirements

<p>a)</p> <p><u>Numeric Controls:</u></p> <p>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 (see table below).</p> <p>The minimum total open space requirement is determined as a percentage of the site area in Figure 34 and applies to residential accommodation and other permissible development in the LEP Zones R1, R2, R3, E3 &amp; E4 and residential development in any other zone excluding shop top housing in LEP Zone B1 Neighbourhood Centre (see paragraph 4.2.8.3) and Zone B2 Local Centre.</p>	<p>The subject site is in the OS4 area.</p> <p>Each control element is considered below.</p>	<p>Refer below.</p>
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Figure 34 – Numeric Requirements for Total Open Space, Landscaped Area and Open Space Above Ground

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



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

Total Open Space required – min 60% of Site Area	<p>The required TOS is 475.4m<sup>2</sup>.</p> <p>The proposed TOS is 316.9m<sup>2</sup> (40.0%) resulting in a deficiency of 158.5m<sup>2</sup>.</p> <p>A variation of 33% of the control is sought through merits of a reasonable alternative solution which is discussed in detail at section 4.3.2 below.</p> <p>Note, Council were supportive of the proposal despite the non compliance during the Pre DA Meeting which is supported by the Council Written Advice from that meeting.</p>	Alternative Solution
Landscaped Area required – min 40% of Total Open Space	<p>The required Landscaped area is 190m<sup>2</sup>.</p> <p>The proposed Landscaped Area is 369.4m<sup>2</sup> (46.6%).</p>	✓



Above Ground open space – max 25% of Total Open Space	No above ground open space proposed.	N/A
<p>b)</p> <p><u>Minimum dimensions and areas for Total Open Space</u></p> <p>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:</p> <ul style="list-style-type: none"><li>i) horizontal dimension of at least 3m in any direction; and</li><li>ii) a minimum unbroken area of 12sqm.</li><li>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.</li></ul>	Total Open Space has been calculated accordingly.	✓
<p>c)</p> <p><u>Provisions for Total Open Space Above Ground</u></p> <p><i>Note: This paragraph limits the extent of total open space which may be provided above ground level.</i></p> <p><i>See dictionary meaning of ‘open space above ground’</i></p> <p>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.</p>	No Above Ground Open Space is proposed.	N/A

<p>Amenity Considerations</p> <ul style="list-style-type: none"><li>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.</li><li>ii) All open space above ground including verandas, balconies, terraces, are not to be enclosed.</li><li>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).</li><li>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. <i>Note: In relation to assessing privacy in this paragraph, the anticipated lines of sight are to be determined from any location on the terrace at an eye level of 1.6m above the proposed finished floor level. Council may require sketches to accompany the DA demonstrating critical view lines from the proposed development to adjoining spaces and windows in sectional drawings.</i></li><li>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).</li></ul>		
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4.1.5.2 Landscaped Area		
<p>a) <u>Numeric Controls</u> 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.</p> <p><i>*Note: ‘Actual’ space refers here to proposed (or existing where no change proposed), rather than the minimum requirement for open space in this plan.</i></p>	<p>In our Pre DA discussion with Council, it was advised in this instance that the minimum landscaped area is based on a percentage of the minimum required total open space.</p> <p>All the calculations above have been based on that methodology.</p>	
<p>b) <u>Minimum Dimensions and Areas</u> Minimum dimensions and areas must provide for the following:</p> <ul style="list-style-type: none"><li>i) soil depth of at least 1m for all landscaped areas either in ground or above ground in raised planter beds; and See also paragraph 4.1.5.1.c regarding the extent of open space above ground.</li><li>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.</li></ul>	<p>Landscaped Area has been calculated accordingly.</p>	
<p>c) <u>Minimum Tree Plantings</u></p> <ul style="list-style-type: none"><li>i) The minimum tree numbers must be in accordance with Figure 37 - Minimum Number of Native Trees Required.</li></ul>	<p>A minimum of 3 native trees are required by the control.</p>	

<p>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.</p> <p>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.</p> <p>Figure 37 – specifies minimum 3 Native Trees required for the subject site.</p>	<p>3 native trees are provided with the landscape design (3 x NSW Christmas Bush). The trees will be planted to the rear yard in the deep soil zone.</p>	<p>✓</p>
<p>d)</p> <p><u>Landscaping Driveways</u></p> <p>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.</p>	<p>The proposed driveway will have a minimum setback of 1.0m from the side boundary.</p>	<p>✓</p>
<p><b>4.1.5.3 Private Open Space</b></p>		
<p>a)</p> <p><u>Principal Private Open Space</u></p> <p>Principal private open space is to be provided in accordance with the following minimum specifications:</p> <p>i) Minimum area of principal private open space for a dwelling house is 18sqm; and</p>	<p>The minimum PPOS required is 18m².</p> <p>The proposed development will have PPOS of at least 239m².</p>	<p>✓</p>

<p>ii) Minimum area of principal private open space for residential accommodation with more than 1 dwelling on the site is 12sqm for each dwelling.</p> <p><i>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</i></p>		
<p>b) <u>Private Open Space for Boarding Houses</u> Private open space for Boarding Houses is to be provided in accordance with the following minimum specifications:</p> <ul style="list-style-type: none"><li>i) Minimum area of 20sqm with a minimum dimension of 3m for the use of the lodgers.</li><li>ii) If accommodation is provided on site for a boarding house manager – 1 area of at least 8sqm with a minimum dimension of 2.5m is to be provided adjacent to that accommodation.</li><li>iii) The area is to receive a minimum of 3 hours direct sunlight between 9am and 3pm in midwinter.</li></ul>	<p>Not applicable.</p>	<p>N/A</p>



4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)		
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas		
<p>a)</p> <p>The design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality.</p>	<p>The location for the proposed garage is appropriate in that it will be sited within the higher bushfire risk area of the lot, at the front of the site. A front setback of 7.5m to the garage is provided, complying with front setback controls.</p> <p>To mitigate dominance to the streetscape, the garage entry is orientated to the side, with the façade facing the street containing windows which match living area windows.</p>	<p>✓</p>
<p>b)</p> <p>Garage and carport structures forward of the building line must be designed and sited so as not to dominate the street frontage. In particular:</p> <ul style="list-style-type: none"><li>i) garages and carports adjacent to the front property boundary may not be permitted if there is a reasonably alternative onsite location;</li><li>ii) carports must be open on both sides and at the front; and</li></ul>	<p>The garage will be forward of the building line, however, will have the opening facing the side boundary.</p> <p>The garage design will be sympathetic to the streetscape character and offers an appropriate alternative in the context of a high risk bushfire area.</p>	<p>Merit – garage design (orientation) will avoid dominance of streetscape.</p>

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.	The proposed garage will have a “width” of 6.5m (42.7% of the frontage). The dimensions of the garage will enable a side facing entry and sufficient circulation space to manoeuvre vehicles to enter and exit the site in a forward direction.	Merit – Minor non compliance and to provide manoeuvrability
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.	Double car space parking structures are common to the streetscape. The proposed double garage, in conjunction with its orientation to the side boundary, will not adversely impact the streetscape character.	✓
4.1.7 First Floor and Roof Additions Not applicable		
4.1.8 Development on Sloping Sites Not applicable		

4.4 Other Development

4.4.5 Earthworks (Excavation and Filling)

4.4.5.1 General

<p>a) Earthworks must be limited to that part of the site required to accommodate the building and its immediate surrounds to protect significant natural features of the site including vegetation and prominent rock outcrops.</p> <p>b) Natural and undisturbed ground level must be maintained within 0.9m of side and rear boundaries.</p> <p>c) On steeply sloping sites, pier and suspended slab or an equivalent non-invasive form of construction technique must be used to minimise earthworks and vegetation loss and retain natural features.</p> <p>d) Excavation under the canopy of any tree (including those on neighbouring properties) will only be permitted providing its long-term survival and stability is not jeopardised. Such excavation must be supported by an Arborist report.</p> <p>e) Approved sediment, siltation and stormwater control devices must be in place (and maintained) prior to and during the carrying out of any earthworks and other works on the site.</p>	<p>The proposed development involves minimal earthworks. Landscape retaining walls are provided to the rear corner of the site over the rocky outcrop which will contain deep soil zones and planting to manage surface runoff entering the site.</p> <p>Cut will be 350-770mm to the Eastern side of the site.</p> <p>Maximum fill proposed outside building footprint is 250mm.</p> <p>Earthworks will not impact trees.</p> <p>An Erosion and Sedimentation Control Plan is included with the architectural plan set.</p>	<p>✓</p>
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4.4.5.2 Excavation

<p>a) Excavation is generally limited to 1m below natural ground level with the exception of basement parking areas (which will be contained within the footprint of the building) and swimming pools;</p> <p>b) A dilapidation survey report and geotechnical assessment may be required for excavation works exceeding 1m. Dilapidation survey reports are to include photographic survey of the physical condition of adjoining properties, both internally and externally, including walls ceilings, roof, structural members and other such items. Such records are to provide proper record in relation to the proposed development to particularly assist in any dispute over damage to adjoining proposed arising from the works. It is in the interests of applicants and adjoining landowners for it to be as full and as detailed as necessary commensurate with the nature of the proposed development.</p>	<p>Proposed excavation will be a maximum of 770mm, except for excavation to seat underground OSD tanks in the front yard (1.6m in depth).</p> <p>A dilapidation report is not necessary.</p>	<p>✓</p>
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4.4.5.3 Filling

<p>a) Filling must not exceed 1m above natural ground level.</p> <p>b) Only natural rock, gravels or sand material (not builder’s waste or demolition materials), obtained from approved sources, must be used as filling.</p>	<p>A minor amount of fill (250mm) is proposed to the rear of the lot.</p>	<p>✓</p>
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4.4.5.4 Retaining walls

Retaining walls within 1m of the front boundary must not exceed 1m above natural ground level.	Not proposed.	N/A
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Part 5 – Special Character Areas and Sites		
5.4 Environmentally Sensitive Lands		
5.4.1 Foreshore Scenic Protection Area		
5.4.1.1 Additional matters for consideration		
<p>a) Further to matters prescribed in the LEP, the development in the Foreshore Scenic Protection Area must also:</p> <ul style="list-style-type: none"><li>i) minimise the contrast between the built environment and the natural environment;</li><li>ii) maintain the visual dominance of the natural environment;</li><li>iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;</li><li>iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;</li><li>v) locate rooflines below the tree canopy;</li><li>vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and</li><li>vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality.</li></ul>	<p>The proposed development seeks to replace a single storey dwelling house with another single storey dwelling house.</p> <p>The new dwelling house will be predominantly over the same footprint of the existing structure.</p> <p>The proposed gutter line and ridge height will not significantly differ from the existing structure being replaced.</p> <p>The proposed colours and material finishes are appropriate consisting of dark and earthen tones, and will be non reflective.</p>	<p>✓</p>

<p>b)</p> <p>Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly.</p>	<p>The subject site is oriented away from the foreshore and is situated to the outer edge of the FSPA.</p> <p>Notwithstanding, the proposed development includes a generous front setback of 7.5m which exceeds the setback control minimum and one of the adjoining properties, possibly both if a recent development application is approved.</p>	<p>✓</p>
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## Section 4.3.2 | Reasonable Alternative Solutions to certain DCP controls

Environmental Planning and Assessment Act 1979 provides:

### 3.42 Purpose and status of development control plans

- (1) The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:
- (a) giving effect to the aims of any environmental planning instrument that applies to the development,
  - (b) facilitating development that is permissible under any such instrument,
  - (c) achieving the objectives of land zones under any such instrument.
- The provisions of a development control plan made for that purpose are not statutory requirements.

### 4.15 Evaluation

- (3A) Development control plans If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—
- ...
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development..

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In the spirit of section s3.42 and s4.15(3A)(b), flexibility in relation to the controls are sought in this instance and reasonable alternative solutions to certain controls are offered with the proposal.

Reasonable alternative solutions to the following controls are offered:

- Total Open Space – section 4.3.2.1

Merits of the reasonable alternative solutions are discussed in detail below.

## Section 4.3.2.1 | Reasonable alternative solution to the Total Open Space control

### Control guidelines:

The relevant control is outlined in Part 4 Residential Development Controls of Manly Development Control Plan which provides:

#### 4.1.5 Open Space and Landscaping

##### Figure 34

- Area OS4 – Minimum Total Open Space (TOS) = at least 60% of Site Area.

### The development proposal:

The site being 792.3m<sup>2</sup> would require a minimum TOS of at least 475.4m<sup>2</sup>.

The proposed development would provide a TOS of 316.9m<sup>2</sup> (40.0% of Site Area) which will be deficient by 158.5m<sup>2</sup>, a non compliance of 33% of the numerical control.

### Objectives of the controls:

1. To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.
2. To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.
3. To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.
4. To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.
5. To minimise the spread of weeds and the degradation of private and public open space.
6. To maximise wildlife habitat and the potential for wildlife corridors.

### **The proposal meets the control objectives in the following ways:**

- The proposed development, a single storey dwelling house, will include a professionally designed landscape plan which provides substantial soft landscaped areas to both front and rear yards.
- The proposal will provide substantial deep soil zones to front and rear yards, with a total landscaped area of 76.7% of the site, comfortably exceeding the minimum 40% control.
- The proposal does not seek unnecessary removal of trees or important landscape features of the site. Rather, the proposal seeks to establish plantings and landscaping that is appropriate for a bushfire affected site.
- Plantings are proposed along particular boundaries, where appropriate. Appropriate species of plants have been selected that will offer natural screening but will not cause undue adverse impacts to solar access or bushfire risk.
- The landscape design includes a well contemplated front yard deep soil zone which will be appropriately planted keeping bushfire risk in mind. The landscape design seeks to integrate a new replacement dwelling with a well established residential area which, in our opinion, is successfully accomplished.
- The proposal maximises porous landscaped area in that other than the dwelling footprint, the only other impervious areas are necessary for the function of the residential use including a driveway, a pathway and modest paved outdoor areas. Unnecessary hard surface areas and paving are avoided with the landscape design.
- The proposal will not negatively impact flora and fauna adjacent to or near the subject site.

### **Conclusion:**

The proposed development through the alternative solution offered is reasonable in that objectives of the controls associated with Total Open Space are achieved.

The owner developers of the property have invested time and funds in ensuring their replacement dwelling and landscaping is suitable for the locality, the environment and of course their own amenity.

In early stages of the design, our firm and the owners convened with Penny Wood, Northern Beaches Council through a pre lodgement meeting on 24 Aug 2022 (PLM2022/0167). The purpose of that meeting was to discuss the likely non compliance with the Total Open Space numerical control given the design brief which sought for a single storey dwelling house.



The dwelling needed to be sited in a such a way where bushfire risk is minimised. This was done by providing a garage (with fire isolation from habitable areas) at the front of the structure where the bushfire risk was at its highest level.

Further, a desirable presentation of the development to the streetscape was important to the owners. To achieve the best outcome, providing access to the garage from the side elevation was necessary to allow windows to the front wall of the garage facing the street. As a result, the driveway area which includes a small reversing bay, absorbed “Total Open Space” by definition, as driveways cannot be included in the calculation.

From the pre lodgement meeting and subsequent notes of that meeting, Council at the time, supported the proposal in concept subject to provision of deep soil zones within both the front and rear setback areas. We believe the architectural plans and landscape plans satisfy the conditional support.

Considering the overall proposed development, the dwelling house is modest in size, the dwelling house is sited very appropriately considering bushfire risks, vehicular access provided is safe and convenient, and most importantly, the proposal provides for extensive landscaping opportunities around the replacement building.

A strict approach to the numerical control is unnecessary and unreasonable in this instance given the type of development proposed (single storey dwelling, which tend to have a larger development footprint than a multi storey dwelling), the bushfire affectation of the site and proposed car parking arrangements which contemplate the streetscape character.

For these reasons, we recommend the consent authority not hesitate in supporting the proposal in its current form.

## Section 4.4 | Likely Impacts of the Proposed Development

Likely impacts of the proposed development are considered in respect to Natural & Built Environments and Social & Economic in the Locality below.

### Section 4.4.1 | Impacts on Natural and Built Environments

The proposed development does not involve unnecessary removal of trees.

The proposed development, with the inclusion of the landscape design, will have a positive impact on the natural environment.

Use of the dwelling, once complete, will have no further adverse impact on the local or regional air and water quality in comparison to its existing impact.

The proposed development will have no unreasonable adverse impacts on the natural environment at site or within the locality.

The locality contains a variety of architectural styles being within an established suburb. The proposed development represents a modern interpretation of low density residential housing which is of reasonable height, bulk and landscape area proportions. In the context of contemporary dwelling design, the proposed dwelling is modest in bulk and scale in comparison of other recent and typical redevelopment of sites in the locality.

The proposed development will have no significant adverse impact on the built environment generally.

## Section 4.4.2 | Social and Economic Impacts in the Locality

The proposed dwelling will not have an adverse social impact in that the structure will be replacement of dwelling house with another dwelling house. The dwelling house design incorporates a reasonable level of glazed areas to the façade facing the street to allow for casual surveillance of adjoining public spaces.

Undertaking the construction works will have some short term positive economic impacts through employment generation, both direct employment and sub contractual multiplier effects. Accordingly, it is considered that the proposed development is likely to have only positive economic impacts in the locality.

## Section 4.5 | Suitability of the Site for the Development

Access to services:

The site has connection to electricity, sewerage, water supply, gas and telecommunication services. The granting of development consent may require that all services are applied for with the relevant utility to ensure proper and safe connection for all buildings at site.

Parking and access:

Vehicular access to the site is available directly from the street. The development proposal includes garaging integrated into the dwelling in the form of a double garage. The configuration of the driveway allows for optimum level of landscaped area opportunities to the front setback area.

Hazards:

The site is bushfire prone and the design has contemplated the known hazard through recommendations provided by a qualified bushfire consultant.

Overall, the site is well suited for a replacement dwelling and appropriate landscaping.

## Section 4.6 | Submissions

It is expected surrounding neighbours will be notified in accordance with Council's Notification Policy.

Should objections be received it is common practice for Council to enable or allow mediation in order to resolve any issues. Our firm is responsive to genuine concerns of nearby property owners and is willing to work with all concerned parties to work through a sensible solution to enable progress.

## Section 4.7 | The Public Interest

The proposed development will preserve the existing and promote desired residential streetscape character. Impacts amenity of adjoining properties will be minimal.

The proposal is in the interest of the public in terms of providing sensible, reasonable housing stock on a suburban residential site.

## SECTION 5 | Conclusion

The proposed development is permissible with consent and is compliant with all principal development standards and zone objectives.

Compliance with development controls is demonstrated except for Total Open Space where a reasonable alternative solution is provided.

In our opinion, the proposed development is justified on its merits and support for the application as made, is recommended.

The application has been assessed against Section 4.15 of the Act and it is considered that the relevant requirements are satisfied.