
From: Vivianne Marston
Sent: 21/01/2025 4:51:15 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: DA 2024/1562 submission for 5 Lauderdale Ave FAIRLIGHT
Attachments: 24060 Submission on 5 Lauderdale Avenue Fairlight 21Jan2025 + appendices for Council.pdf;

Dear Council

Please find attached my submission with regard to DA 2024/1562 for 5 Lauderdale Ave FAIRLIGHT

Regards

Vivianne Marston



21 January 2025

Chief Executive Officer
Northern Beaches Council
PO Box 82
MANLY NSW 1655

Attention: Maxwell Duncan

Address: 5 Lauderdale Avenue, FAIRLIGHT NSW 2094

Development Demolition works and construction of a residential flat building including strata subdivision

Application number DA2024/1562

Dear Mr Duncan

PRELIMINARIES

This submission on Development Application (DA) DA2024/1562 is written on behalf of Vivianne and Andrew Marston; the owners and occupants of 3B Lauderdale Avenue, Fairlight which is to the east of the development site.

This submission is supported by the following appended expert reports:

- **Appendix A:** Analysis of Existing Built Form of Fairlight Cove by Stacey Marston Architects (20 January 2025)
- **Appendix B:** Minimum apartment size comparison, by Robinson Urban Planning (RUP) (17 January 2025)
- **Appendix C:** Omissions and Errors within the Architectural Plans, by Stacey Marston Architects (20 January 2025)
- **Appendix D:** Arboricultural Impact Review, by Blues Bros Arboricultural (3 December 2024)
- **Appendix E:** Heritage Impact Statement, by Tropman & Tropman Architects (21 January 2025)
- **Appendix F:** Site Notice Photographs.

SUBMISSION

Following a review of the DA documents, our client strenuously objects to the DA noting that proposed residential flat building (RFB) should not be approved for the following reasons:

- A. HEIGHT:** The DA should be refused because the proposed height exceeds the 8.5m height development standard prescribed by clause 4.3 of Manly Local Environmental Plan 2013 (**Manly LEP 2013**) and the Clause 4.6 Written Request (Height) seeking to contravene the standard does not adequately address the matters required to be demonstrated under clause 4.6 of Manly LEP 2013.

The proposed contravention of the 8.5m height development standard should not be supported for the following reasons:

- (1) The proposed RFB contravenes the 8.5m height standard by 5.05m (or 59%) in the southwest corner and 3.8m (or 44.7%) in the southeast corner. The contravention comprises a full additional storey above the height standard.
- (2) The proposed RFB also breaches a number of relevant height controls in Manly Development Control Plan 2013 (**Manly DCP 2013**) as noted below:

- ✗ Control 4.1.2.1 (a) states *“The maximum wall height on sloping site with gradient less than 1:4 (gradient of the site is 1:7.6) is 7.3m (not 8m as quoted by the applicant)”*: Contrary to this control, the proposed RFB has a maximum wall height of 13.55m (to the west) which is 6.25m or 85% above the maximum wall height control.
- ✗ Control 4.1.2.2 (a) states *“The building must not exceed two storeys”*: Contrary to this control, a four storey plus basement RFB is proposed, which is 100% or a full two storeys above the two storeys control.
- ✗ Control 4.1.2.2(c) states *“that variation to the number of storeys may be considered, where physical constraints warrant an exception, however the development must still fully comply with the other numeric height controls and development standards”*: A variation to the number of storeys control must not be considered in this instance as the proposal does not comply with any of the other numeric height controls or development standards.

The proposed contravention of the Manly LEP 2013 8.5m height standard should not be supported in this instance as it is the direct cause of contraventions of the above Manly DCP 2013 controls.

- (3) The Clause 4.6 Written Request has not demonstrated that the development, notwithstanding the height contravention, is consistent with the objectives of the height standard as specified at cl. 4.3(1) of Manly LEP 2013. In particular, the proposed height is not appropriate to the conditions of the site and its context as proposed Level 1 and 2 (being the 3rd and 4th storey) would result in:
- A built form that is uncharacteristic of the topographic landscape, prevailing building height and desired future streetscape character in the locality, as detailed at Point A(4) below (contrary to height objective (a))
 - A disruption of views to nearby residential development from public spaces (including the harbour and foreshores) and views from nearby residential development to public spaces, noting that the development site adjoins a public recreation zone (Zone RE1) and a heritage item (Esplanade Park and Fairlight Pool – Item No. 149), as detailed at Points F – Trees and H – Heritage below (contrary to height objective (c))
 - A loss of solar access to the principal private open space and habitable rooms of adjacent dwellings (at 3B Lauderdale Avenue, Fairlight) as detailed at Point D below (contrary to height objective (d)).
- (4) The Clause 4.6 Written Request (Height) makes several references to the proposed development’s compatibility with the height of immediately adjacent development and within the visual catchment. It contends that this constitutes *“sufficient environmental planning grounds”* and *“orderly and economic use and development of the land”*. This statement and justification (described as Grounds 1 and 2 within the Clause 4.6 Written Request (Height)) which purport to justify a 59% contravention should be disregarded for the following reasons:
- The statement is factually incorrect as the development site and the three properties immediately to the east (at 3A & 3B and 3 Lauderdale Avenue) accommodate two storey buildings (height around 8.5m) and multiple other two storey buildings front Fairlight Cove to the west (refer to **Appendix A** for details).
 - The development’s consistency with the two taller buildings to the immediate west (at 7 & 9 Lauderdale Avenue) is not persuasive and should be disregarded. These taller buildings are an anomaly, were constructed in the 1960s under an entirely different planning regime and do not represent the desired future streetscape character in the locality.
 - The visual catchment references relied upon by the applicant, and view of the development site from Fairlight Beach towards the rear of the site looking back up at the Fairlight headland mischaracterises the area (see **Figure 1**, an extract of Photograph 7 within Clause 4.6 Written Request (Height)). The references misrepresent the varied topography of the catchment and the smaller scale buildings along the immediate foreshore.

- Existing taller developments in the area (sighted as grounds to support the proposed Manly LEP 2013 height and FSR contraventions) were approved in the 1960s, some 50 years before gazettal of Manly LEP 2013. Given this, it cannot be argued that the current height standard has been abandoned within the locality. Rather, development within the locality that has been approved under Manly LEP 2013 complies with the building height standard.
- The two anomalous buildings at 7 & 9 Lauderdale Avenue are very narrow and provide large side boundary setbacks which allow for clear views of Fairlight Beach to be enjoyed from the public domain.
- The development's consistency with the two-storey built form control at Lauderdale Avenue does not justify a building height breach of 5.05m (and four storey form) at the south of the development site. Furthermore, the 6.8m fall across the site from north to south does not justify a building height contravention of 59% particularly given that the proposed breach is directly adjacent to Esplanade Park and Fairlight Beach, a heritage item and sensitive land receiver.

NOTE: the above points should be read in conjunction with the Analysis of Existing Built Form of Fairlight Cove, prepared by Stacey Marston Architects (**Appendix A**) which examines individual developments within Fairlight Cove, highlighting the fine grain, smaller scaled development).

- (5) The Clause 4.6 Written Request (Height) makes a final justification (Ground 3) that the proposed development contributes to and facilitates housing supply. This statement and justification to support a breach of the height standard by 59% is a misrepresentation of the relevant clause 4.6 test (suggesting that clause 4.6 is intended to facilitate an improvement to the housing supply irrespective of adverse amenity impacts for surrounding residents and public domain). The general benefit of delivering housing does not justify a departure of the height standard.

In any event, the proposed development of five x three bedroom dwellings could be achieved in a much smaller building with more reasonable impacts on adjacent residences and the public domain, noting that the proposed apartments have internal areas of 215m² to 250m² whereas the apartment size design criteria in the Apartment Design Guide (**ADG**) and Manly DCP Control 4.1.1.1 (b) would require an internal area of just 90m² (+5m² for each additional bathroom) (see **Table 1** and analysis at **Appendix B** which demonstrate that the same number of units with the same number of bedrooms could be delivered within a smaller floor plate).



Figure 7: Photograph showing the built form characteristics of development within the site's visual catchment.

Figure 1: Extract of Figure 7 within the Clause 4.6 Written Request (Height)

Recommendation 1: Proposed Level 1 and 2 (being the 3rd and 4th storey towards Fairlight Beach) should be deleted.

B. FLOOR SPACE RATIO (FSR): The DA should be refused because the proposed gross floor area (GFA) is excessive and exceeds the 0.6:1 FSR development standard prescribed by clause 4.4 of Manly LEP 2013 and the Clause 4.6 Written Request seeking to contravene the FSR standard does not adequately address the matters required to be demonstrated under clause 4.6 of Manly LEP 2013.

The proposed contravention of the 0.6:1 FSR development standard should not be supported for the following reasons:

- (1) As stated within the Clause 4.6 Written Request (FSR), the proposed RFB will have a GFA of 1,056.33m² which equates to 468.33m² or 79.6% contravention of the FSR standard. In simplistic terms, this is roughly equivalent to the combined GFA of proposed Level 1 (being the 3rd storey) plus proposed Level 2 (being the 4th storey).

NOTE: The GFA Summary prepared by Platform Architects (Drawing DA5100 Rev DA1 dated 29.10.2024) shows a total GFA of 1,068m² (not 1,056.3m² as referenced within the Clause 4.6 Written Request (FSR)). With a site area of 980m², this equates to an FSR 1.09:1, which is a non-compliance of 480m² (not 468.33m²) or 81.6% (not 79.6%).

In accordance with s. 35B of the *Environmental Planning and Assessment Regulations 2021 (EP&A Reg)*, the applicant bears the onus to demonstrate that the matters in clause 4.6 of Manly LEP 2013 have been adequately addressed in order to enable the consent authority to form the requisite opinion of satisfaction. The inaccuracies documented within the Architectural Plans (**Appendix C**), and the incorrect calculations within the Clause 4.6 Written Request (FSR), the applicant has not adequately fulfilled the obligation under s. 35B of the EP&A Regs, and the DA cannot be approved.

- (2) The proposed RFB also breaches a number of relevant height controls in Manly DCP 2013 as noted below:
- ✗ Control 4.1.1.1 (a) states “*The maximum permissible residential density is 1 dwelling per 250sqm of site area (D3)*”: A development on site that complies with this density control would provide a maximum of four (4) dwellings whereas five dwellings are proposed.
 - ✗ Control 4.1.1.1 (b) states “*Dwellings are to have the following minimum internal areas: 3-bedrooms: 90m², additional bedrooms: + 12m² and additional bathrooms: + 5m²* (refer to **Table 1** for assessment and consideration): As noted above at Point A(5), the proposed apartments have internal areas of 215m² to 250m² which is more than double the apartment size control.
 - ✗ Control 4.1.2.1 (a) states “*The maximum wall height on sloping site with gradient less than 1:4 (gradient of the site is 1:7.6) is 7.3m* (not 8m as quoted by the applicant)”: Contrary to this control, the proposed RFB has a maximum wall height of 13.55m (to the west) which is 6.25m or 85% above the maximum wall height control.
 - ✗ Control 4.1.2.2 (a) states “*The building must not exceed two storeys*”: Contrary to this control, a four storey plus basement RFB is proposed, which is 100% or a full two storeys above the two storeys control.
 - ✗ Control 4.1.2.2(c) states “*that variation to the number of storeys may be considered, where physical constraints warrant an exception, however the development must still fully comply with the other numeric height controls and development standards*”: A variation to the number of storeys control must not be considered in this instance as the proposal does not comply with any of the other numeric height controls or development standards.
 - ✗ Control 4.1.4.2 (a) states “*setbacks between any part of the building and the side boundary must not be less than 1/3 of the height of the adjacent external wall*”: A minimum side boundary setback of 2.54m is proposed whereas 3m is required.
 - ✗ Control 4.1.4.4 (a) states “*the distance between any part of a building and the rear boundary must be no less than 8m*”: Contrary to this control, the proposed RFB will have the following rear setbacks which breach the control at all levels:
 - Basement: 4.485m
 - Lower Ground Floor: 4.500m
 - Upper Ground Floor: 4.095m
 - Level 1: 4.095m
 - Level 2: 6.00m.

- ✗ Control 4.1.4.6 (a) states “that development on sites with a common rear boundary to land zoned RE1 Public Recreation must be setback at least 8m from the boundary”: As listed above, the proposed RFB does not provide an 8m to the rear boundary to land in Zone RE1 (Fairlight Beach).
- ✗ Control 4.1.4.6 (b) states that “remanent native vegetation must be protected on land particularly with the minimum required setback of land adjacent to RE1 Public Recreation”: Contrary to this control, three trees are proposed to be removed within the rear setback of land adjacent to land in Zone RE1 (including a Norfolk Island Pine) and the development may pose a risk to an important foreshore tree.
- ✗ Control 4.1.8 (a) and (b) states “The development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces. Developments on sloping sites must be designed to generally step with the topography of the site;”: Contrary to this control, the development does not follow the topography of the land, completely disregarding the 6.8m fall across the site.

The proposed contravention of the Manly LEP 2013 FSR standard should not be supported in this instance as it is the direct cause of contraventions of the above Manly DCP 2013 controls.

- (3) The Clause 4.6 Written Request has not demonstrated that the development, notwithstanding the FSR contravention, is consistent with the objectives of the FSR standard. In particular, the proposed GFA is not appropriate to the conditions of the site and its context as the proposed building bulk and scale would result in:
- A bulk and scale of development that is not consistent with the existing and desired streetscape character as detailed at Point A(4) (**Appendix A**) and below (contrary to FSR objective (a))
 - A building density and bulk that is excessive for the site area that would obscure important landscape features (contrary to FSR objective (b))
 - An inappropriate visual relationship between the proposed new development and the existing character and landscape of the area (contrary to FSR objective (c))
 - A development that does not minimise adverse environmental impacts on the use or enjoyment of adjoining dwellings and the public domain (contrary to FSR objective (d)).
- (4) The Clause 4.6 Written Request (FSR) makes several references to the proposed development’s compatibility with the bulk and scale of development within the site’s visual catchment, and contends that this constitutes “sufficient environmental planning grounds” and “orderly and economic use and development of the land”. This statement and justification (described as Ground 1 within the Clause 4.6 Written Request (FSR)) to support a breach of the FSR standard by 79.6% (or 81.6% using the architects GFA calculations), should be disregarded for the following reasons
- Refer to Point A (4) above, as well as the Analysis of Existing Built Form of Fairlight Cove (**Appendix A**)
 - Refer to Point A (4) above which explains that existing taller developments in the area cannot be relied upon to support the contravention of development standards in Manly LEP 2013. , Development approved under Manly LEP 2013 complies with the applicable FSR standard, therefore it cannot be said that the FSR standard has been abandoned.
- (5) The Clause 4.6 Written Request (FSR) states at Ground 2 that “the topography of the site facilitates the provision of 80.78m² of GFA predominantly below ground level (existing), where it does not contribute to actual or perceived above ground bulk and scale, accordingly the extent of the non-compliance as it relates to above ground GFA, is only 387.55m², representing a variation of 69%” (as opposed to the 79% (or 81.6%)). It is considered that this does not constitute “sufficient environmental planning grounds” or “orderly and economic use and development of the land”. The proposed GFA below ground level (existing) directly contributes to the perceived bulk and scale, the non-complying side and rear setbacks (below ground level (existing)) result in the loss of significant, mature vegetation across the site, as well as diminish the necessary visual separation and breaks to support a development of this scale.

- (6) The Clause 4.6 Written Request (FSR) makes a final justification (Ground 3) that the proposed development contributes to and facilitates housing supply. As addressed above, at Point A (5) above, the general benefits of delivering housing do not justify a departure of the FSR standard by 79.6% (or 81.6%). Especially when the same number of units (with the same number of bedrooms) could be delivered within a much smaller floor plate.
- (7) The Clause 4.6 Written Request (FSR) makes several references to the proposal's exceptional design and that this constitutes "sufficient environmental planning grounds" and "orderly and economic use and development of the land". This statement and justification to support a breach of the FSR standard by 79.6% (or 81.6%), is a misrepresentation of the relevant clause 4.6 test. Further, given the matters raised within this submission, the impacts to surrounding residents and public (in particular the loss of solar access, important sightlines, privacy impacts, loss of significant vegetation) and the number of inaccuracies and mistakes contained within the supporting documentation (Listed at **Appendix C**), the proposal has not demonstrated design excellence. It is clear a better and more skilful design could accommodate the proposed number of apartments and minimise the adverse impact on surrounding residents and the public domain.

Recommendation 2: The side and rear boundary setbacks must fully comply with Manly DCP 2013.

- C. BUILT FORM:** The DA should be refused as the proposed RFB does not comply with Manly DCP 2013, Section 4.1 Residential Development Controls. In particular, it has an excessive height, bulk and scale resulting in adverse amenity impacts.

An assessment of the proposed development against Manly DCP 2013 Section 4.1 Residential Development Controls follows in **Table 1**. It shows that the development does not comply with the majority of these provisions. These non-compliances directly cause adverse amenity impacts for residential neighbours and the adjacent public domain.

Recommendation 3: The existing established vegetation on the site should be retained and new supplementary planting should be incorporated. The proposed elevated outdoor terrace areas should be deleted along the side boundaries and the proposed openings to the side elevations should be sighted and screened to avoid any mutual loss of privacy. The building bulk and scale should be reduced to minimise overshadowing and overlooking to the POS at 3B Lauderdale Avenue.

Table 1: Assessment of compliance with Manly DCP 2013 Section 4.1 Residential Development Controls

4.1 Residential Development Controls	
4.1.1 Dwelling Density, Dwelling Size and Subdivision	
4.1.1.1 Residential Density and Dwelling Size	
a) The maximum permissible residential density control applies to land identified. D3 - 250 sqm of site area required per dwelling	X Five (5) dwellings proposed Four (4) dwellings permitted
b) ...	
c)	
d) Dwellings are required to have the following minimum internal areas: <ul style="list-style-type: none"> 3-bedroom dwellings: 90sqm The minimum internal areas include only 1 bathroom. Additional bathrooms increase by min 5sqm. A 4th bedroom and further additional bedrooms increase the min. by 12sqm each. 	X Three-bedroom dwellings: 215m ² to 250m ² (see Appendix B for calculations and assessment against the minimum apartment size).
4.1.1.2 Residential Land Subdivision	
.....	
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	X 13.55m proposed, 5.05m or 59% above the standard.
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	N/A
4.1.2.1 Wall Height	

4.1 Residential Development Controls	
a) The maximum external wall height is calculated based on the slope of the land under the proposed wall. <ul style="list-style-type: none"> 6.5m (flat no gradient) 8m (on land with a gradient greater than 1:4) 	X 13.55m proposed (west elevation), 6.25m (85%) over the control.
b) The slope of the land is calculated at natural ground level along the full length of the proposed wall expressed as a ratio	X The gradient of the site, along the length of the proposed RFB is 1:7.6 less than 1:4. As such, the permitted wall height is 7.3m not 8m as quoted by the applicant.
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.	X Two storeys proposed to Lauderdale Avenue Four storeys proposed to Fairlight Beach.
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.	N/A
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	X The lot is rectangular in shape, has ample size and two frontages (front and rear) There is a fall across the site of 6.8m There are no physical site constraints that warrant an exception to the number of storeys control.
ii) to allow an additional understorey where that storey satisfies the meaning of basements in the LEP.	N/A
4.1.2.3 Roof Height	
a) Pitched roof structures must be no higher than 2.5m above the actual wall height *	N/A
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.	N/A
...	
4.1.3 Floor Space Ratio (FSR)	
....	X 1.09:1 proposed (0.6:1 permitted), which is a non-compliance of 480m ² or 81.6%.
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.	X Front side elevated terrace results in adverse privacy impacts to the adjacent dwelling at 3B Lauderdale Avenue. Refer to Point E – Visual Privacy for details.
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.	X With a maximum wall height of 13.55m, a minimum side setback of 4.52m is required on the west. With a maximum wall height of 12.55m a minimum side setback of 4.18m is required on the east.
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.	X As addressed at Point D – Solar Access, Point E – Visual Privacy and Point F – Loss of Vegetation, this non-compliance directly

4.1 Residential Development Controls	
	causes adverse amenity impacts to the adjacent dwelling at 3B Lauderdale Avenue
c) All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;	X As addressed at Point D – Solar Access, Point E – Visual Privacy and Point F – Loss of Vegetation, the non-compliant side boundary setback and numerous new openings and elevated terraces directly causes adverse amenity impacts.
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.	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.	X As addressed at Point F – Loss of Vegetation, the non-compliant side boundary setback results in all of the existing vegetation being removed and inadequate space is provided to support replacement planting. The inadequate side setbacks also provide insufficient separation from adjoining properties.
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	N/A
4.1.4.3 Variations to Side Setback in Residential Density Areas D3 to D9	
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:	X Elevated terraces are located less than 3m from the side boundary. Refer to Point E – Visual Privacy for details.
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	
* Note: Any wall over 3m high must comply with the setback requirements irrespective of whether the wall contains windows or not.	X Addressed above. Refer to Point E – Visual Privacy for details.
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.	X An 8m rear setback is required (all levels) to any part of the building whereas the following rear setbacks are proposed (to Fairlight Beach): – Basement: 4.485m – Lower Ground Floor: 4.500m – Upper Ground Floor: 4.095m – Level 1: 4.095m – Level 2: 6.00m
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.	X The development would remove all existing established vegetation from the site (plus likely

4.1 Residential Development Controls	
	under reported impacts to adjacent public domain trees). Given the non-complying side setbacks, there is not enough space to accommodate suitable replacement planting. As such, the development does not maintain the natural vegetated character the site or its important connection to Fairlight Beach.
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	X The development completely disregards the topography of the site resulting in an overbearing intrusion into the public domain. The non-compliant height, wall height, number of storeys, and rear and side setbacks adjacent the foreshore directly result in adverse amenity impacts to the public domain (in particular loss of solar access, privacy impacts, and loss of important vegetation).
d) Rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity to minimise overshadowing, visual privacy and view loss.	X As addressed at Point A and B, the development's reliance on the two properties to the immediate west (7 & 9 Lauderdale Avenue), as the defining characterisation of the area is incorrect. The proposal must be assessed under the existing planning controls. The proposal presents as an overbearing intrusion into the landscape and the non-complying elements directly result in the loss of solar access, privacy and views to and from the public domain.
4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2	
a)	
b) Remnant native vegetation must be protected on land particularly within the minimum required setback area adjacent to land zoned in the LEP as Public or Private Recreation (Zones RE1 & RE2), National Parks (Zone E1) and Environmental Conservation (Zone E2). The design of development generally adjacent to native vegetation should be sympathetic to the natural environment in order to protect and enhance areas as habitat for native fauna.	X See 4.1.4.2(e).
4.1.5 Open Space and Landscaping	
4.1.5.1 Minimum Residential Total Open Space Requirements	
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. Open Space Area OS3	X MDCP2013 for OS3 requires 55% open space, of which no more than 40% can be above ground. The total open space requirement for this site is 539m ² . Note: the SEE relies on 50% as the minimum requirement which is incorrect. A total open space of 352.8m ² is proposed, not 727m ² as stated by the applicant. A shortfall of 186m ² or 34.5% under the required.
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	X
ii) a minimum unbroken area of 12sqm.	X
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.	X The above ground open space directly results in adverse privacy and overshadowing impacts. A variation should not be supported to the open space above ground control.
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.	X MDCP2013 for OS3 requires 55% open space (539m ²), of which no more than 40% (215.6m ²) can be provided above ground.
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	X

4.1 Residential Development Controls	
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.	Addressed above. Elevated terraces to the side and rear setback result in adverse privacy impacts Refer to Point E – Visual Privacy for details.
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).	X Addressed above. Refer to Point E – Visual Privacy for details.
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.	X Addressed above. Elevated terraces to the side and rear setback result in adverse privacy impacts Refer to Point E – Visual Privacy for details.
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.	X Excessively large elevated terrace areas on the southern side of the proposed development will lead to high levels of noise. This noise will affect the acoustic amenity of neighbouring properties and the heritage public domain. The Fairlight Cove area is a natural amphitheatre for sound. There is no acoustic treatment or sound attenuation provided for in the DA.
4.1.5.2 Landscaped Area	
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.	X No landscape calculations have been provided to support this.
b) Minimum dimensions and areas must provide for the following:	Refer to Point H – Trees and Appendix D for details
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.	
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.	
Figure 37 - Minimum Number of Native Trees Required Note: to be read in conjunction with the LEP Lot Size Map. over 800 all Areas except Area 'C' on the LEP Lot Size Map 4 trees	
4.1.5.3 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.	
4.1.8 Development on Sloping Sites	
a) The design of development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.	X The development disregards the topography of the site, with a building height non-compliance of 5.05m (59%) and a wall height non-compliance of 6.25m (85%). The building is 4 storeys, not the required 2 storeys. The result is an overbearing intrusion into the adjacent private & public domains, resulting in adverse amenity impacts, in particular solar access & massive overshadowing, including the listed heritage Esplanade Park, privacy and overlooking, and the loss of important established vegetation in this listed biodiversity zone.
b) Developments on sloping sites must be designed to:	
i) generally step with the topography of the site; and	
ii) avoid large undercroft spaces and minimise supporting undercroft structures by integrating the building into the slope whether to the foreshore or a street.	

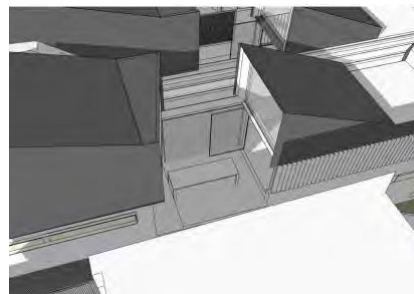
D. SOLAR ACCESS: The shadow diagrams submitted with the DA contain errors and omissions and incorrectly depict the impact to 3B Lauderdale Avenue, Fairlight (refer to **Appendix C** for details). Further, the loss of sunlight is the direct result of contraventions from the clause 4.3 height and clause 4.4 FSR standards in Manly LEP 2013 and relevant provisions at Section 4.1 of Manly DCP 2013.

- (1) The shadow diagrams submitted with the DA contain numerous errors and omissions in relation to 3B Lauderdale Avenue. These errors and omissions are listed at **Appendix C**.
- (2) In response, new shadow diagrams have been prepared which accurately depict the adjacent development and the proposed development's impact on 3B Lauderdale Avenue (see **Figure 2**).
- (3) As outlined below, the proposed development will have the following shadow impact on 3B Lauderdale Avenue:
 - The principal private open space (**POS**), comprising a central ground floor level courtyard located directly off the kitchen/dining and living areas, currently receives sun between 1.00 pm and 3.30 pm (150 min total)
 - The development will reduce solar access to the POS to between 1.00 pm and 2.10pm (70 minutes total)
 - This represents a loss of 53% of sunlight to the POS of 3B Lauderdale Avenue.
- (4) Given that the proposed Manly LEP 2013 and Manly DCP 2013 non-compliances cause this overshadowing, (see **Points A, B and C** above), the loss of solar access is unreasonable.

Recommendations 1, 2, and 3 would assist in addressing solar access concerns



EXISTING 2.10 PM



PROPOSED 2.10 PM



EXISTING 3.30 PM



PROPOSED 3.30 PM

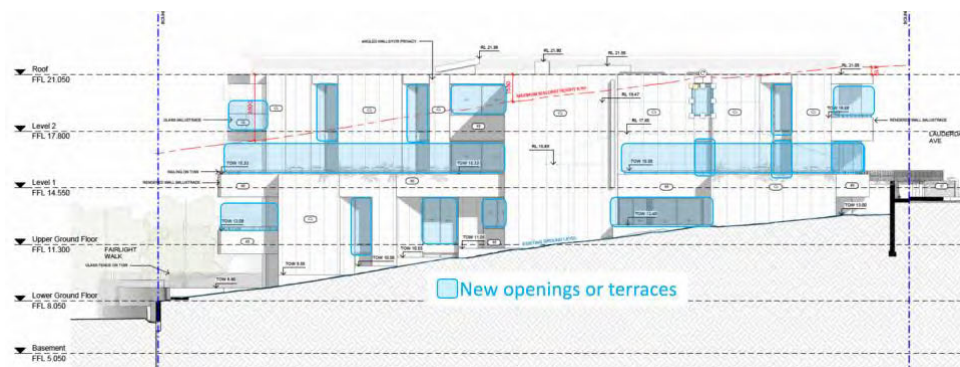
Figure 2: Existing and proposed shadow impact of the development to the POS of 3B Lauderdale Avenue Fairlight

E. PRIVACY: The DA should be refused as the development will have an adverse impact on the privacy of the dwelling located at 3B Lauderdale Avenue

(1) The proposed East Elevation, facing 3B Lauderdale Avenue, includes numerous clear glass windows as well as elevated terraces to the front, side and rear setbacks at the Upper Ground Floor, Level 1 and Level 2, that will have a direct line of sight to POS and living rooms at 3B Lauderdale Avenue (see proposed images at **Figure 3**). This loss of amenity is unreasonable, given that the adverse impact arises from a development that that contravenes the following standards and controls:

- Manly LEP 2013 8.5m height standard and 0.6:1 FSR standard (see Point A and B above)
- Manly DCP 2013 Section 4. (see Point C above).

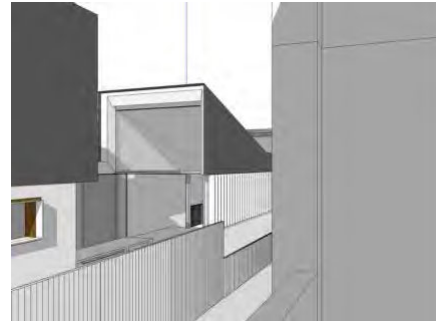
Recommendations 1, 2, and 3 would assist in addressing privacy concerns



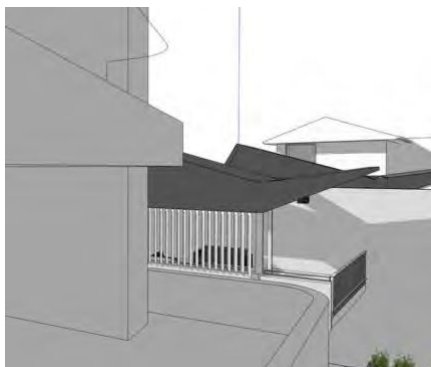
PROPOSED EAST ELEVATION



VIEW FROM UGF SIDE TERRACE (east elevation)



VIEW FROM LVL 1 SIDE TERRACE (east elevation)



VIEW FROM LVL 1 REAR TERRACE (south elevation)

Figure 3: Sightlines from the proposed RFB into the POS Ares of 3B Lauderdale Avenue

F. TREE REMOVAL AND INADEQUATE REPLANTING: The development would remove all existing vegetation from the site and proposes inadequate replacement planting. The loss of trees is the direct result of contraventions from the FSR standard at clause 4.4 of Manly LEP 2023 and Section 4.1 of Manly DCP 2013.

- (1) The DA proposes removal all the existing vegetation on the site.
- (2) The extent of tree removal could be reduced by limiting the size and scale of the proposed RFB and larger replacement planting could be installed if the setbacks were increased to comply with Manly DCP 2013 (see Points B and C above).
- (3) The existing vegetation is established and contributes positively to the character of the area (including the scenic foreshore area and adjacent public recreation zone). These trees also play an important role in providing a visual buffer between the proposed development and the immediately adjacent residential properties as well as providing a natural connection to the adjacent public foreshore.
- (4) The justification for their removal being within the development area is not valid, especially when their removal is a direct result of non-compliant setbacks.
- (5) Tree 12 (a Norfolk Island Pine which is synonymous to Manly's character) which is to be removed given its proximity to remedial works to the stormwater main, is not justified and other options for should be explored which do not require extensive excavation.
- (6) The Arboricultural Impact Review by Blues Bros Arboricultural (see **Appendix D**) notes the following shortcomings in the applicant's Arboricultural Impact Assessment:

4.3 Tree Significance Ratings

4.3.5 Tree 12 (Norfolk Island Pine) has been assigned a Medium significance rating by the supplied. This tree was seen with Good Health & Vigour, A form typical of the species, Is visually prominent from a considerable distance, and is supports social and cultural sentiments of the local community. The application of High significance is applicable to the tree. Application of the Tree Retention value matrix returns a High Retention value based on the Arborist' assessment. This exceeds the supplied report's rating of Medium.

6 Conclusion

.....

6.1.3 The Arborist is concerned the supplied Arboricultural Impact Assessment by Jackson's Nature Works has not adequately demonstrated impacts to trees within the vicinity of the development.

6.1.4 Specific concerns of the development relate to a lack of regard for the retention of trees outside of the property bounds.

In the case of Trees 3, 5, and 6, up to 50% of their respective root masses could be lost plus canopy pruning.

Major encroachment to the public Tree, T10 have not been adequately assessed to demonstrate viability.

6.1.5 Overall, the Arborist believes the Development Application should be refused.

7 Recommendations:

7.1.1 It is recommended the overall bulk and scale of the development be reduced to permit lesser impacts on trees external to the site.

7.1.2 It is recommended that design options which permit the retention of the high significance Tree 12 be explored as part of a design review.

7.1.3 It is recommended that additional works are undertaken within the vicinity of Tree 10 to validate the proposed design. Where significant roots are found, Architectural redesign is required to ensure ongoing survival.

7.1.4 It is recommended that a third party AQF5 Arborist be engaged to undertake a peer review of the findings of the original report.

7.1.5 It is recommended that the design be amended to permit the retention of Tree 12, or provide clear indication of the species and location of the "2-3 trees to compensate" for the removal of the tree.

Recommendations 1, 2, and 3 would assist in addressing the loss of vegetation from the site

G. SCENIC PROTECTION AREA

- (1) The site is located within a foreshore scenic protection area. Clause 6.9(3) of Manly LEP 2013 and Section 5.4.1.1 of Manly DCP 2013 list the following matters to be considered in the assessment of the DA (using our emphasis):

Manly LEP 2013

- (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.*

Manly DCP 2013

5.4.1.1 Additional matters for consideration

- a) *Further to matters prescribed in the LEP, the development in the Foreshore Scenic Protection Area must also:*
 - i) *minimise the contrast between the built environment and the natural environment;*
 - ii) *maintain the visual dominance of the natural environment;*
 - iii) *maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;*
 - iv) *not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;*
 - v) *locate rooflines below the tree canopy;*
 - vi) *consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and*
 - vii) *use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality.*
 - b) *Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly.*
- (2) As detailed throughout this submission, the development contravenes the height and FSR standards within Manly LEP 2013 and the wall height, number of storeys, rear and side setbacks, solar access, privacy and vegetation controls in Manly DCP 2013. The associated visual and amenity impacts arise as a direct result of poor design, and a complete disregard for the site's sensitive foreshore setting. The development presents as an overbearing intrusion onto the small beach cove, with expansive wall heights, inadequate setbacks, limited articulation, expansive glazing and the loss of important vegetation. Given this, the development is contrary to the LEP and DCP objectives and controls for this important and sensitive coastal setting.

Recommendations 1, 2, and 3 would address foreshore scenic protection issues of concern.

H. HERITAGE: The DA should be refused as the proposed development is inconsistent with the relevant heritage provisions in Manly LEP 2013 and Manly DCP 2013.

- (1) The site is located directly adjacent to a heritage item, being “Esplanade Park”, Fairlight rockpool” and the “Harbour Foreshores”. As well as the internationally renowned Manly to Spit scenic walk. Platform Architects state within the DA documentation that “Preserving this heritage is a duty and a shared responsibility for all of us. It’s essential not only for honouring the past but also for enriching the community’s cultural fabric. Fairlight Walk invites us to walk in the footsteps of the First Nations peoples, acknowledging their contributions to Sydney’s vibrant tapestry of history.” This statement is incompatible with the proposed development, in all respects, not least it is an overwhelming four (4) storey building, setback only four (4) meters from the Heritage Esplanade Park boundary, casting a

massive shadow across the Fairlight Walk and deep into the Esplanade Park, with oversized balconies projecting noise into the natural ‘amphitheatre’ of Fairlight Cove.

- (2) A Heritage Impact Statement (HIS) by Tropman & Tropman Architects (**Appendix E**) concludes the following:

6.0 CONCLUSION

The proposed over development at 5 Lauderdale Avenue, will have a major adverse and detrimental impact on the special and highly significant public foreshore precinct of Fairlight Beach, Fairlight rockpool, the Esplanade and Sydney Harbour foreshore. The Development Application’s accompanying Heritage Impact Statement (part of the Statement of Environment Effects report) is insufficient and has not appropriately considered the heritage values of the existing property with its Federation Period, Arts and Craft style bungalow c.1901. The property is potentially associated with the neighbouring White End estate, as possibly part of its estate to house staff (housekeeping and gardening). The report also has not appropriately considered the heritage values of the highly significant Fairlight foreshore, beach, rockpool and Sydney Harbour precinct.

The proposed over development will significantly reduce the significant natural, heritage and cultural elements of the adjacent heritage items that contribute to that significance. The proposed over development is inappropriate and is out of character to this significant natural, cultural and heritage public foreshore precinct. Further, the proposal is contrary to the Manly Local Environmental Plan 2013 and Development Control Plan 2013 and will set a negative and highly undesirable precedent to this significant public foreshore precinct. The proposed over development is not respectful and sympathetic to the significant public foreshore precinct and will permanently erode the integrity and heritage significance of the adjacent local heritage items “Esplanade Park” and Fairlight rockpool” and “Harbour Foreshores”.

Recommendations 1, 2, 3, 4 as well as the recommendations listed at 5.0 within the HIS would address heritage concerns

I. ASSESSING IMPACTS ON NEIGHBOURING PROPERTIES

- (1) The revised planning principle “Criteria for assessing impact on neighbouring properties” set out in *Davies v Penrith City Council* [2013] NSWLEC 1141 at [121] states:

Revised planning principle: criteria for assessing impact on neighbouring properties

The following questions are relevant to the assessment of impacts on neighbouring properties:

- *How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?*
- *How reasonable is the proposal causing the impact?*
- *How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?*
- *Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?*
- *Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?*

- (2) As detailed throughout this submission, the development contravenes the height and FSR standards within Manly LEP 2013 and the wall height, number of storeys, setbacks, solar access and privacy controls in Manly DCP 2013. The adverse impact on neighbouring properties noted in this submission is a direct result of these non-compliances and poor design and therefore, by all objective measures the development is not reasonable.

J. INADEQUATE AND INCORRECT INFORMATION

Inadequate and incorrect information has been submitted with the DA, frustrating a proper assessment of the proposal and its impacts. A complete list of the inaccuracies within the DA documentation is provided at **Appendix C**.

K. MISCELLANEOUS ITEMS

- (1) Bin location and collection: The proposed bin collection point is directly adjacent the shared boundary and pedestrian entrance point for 3B Lauderdale Avenue. Waste collection should occur

on-site to prevent a waste collection vehicle having to stop in this dangerous location (with the pedestrian island directly adjacent and limited sightlines). It is also impractical to think a waste collection vehicle could extend its arm, blocking the pedestrian/bike path and gain access to this on-site collection point.

- (2) Traffic: The use of a single vehicle access point, and mechanical parking will exacerbate existing traffic issues along Lauderdale Avenue. There is inadequate onsite vehicle waiting and passing areas, which will result in vehicle queuing, obstructing the pedestrian/bicycle pathway, and roadway. Resulting in a dangerous pedestrian and/or vehicle collision in this location, due to the bend and limited sightlines along this stretch of road.
- (3) Visitor parking: One visitor car space is provided, however two are required. It is also implausible to expect a visitor to be comfortable and willing to use a vehicle lift. Appropriate off-street, easy access visitor parking is required for two visitors.
- (4) Fence detail: No detail has been provided on the common boundary fencing. This must be provided as part of the DA documentation.
- (5) Mechanical Noise: The proposed location for the external air-conditioning units for Apartment 1 & 2 will have an adverse noise impact on the POS of the adjacent dwelling at 3B Lauderdale Avenue, Fairlight. These units must be relocated.
- (6) Biodiversity: The site is located on land identified as Terrestrial Biodiversity (Manly LEP 2013). No Terrestrial Biodiversity Assessment report on the impact on Flora and Fauna as a result of the development has been prepared. This omission is likely due to the consequential removal of all existing habitat from the site (and potentially adjacent). It is worthwhile noting that the trees provide for regular nesting habitat for pairs of Kookaburras, and the flowering trees provides for a rich feeding ground for parrots.
- (7) Development Compliance: It is imperative that Council review the recent approval history for this area. The approval for development at 3A (& 3B) Lauderdale Avenue (DA39/2013), was required by the Manly Independent Assessment Panel (**MIAP**) to fully comply with the Manly LEP 2013 and Manly DCP 2013 provisions. Final approval required additional building height reductions to protect the views of neighbours and deletion of boundary facing terraces to ensure the future development of neighbouring properties was not compromised. The site at 5 Lauderdale Avenue is the direct beneficiary of these controls and compliance of the development completed at 3A (& 3B) Lauderdale Avenue to them, and yet the proposed development seeks to exceed every one of them. This is greedy and unjust by any measure, but in particular in a neighbourhood of such significance for the community.

L. NOTIFICATION

The site notice was not erected prior to the commencement of the notification period on 2 December 2024 (we are advised that the site notice was erected on 9 December 2024, refer to **Appendix F** and site photographs for details). Additionally, the rear site notice (facing Fairlight Beach) was removed prematurely, from the 15h December 2024, onwards. As a result, it appears the applicant has not fulfilled its public notification obligations.

CONCLUSION

For all the reasons set out above, the DA should be refused. If the DA is amended to address the issues and recommendations raised in this submission, our clients request renotification of the amended DA (noting that the magnitude of required amendments is significant).

Our clients would be grateful if the Council Assessment Officer visited their home to better understand the impacts of the development.

We trust that Council will carefully consider this submission in its assessment and determination of the DA.

Yours sincerely



Kyeema Doyle BSc MURP

Associate Director

Appendix A

Analysis of Existing Built Form of Fairlight Cove

ANALYSIS OF BUILDING HEIGHTS WITHIN FAIRLIGHT COVE 20 JANUARY 2025

TABLE PREPARED BY VIVIANNE MARSTON, REGISTERED ARCHITECT M(ARCH) UNIVERSITY MEDAL 1981, DIRECTOR STACEY MARSTON ARCHITECTS PTD LTD , REGISTRATION NUMBER 4700 PRACTISING CATEGORY OF THE NSW REGISTER OF ARCHITECTS

Street Address	GROUND	ROOF / GUTTER	ACTUAL BUILDING HEIGHT FACING FORESHORE RESERVE	SURVEY PROVIDED
1 Lauderdale Ave				
3 Lauderdale Ave	RL 13.2	RL 16.5	3.3 M (GUTTER) 6.8 M (PEAK OF RIDGE)	YES -ITEM 1
3A Lauderdale Ave *	RL 10.065	RL 10.465 RL 17.45	6.4 M (CENTRAL SPINE/PARTY WALL) 7.4 M (SOUTHERN PEAK OF AWNING)	YES-ITEM 1
3B Lauderdale Ave *	RL 10.065	RL 10.465 RL 17.45	6.4 M (CENTRAL SPINE/PARTY WALL) 7.4 M (SOUTHERN PEAK OF AWNING)	YES-ITEM 1
5 Lauderdale Ave	RL 10.5	RL 15.81	5.3 M (SOUTHERN EDGE OF GUTTER)	YES- ITEM 2
7 Lauderdale Ave				
9 Lauderdale Ave				
PUBLIC WALKWAY				
15 Lauderdale Ave			6.5 M (UPPER LEVEL RIDGE)	ESTIMATED
17 Lauderdale Ave	RL 6.98	RL 15.98	9 M (1.5 m excavation below natural ground included, so “actual “ height above ground is 7.5 M)	YES - ITEM 3
3 Fairlight Cres	RL 9.65	RL 17.82	8.17 M (GUTTER)	YES ITEM 3
5 Fairlight Cres	RL 9.03	RL17.14	8.11 M (GUTTER)	YES ITEM 3
7 Fairlight Cres			8.11 M (similar to 5 Fairlight Cres)	ESTIMATED
9 Fairlight Cres	RL7.3	RL19.59	12.29 M (GUTTER)	YES- ITEM 4
PUBLIC WALKWAY				
11 Fairlight Cres	RL 7.41	RL 15.745	8.335 M (ROOF)	YES - ITEM 4
13 Fairlight Cres	RL 6.96	RL 15.33	8.37 M	YES- ITEM 4
15 Fairlight Cres	RL6.96	RL 15.6	8.64 M	YES- ITEM 5
17 Fairlight Cres *	RL 9.0	RL 17.5 RL17.1	8.5 M(TOP OF STEPPED BACK ROOF) 8.1 M (LEADING EDGE OF ROOF	YES- ITEM 5
19 Fairlight Cres	RL 9.39	RL 13.3 RL 16.8	3.91 M (LOWER LOWER GUTTER) 7.41 M (UPPER GUTTER)	YES - ITEM 5
21 Fairlight Cres				

NOTES

- Four buildings constructed during the 1960's are INTRUSIVE buildings and are excluded
- * Three buildings highlighted in red refer to new developments built since the introduction of MLEP 2013 -these 3 buildings are **FULLY COMPLIANT** with 8.5m MAX HEIGHT OF BUILDINGS REQUIREMENT
- * Items 1 - 5 listed below refer to surveys used to asses building heights

SURVEYS USED IN THE TABLE

ITEM 1

Iredale and Assocaites , 48 Carinda Drive Glenhaven. Detailed survey of Lot B IN DP 24923 being 3A Lauderdale Ave Fairlight dated 6.11.12

ITEM 2

Mitch Aryes Surveying Pty Ltd
PO Box 4226 Lugano NSW
Survey for 5 Lauderdale Ave FAIRLIGHT dated 18.1.24

ITEM 3

Boxall Surveyors Revision G dated 24.10.24 for 3 Fairlight Cres FAIRLIGHT LOT B in DP 190358
PO Box 519 Sutherland NSW 1499

ITEM 4

Survey from submission by DP consulting group , 645 Harris Street Ultimo in association with Squillace Architects , 2 Liverpool Street East Sydney Dated June 2005 for alterations and additions to 11 Fairlight Crescent Fairlight

ITEM 5

Ballenden Surveyors C1/102 - 106 Boyce Rd Maroubra Junction. Dated 4.5.2022 for 17 Fairlight Crescent Fairlight

ARCHITECTURAL QUALITIES of EXISTING BUILT FORM

- Fine grain architecture, well articulated on beach facing facade, respectful of the intimate quality of Fairlight Cove (in contrast with long expanse of Manly beach)
- Stepped back away from the Foreshore to respect natural land form and minimise overshadowing the public space
- Set down into the landscape with stone base
- Modest terraces respecting privacy of neighbours as well as the public using the Foreshore parkland
- Good separation between neighbouring buildings - 4m minimum
- Retention of mature trees which assist with retention of bird life
- Extensive planting between neighbours providing a greening of the built environment (planting large trees in front of new buildings as proposed by the applicants landscape plan) simply will not work due to view loss.
- Use of natural materials which resist weathering
- Minimal use of large expanses of reflective glazing
- Minimal excavation generally allowing preservation of the natural water table

EXAMPLES

15 LAUDERDALE AVE FAIRLIGHT

Small sandstone basement level set low behind sandstone wall

Modest mid level

Upper level set within roof form

Extensive landscaped front garden which minimises built form impact on scenic quality of foreshore

This building has minimum impact on the scenic quality of the foreshore and is a good example of fine grain architecture in the cove in that it does not dominate the natural environment



17 LAUDERDALE AVE FAIRLIGHT

A 4 unit development with each level stepping back to respect the slope of the land. Lowest level set well down and concealed behind a sandstone wall. Only 2 levels visible above the stone wall.



11 FAIRLIGHT CRESCENT FAIRLIGHT

The base of this building is sandstone and extends into the hill side with the 2 upper levels staggered to respect the natural topography .Natural materials used rather than extensive areas of painted render



13 FAIRLIGHT CRESCENT

3 level units with only 2 and 1/2 storeys above vegetation level to minimise impact of built form.
3 Units



15 FAIRLIGHT CRESCENT FAIRLIGHT

3 unit Development set down low and maintaining the natural rock at the foreshore
Natural materials have been used and external balconies are modest



3A AND 3B LAUDERDALE AVE FAIRLIGHT

Designed by Marston Architects and approved by Northern Beaches Council's Manly Independent Assessment Panel, MIAP Report 38, dated 20 June 2013. Two semi-detached, 2 storey dwellings and Torrens Title subdivision.



**Concept Model of 3A and 3B
Lauderdale Ave. Fairlight ,
prepared by Marston Architects.**



**Completed in 2015, these 2
storey dwellings have been
carefully designed to protect
solar access to the the Heritage
Foreshore by stepping the built
form with the slope of the land.
Full compliance with Height
Control.**

ANALYSIS OF BUILDING STOREYS WITHIN FAIRLIGHT COVE**20 JANUARY 2025**

TABLE PREPARED BY VIVIANNE MARSTON, REGISTERED ARCHITECT M (ARCH) UNIVERSITY MEDAL 1981, DIRECTOR STACEY MARSTON ARCHITECTS PTD LTD , REGISTRATION NUMBER 4700 PRACTISING CATEGORY OF THE NSW REGISTER OF ARCHITECTS

	STOREYS	No of UNITS	Notes
1 Lauderdale Ave*	15	56	
3 Lauderdale Ave	2	1	
3A Lauderdale Ave	2	1	New House, compliant with MLEP 2013
3B Lauderdale Ave	2	1	New House, compliant with MLEP 2013
5 Lauderdale Ave	1		Original cottage, dating back to the early 1900s.
7 Lauderdale Ave *	5	16	Lower level only 5m wide (north to south)
9 Lauderdale Ave *	5	8	Plus small low level basement and part upper level set back
15 Lauderdale Ave	1	1	Small low height basement and upper level set into roof form
17 Lauderdale Ave	3	4	Levels set back to acknowledge sloped block
3 Fairlight Crescent	2	8	Lower level basement has a ceiling of only 2.06m in height * and is only 2 m deep -used for storage only and does not constitute a level
5 Fairlight Crescent	2	8	Lower level basement has a ceiling of only 2.06m and is only 2m deep -used for storage only and does not constitute a level
7 Fairlight Crescent	2	8	Lower level basement has a ceiling of only 2.06m and is only 2 m deep -used for storage only and does not constitute a level
9 Fairlight Crescent	4	12	
11 Fairlight Crescent	3	3	
13 Fairlight Crescent	3	3	
15 Fairlight Crescent	3	3	
17 Fairlight Crescent	2	1	New House , compliant with MLEP 2103
19 Fairlight Crescent	2	1	Existing cottage
21 Fairlight Crescent*	6	17	Basement parking

* Four buildings are pre 1960's structures with no planning control and excluded in calculations as they are invasive structures.

SUMMARY of EXISTING NUMBER OF STOREYS WITHIN FAIRLIGHT COVE

The average number of storeys in Fairlight Cove is **2.2 storeys** with **minimum 4m** setback between structures and generally **balconies not greater than 12 sqm**.

Appendix B

Minimum ADG apartment size comparison

Table 1: Assessment of the proposed development against the Manly DCP 2013 and Apartment Design Guide (ADG) minimum apartment sizes.

Storeys	Unit	Applicable Manly DCP 2013 * ADG sizes (m ²)	Minimum GFA (m ²)	Proposed GFA (m ²)	GFA above the min. (m ²)
1	1	Bedrooms 3 = 90 (inc. 1 bathroom) Bathroom 4 = 15 Laundry 1 = 5 Additional room 1 = 12	122	215	93
2	2	Bedrooms 3 = 90 (inc. 1 bathroom) Bathroom 3 = 10 Laundry 1 = 5 Additional room 1 = 12	117	354	132
2	3	Bedrooms 3 = 90 (inc. 1 bathroom) Bathroom 3 = 10 Laundry 1 = 5 sqm	105		
3	4	Bedrooms 3 = 90 (inc. 1 bathroom) Bathroom 4 = 15 Laundry 1 = 5 Additional room 2 = 24	134	249	115
4	5	Bedrooms 3 = 90 (inc. 1 bathroom) Bathroom 4 = 15 Laundry 1 = 5 Additional room 2 = 24	134	250	116
		TOTAL GFA	612	1068	456

NOTE: The GFA Summary prepared by Platform Architects (Drawing DA5100 Rev DA1 dated 29.10.2024) shows a total GFA of 1,068m² (not 1056,3m²). With a site area of 980m², this equates to an FSR 1.09:1 (0.6:1 permitted), which is a non-compliance of 480m² (not 468.33m²) or 81.6%.

Appendix C

Omissions and Errors in DA Documentation

REVIEW OF APPARENT OMISSIONS AND ERRORS WITHIN THE ARCHITECTURAL PLANS (amended 26/11/24) for
Development Application DA 2024/1562 5 Lauderdale Ave FAIRLIGHT.
Prepared by Vivianne Marston. M Arch (UNSW) , University Medal UNSW 1981, ARB Registered Architect 4700,
Director Stacey Marston Architects Pty Ltd, Registration DEP 00002543 Design and Building Practitioner

	Drawing Name	Comments
GENERAL		Services have not been shown , including proposed power supply to the site , fire services such as Hydrant location most likely non compliant , Hot water systems generally, PV units which may be required, roof drainage , down pipe locations, external sprinkler heads if required and ac units on elevations.
		Inadequate dimensioning generally, location of windows not dimensioned, extent of walls not dimensioned , car lift door location not dimensioned, extent of wall built on western boundary not dimensioned etc.
		All drawings marked “ PRELIMINARY ” rather than checked for DA lodgement. Odd at best!
		Section markers on all plans do not correspond with labels on section drawings. Section 1 on the plans is Section C on the section sheet and Section 2 is Section B. on the section sheet. Confusing labelling adds to the difficulty in reading and assessing the drawings.
DA0000	Cover page	
	PHOTOMONTAGE	Existing trees planned for removal shown as retained
		Stairs to plant room not shown
		Area for bins on front boundary not shown , rather planting extends to the eastern boundary which is in direct conflict with plans
		Metal fence over stone wall not shown (metal fence is shown on the elevations and noted in the SEE as extending to 1500 high
		Landscaping incorrect - plans indicate a narrow garden bed on the front boundary only in contrast to the extensive planting illustrated in the 3D. Section A in contrast does not even show a planter box
		Proposed new gutter crossing for driveway not shown
		Proposed street tree shown on Landscape plans not shown and Cabbage Palm which has been shown on the eastern side is located at RL 11.3 not 14.55 as shown on the 3D (so only the upper part of the plant will be visible)
		Revisions dated 26/11/24 eg DA 0100, not updated on Sheet list (Current revisions incorrectly listed as 29/10/24)
		Trees shown in the garden of Number 7 Lauderdale do not exist. The applicants landscape plan shows ground cover only in the narrow garden bed proposed on the eastern boundary - the Photomontage shows substantial trees which are incorrect
		The wide horizontal spandrels are wider than shown in the 3D as can be seen in Section A which shows only 1 metal rail above the solid wall
		The colour of the external walls is not in accordance with the Schedule of Colours and Materials which labels external walls as CL1 - stone look porcelain which appears to be a light grey as opposed to the darker walls shown on the render
		The low wall on the west side of the driveway is shown as sandstone on the drawings , but as porcelain cladding on the 3D
		The low wall on the western side of the driveway is shown as being set back from the front boundary approximately 2500 and separated from the car lift wall by 1000. The 3D shows this wall as being full length.
		There are privacy louvres on top of the eastern boundary wall on the drawings which is not on the 3D
		The planter box on the eastern boundary is shown as sandstone on the drawings , but shown as porcelain cladding on the 3D
	BASIX	Incorrect BASIX number , date and assessor
	NATHERS	Incorrect NATHERS number , date and assessor
DA0050	Site Analysis	Private open space of 3B not shown or acknowledged. A critical flaw as this omission has lead to poor planning outcomes including unacceptable loss of winter sun to POS of 3B Lauderdale.
		Both pedestrian and vehicular points of entry of 3B not shown .Another critical flaw as the applicants bin area has been located directly adjacent to the main pedestrian entrance of 3B. The easement could contain planting which offsets the bin area by 1845 from the common boundary. Alternatively, suggest bins better located within applicants driveway

	Drawing Name	Comments
		Both front and rear boundary setbacks incorrect. On the street side, the low level garages of Number 7 Lauderdale have been used to show neighbouring alignment . This is incorrect as the roof of these garages are at street level. The face of the RFB at number 7 should be used. Similarly the roof extent of 3B has been used , whereas the face of the wall is some 1000 further south. On the southern boundary , the setback of the terrace of 3B is 4500 from the rear boundary not 2094 as shown. The terrace of 3A is set back 8m from the south east boundary corner not 7489 as noted. The drawings should be updated to show correct front and rear boundary setbacks.
		Location of both 3B and 3A dwellings are incorrect.
		Failure to indicate potential overshadowing of 3B POS
		Failure to note potential overlooking into windows of 3B and POS
		Easement labelled as 1845 (1835 elsewhere)
		Council tree on Fairlight Reserve incorrectly noted as a Norfolk Island Pine
		Street Tree on Lauderdale not noted or acknowledged - No TPZ noted
		View loss from number 8 Lauderdale Ave under estimated
		Failure to note Heritage listing of Fairlight reserve
		Summer and Winter extent of sun angle in afternoon incorrectly labelled as “am “
		The proposed second “private “ access to the development from Fairlight reserve not shown
		The proposed bin collection area not shown
		The existing pedestrian safe zone crossing on Lauderdale Ave not shown
		Existing terraces on both 3B and number 7 not noted
		Tree protection zone and structural root zone of Trees 1 and 10 have not been shown
		Tree protection zone of trees within side garden of Number 7 Lauderdale have not been shown - Refer to item 5.1.3 of AIR prepared by Blues Brothers Arboriculture dated 3 December 2024 stating that “ <i>the retention of the three neighbouring trees is not possible</i> “
		Poor site analysis has lead to poor design choices
DA0100	Site Plan	Inadequate dimensioning generally. Significant parts of the development (eg extent of roof on north/east corner) has no offset dimension to the boundary allowing the applicant to modify the extent of the built form at a future stage
		Failure to note RLs generally
		Crossing for pedestrians in safe zone not acknowledged (coloured green to indicate turf)
		Built structure (bin area) over an easement not permitted
		Depth of proposed bin area not noted - do bins fit or will they be a pedestrian & cycle hazard.
		Boundary screening on shared boundary with 3B indicated with a diagonal hatch which is unclear
		Planted areas in 3B incorrectly shown
		Building alignment of 3B incorrectly shown
		Trunk diameter of existing trees incorrectly shown and trees not numbered
		Tree protection zone and structural root zone of Trees 1 and 10 have not been shown
		Boundary dimensions not noted
		Failure to show proposed electrical infrastructure including easements , substations and power poles.
DA0400	Demolition plan	The existing low stone wall on the rear boundary is noted as being retained during construction but “to be upgraded “ .The extent of upgrade proposed will require demolition of this wall and significant excavation to accommodate the proposal which will impact on the Tree 10 - Refer AIR prepared by Blues Bros Arboriculture dated 3 December 2024. Accordingly the wall should be coloured red.
		The note stating “reinstate Kerb and Footpath to Council Requirements “ located directly adjacent to the stormwater “lid” is clearly in the wrong location
		Trees to be retained are not shown (Council and Neighbours trees)
		Prevailing front setback shown is incorrect (as previously noted)
		The trees to be removed are not labelled
		Tree T4 is shown as being retained which is on conflict with other plans.
DA0500	Excavation Plan	Poor labelling generally
		Is there excavation proposed within the easement ???? What do the dimensions 16433 and 26366 refer to ? The easement is noted as 1829 wide (previously 1835 and 1845)
		What do the “crosses “ in the easement refer to ?

	Drawing Name	Comments
		Is there a new retaining wall proposed along the eastern boundary ???
		Failure to disclose the volume of excavation as required by Council guidelines
		The area between the main excavation and the front boundary is labeled as FFL 11.450 .Will this area be excavated and to what level?
		A FFL of 8.25 has been shown to the south of the line of bulk excavation - What does this refer to as the garden level is shown as RL 7.85
		There are no details of the excavation required to accomodate the 2 private entries from Fairlight reserve .These areas will require at least 1 m of excavation below existing ground levels which conflict with the TPZ of Tree 10 (Councils tree)
DA 1000	Basement	The applicant has failed to plan for fire separation between stairs to the Basement Level and stairs to the residential units above - Major replanning will be required
		The visitor parking area does not allow adequate access to the bin storage area which will require future changes. Expecting a visitor to use the car lift is unrealistic. MDCP 2013 requires 2 visitor places and only 1 is provided as the applicant claims there is adequate public transport. Whist Fairlight is well serviced, many parts of Sydney are not and as such visitors mostly arrive by car.
		Parking space 1 does not allow for safe egress from a parked car
		There are areas unlabelled (north of the car lift) and areas hatched (labeled shared zone) which are unnecessary spaces which add to the excessive excavation.
		A floor to ceiling height of 2650 is noted in the sections which is an excessive height for parking - will additional living space be located on this level in future ?
		A “ shared zone” is noted adjacent to “Residential 6” parking , However the entire area within the south eastern quadrant of the basement is shown as being part of Unit 4 Strata Allocation on the strata plans prepared by Mitchel Keith Ayres reference 231207
		A space labelled “Storage Unit 3 “ is located within the south west corner of the basement, however The strata plan shows a single storage space and is labelled as being part of Unit 2 only.
		There is therefore no storage space allocated to Unit 3 (note that Drawing number 0000 incorrectly labels Unit 3 storage as 15sqm
		The access to the storage unit for unit 4 is not shown (as not possible)
DA 1001	Lower Ground plan	While this level is labelled “lower ground” it has been located <u>1.3m above the level of the rear footpath</u> on Fairlight Reserve.
		General lack of dimensioning to all boundaries
		Failure to show the TPZ of Tree 10
		Excessive excavation will be required within the TPZ to construct the new retaining walls as well as the second “private “ entrance to Unit 1
		An air condenser for the unit has been placed in a narrow gap between the proposed wall and a new retaining wall - this is clearly unworkable and not shown on the eastern elevation
		Access to the Fire Stair is blocked by the “Private Garage “ of UNIT 1. (note strata plan shows private garage blocks stair)
		There is extensive excavation along the entire western boundary , however a retaining wall is not shown extending for the full length (rather it terminates approximately in line with the section line. Clearly a retaining wall will be required along the entire length to achieve a level entry at the rear boundary of RL 6.76 Heights of these retaining walls should be shown on plans to enable assessment of impact
		It appears from both plan and section that the proposed new stone wall along the rear boundary is to be located along the centre line of the boundary rather than within the applicants property. Any new structure is to be located totally within the owners property.
		There is no RL of the top of the proposed southern fence-There is no indication as to what this fence is made from - The plans indicate metal , however the elevations appear to show glass- Applicant to clarify and advise how garden maintenance can be achieved with a high glass fence blocking access.
DA1002	Upper Ground Floor	General lack of dimensioning to all boundaries
		Failure to indicate ground treatment to the east of Bed 3 - What are the levels in this area as W19 and W20 are full height doors suggesting a level area to the east however the eastern elevation suggests natural ground. No terrace is indicated on the strata plan, however a terrace is clearly shown on Section B. The applicant should provide additional detail.
		An air condenser for the unit has been placed in close proximity to the eastern boundary and not shown on the elevation .This will clearly be a source of noise
		There is an external storage unit adjacent to Bed 2 with no apparent door access
		A wall is proposed to be built across the easement which is not permitted
		There is no consideration of privacy on either side of the proposed decks

	Drawing Name	Comments
		There is no consideration of acoustic privacy regarding the Terrace to the south of the proposed Living room
		There is no consideration of privacy from the front terrace
		The proposed front retaining wall has been shown with a different thickness to the section
		Generally windows facing both side boundaries are full height with no privacy screening
		The strata plan of this level does not show the "pump room" or stair to this space. Unsure as to why a pump room is required and how access to a service area will be controlled ?
DA1003	Level 1	The applicant has noted that a 2 storey building is proposed addressing the street frontage. Accordingly this level should be at Street Level - however it has been located well above street level (RL 14.55) and 1.16 HIGHER than the ground level of number 3B (RL 13.39) despite the street falling from east to west
		Extensive terraces have been located on the eastern side of the development which overlook 3B .The northern terrace (facing east) is 14m long and the southern terrace is 17.5 m long .
		Adjacent to the Kitchen of Unit 4 is a large deck , 4m x 4m , (16sqm) which is accessed by full height sliding doors W20 . This deck faces due east over looking the only Private Outdoor Open Space of Number 3B . Whilst this deck is labelled "pebble " and contains a pot it clearly will be used as a terrace overlooking 3B. We note that planter boxes are proposed, however due to lack of access and heavy southerly winds there is no guarantee that planting will survive to the required height to be effective to provide privacy.
		The full height windows facing due east are not screened - W14 x 2 in the Living area , W07 being a window seat and W12 in the Family room
		The large terrace facing the beach side has a 3m long side facing due east which is unscreened .It has been located only 3.5 m away from the common boundary , causing both a visual and acoustic issue
		The Eastern wall of Bed 1 is located only 2.545 m away from the eastern boundary and is 10m high above natural ground, causing unacceptable bulk and scale from the private open space of 3B
		The proposed bin area on the street facade has been built over the easement and directly adjacent to the main pedestrian entry of number 3B. The placement of bins in this location is dangerous for both pedestrians and cyclists as well as vehicular road traffic
		Looking closely at the swept path analysis provided by PDC traffic consultants , it appears that the "waiting car" at street level protrudes beyond the front boundary onto the public pathway . This is dangerous for cyclists and pedestrians alike
		Whilst Unit 4 is labelled "3 bedrooms " it is clearly an enormous 5 bedroom home
		The Fire Booster within a screened narrow box set well back from the front boundary of the property will not comply with NSW Fire requirements
		The main entry on the western side of the property is 4m above natural ground with a glass railing to the south which will directly overlook all units of Number 7 and be an eyesore on the boundary
DA DA1004	Level 2	Significant overlooking from W14 (2 off) W07, W20 and w12
		The full height glass balcony proposed on the beach side is not adequately screened to the east and west
		W20 is a full height sliding door - is a terrace envisioned there ?
		Whilst Unit 5 is labelled "3 bedrooms " it is clearly a 5 bedroom home
		Significant overshadowing to POS of 3B caused by height breach
DA1005	Roof plan	No falls or drainage shown , I doubt that an allowance of 550mm is adequate for structure to span 10m and achieve compliant roof falls for adequate drainage. Further justification should be provided as a s4.55 will be required to raise height by at least 300mm.
		Dimensions to front boundary not provided
DA 2000	North/South Elevation	Height plane of number 3B INCORRECT .The natural ground level of 3B is 1200 higher than number 5.
		Proposed wall on rear beachside boundary has no RL or materials labelled
		The second access door on the eastern side has not been correctly labeled
		There appears to be construction within the easement ?
		TOW 10.21 on boundary ? is this a new wall ? Not clear
		The works appear to extend over the western boundary
		Max permissible wall height not shown
		No label on the wall between the windows on L1 and L2 on the front elevation
		The planter box on the western side appears to be 1500 high on the front elevation - clarify
		The proposed bin area at the street is not clear

	Drawing Name	Comments
		Failure to show max permissible wall height
DA2001	East /West elevations	Deep retaining wall and footing located in easement at northern end of site with new slab for bin area will be non compliant with building structures within an easement
		Max permissible wall height not shown
		Windows have no privacy louvres and will overlook both east and west properties
		Extent of terraces on Level 1 with an RL of 14.55 will have direct overlooking of POS of 3B (RL 13.39)
		100% of Unit 5 exceeds the max permissible height
		What is the protruding long rectangular object that is shown on the eastern facade ????
		Vast lengths of terraces unscreened
		Non compliance of wall height on western elevation is 5550 m - which exceeds an entire level and extends more than half way down the level below.
DA3000	Section A	The proposed new wall on the southern boundary appears to be located partly on public land
		It is noted that the poor design has resulted in a garage ceiling height of 2900 for Unit 1
		In reference to the landscaped area to the north of Unit 3 on RL 11.3 , this section is inconsistent with the landscape plan provided. On plan the section is located through a raised planter box - not shown on the section. There are no details of the height of this planter box other than on the landscape plan which notes it as 1000mm high. It has a cantilevered timber seat which is not shown. The landscape plan has an LAV located in the eastern corner with a note calling for the a min depth of 600 mm . The section shows approximately 400 mm with a 250 slab below. The applicant is to provide detail as to how a semi advanced Livistona which grows to a height of 8 - 12 m can grow in a 400 deep soil bed ?
DA3001	Sections B and C	It is noted that the plans refer to these sections as 1 and 2 incorrectly
		A new 4m high wall with a fence over is proposed to be built on the western boundary as per section C, containing an elevated walkway being the new main entry .This will impact Units at 7 Lauderdale
		Section B illustrates extensive overlooking of 3B with full height windows and terraces
		Section C shows extensive overlooking of 3B
		The head room provided for the car lift is insufficient. and the planter box above has inadequate depth. The applicant needs to provide details as to which car lift may work (research suggests a head room of 3600 will be required not 2500 as shown .)
DA 5000	External Finishes Schedule	Both Perspectives are incorrect. The boundary wall shown abutting 3B is incorrect
DA 5100	GFA Summary	It appears that the services areas have been deducted twice as only the coloured areas are included in the totals listed with the units . Accordingly the total GFA is 1068 sqm (With the services being an additional 10.67%) The GFA therefore is 1.09 :1 . It is also noted that wall thicknesses have been drawn between 400 - 800 deep which is unrealistic. The strata plan shows the walls with correct thicknesses set back from the "blue line" which measures GFA . Details regarding wall thicknesses should be provided to correctly assess GFA (most likely even higher than documented)
DA5300	Shadow diagrams	Inaccurate model of 3B - Refer to shadow diagrams in submission by Robinson Urban Planning
DA5301	Shadow diagrams	Submitted twice - Inaccurate model of 3B - Refer attached submission
DA5302	Shadow Diagrams	Inaccurate model of 3B - Refer to attached submission
DA5400	Sun eye diagram	Appear to be missing from master set
DA5401	Sun eye diagram	Inaccurate model of 3B - Refer to attached submission
DA 5402	Sun eye diagram	Inaccurate model of 3B - Refer to attached submission
DA5500	Breach Height analysis	View from the south - inaccurate model of fencing on eastern boundary gives the impression that there is no privacy loss - However this is incorrect . No wall heights provided
DA 5501	Breach Height analysis	Appear to be missing from master set
DA5502	Breach Height analysis	No wall heights provided
DA5200	Open space	Council control 4.1.5.1(B) states that only spaces with a minimum size of 3m x 3m can be counted - Clearly the applicant has ignored this and counted spaces which are as small as 1m in width . No acknowledgement of this has been made in the drawings or the statement . I have calculated that the correct open space (noting that 55% is required not 50% as per the SEE) is 352.8 sqm which represents as shortfall of 186 sqm or 34.5% below the requirement.
DA5201	Landscape Open	Incorrect methodology once again. Council's DCP calls for a min soil depth of 1m and planter boxes must have a min internal width of 0.5m The applicant has ignored these requirements and as such needs to resubmit this drawing.

Appendix D

Arboricultural Impact Review

ARBORICULTURAL IMPACT REVIEW

Prepared For: Ms. Vivianne Marston
Site Address: 5 Lauderdale Avenue,
FAIRLIGHT, NSW, 2094

Inspection Dates: 2nd December 2023
Report Date: 3rd December 2024



Image 1: Aerial imagery of the site (Source: NearMap; Captured 30/10/2024)

Prepared by Gordon Blues
Diploma (Arboriculture) AQF5





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1 Introduction

1.1 Background

1.1.1 Blues Brothers Arboriculture has been engaged by the neighbour of the abovementioned site, Ms. Vivianne Marston of 3B Lauderdale Ave, Fairlight to undertake a review of a recently submitted Development Application.

1.1.2 This report seeks to undertake an Arboricultural Review of Development Application DA2024/1562 which is currently on Public Exhibition.

1.1.3 The Arborist discloses the following interests in the property:

- The Arborist has personally attended the site as part of a pre-purchase inspection on behalf of a third party who did not acquire the site.
- The Arborist has previously undertaken work for Ms. Marston in a professional capacity.
- The Arborist has previously undertaken work for Platform Architects in a professional capacity.
- The Arborist holds no other interests in the site, other than that required to undertake the scope of works.

1.1.4 The following information has been obtained from Council's public record and is relied upon for reference in this report:

- Detail survey produced by Mitch Ayres Surveying Pty. Ltd.; Reference: A/24923, Surveyed 14/12/2023.
- Architectural suite of plans produced by Platform Architects; Revision DA1, Dated 29/10/2024; inclusive of:
 - Site Plan,
 - Demolition Plans,
 - Floor Plans,
 - Elevations, and
 - Visualisations.
 - Asset Scanning of a Stormwater line (easement).
- Arboricultural Impact Assessment report produced by *Jackson's Nature Works*; Dated 4th November 2024
- Planning portal property report, Accessed 03/12/2024.

1.1.5 The use of these documents / sources is acknowledged with thanks.

1.1.6 The NSW Rural Fire Service online tool for determining eligibility under the '10/50' legislation was interrogated for the purposes of this report.

As at the date of this report, the property is not eligible under the code of practice and relevant clearing provisions do not apply to the property.



1.2 Disclaimers:

- 1.2.1 This report is considered limited to what could reasonably be seen from ground level only and expresses no commentary on changes which may have, or will, impact the trees or their environment outside the scope of works.

1.3 Definitions & Abbreviations:

- 1.3.1 **The Standard** refers to the Australian Standard AS4970:2009 – *Protection of trees on development sites*.
- 1.3.2 **The site** refers to the land within the vicinity of the proposed development.
- 1.3.3 An **Exempt Tree** is a tree that does not meet Council's definition of a protected tree.
- 1.3.4 **A significant root** is defined as any woody root with a diameter of 30mm or larger.
- 1.3.5 **AGL** – Above Ground Level
- 1.3.6 **LGA** – Local Government Area.
- 1.3.7 **DBH** – Diameter at Breast Height; Approximately 1.4 metres above ground level measured in metres.
- 1.3.8 **DGL** – Diameter at Ground Level; Measured above the root flare / collar measured in metres.
- 1.3.9 **TPZ** – Tree Protection Zone. Calculated per the standard:
$$TPZ\ radius = 12 \times DBH$$
- 1.3.10 **SRZ** – Structural Root Zone. Calculated per the standard:
$$SRZ\ radius = (DGL \times 50)^{0.42} \times 0.64$$
- 1.3.11 **FFL** – Finished Floor Level.
- 1.3.12 **RL** – Reduced Level.
- 1.3.13 **SEPP** – State Environmental Planning Policy.
- 1.3.14 **BYDA** – Before You Dig Australia – Formerly DBYD
- 1.3.15 **FRP** – Fibre-reinforced Plastic. A commonly used engineered surface for boardwalks.
- 1.3.16 **RTK-GPS** – Real-Time-Kinematic Global Positioning Satellite. A 'corrected', survey grade spatial positioning system capable of providing centimetre level positional data.
- 1.3.17 **RPAS** – Remote Piloted Aerial System – Commonly known as a drone.
- 1.3.18 **TSA** – The Salvation Army



2 Methodology

2.1 Visual Tree Assessment

- 2.1.1 A limited visual appraisal of the trees occurred during the Arborist's visit to the site. This occurred due to limited availability of timing during an open-home run by the former owner's agent.
- 2.1.2 The trees were visually inspected from ground level only in accordance with VTA (Visual Tree Assessment); a methodology derived by Mattheck and Breloer (1994).
- 2.1.3 No destructive or aerial investigations occurred to any tree.
- 2.1.4 This report references a tree numbering scheme established by others.
- 2.1.5 Trunk diameters of the trees is based on a visual approximation of that seen within the site.
- 2.1.6 Appendix 1 – Arboricultural mark-up including Tree identification, TPZ and SRZ zones and the degree of encroachment proposed by the development.
- 2.1.7 Tree significance ratings were assessed using a the IACA STARS methodology for assessing tree significance & retention values¹.

¹ IACA, 2010, *IACA Significance of a Tree, Assessment Rating System (STARS)*, Institute of Australian Consulting Arboriculturists, Australia, www.iaca.org.au



3 Results

3.1 Desktop Research

3.1.1 Research from the NSW Planning portal revealed the following information for the properties:

- Zoning: C4 – Environmental Living
- Acid Sulfate Soils: Class 5
- Scenic Protection Land
- Terrestrial Biodiversity

3.1.2 The Manly Local Environment Plan 2013 remains in force² despite the Amalgamation of Manly, Warringah, and Pittwater Councils forming Northern Beaches Council.

Heritage Item I49³ is described as *Esplanade Park and Fairlight Pool* along the Fairlight Foreshore, North Harbour.

This heritage item is shown on Northern Beaches Council's mapping portal which is adjacent to the southern boundary of the site.

3.1.3 In accordance with published directives of Northern Beaches Council, a protected tree is a tree meeting the following criteria⁴:

- Has a height of 5m or more;
- Located more than 2m from the outside enclosing wall of an approved building.
- Not listed on the *Exempt Tree Species List*.

3.1.4 None of the assessed trees were listed in the Council significant tree register or listed under the Threatened species conservation Act 1995.

² "Planning Controls" – Northern Beaches Council:

<https://www.northernbeaches.nsw.gov.au/planning-and-development/planning-controls>

³ "Manly LEP 2013", Schedule 5 – Heritage Items:

<https://legislation.nsw.gov.au/view/html/inforce/2024-02-23/epi-2013-0140>

⁴ Northern Beaches Council: Trees on Private Land: <https://www.northernbeaches.nsw.gov.au/planning-development/tree-management/private-land>



3.1.5 Objectives of the C4 Land Zoning Include⁵:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To protect tree canopies and ensure that new development does not dominate the natural scenic qualities of the foreshore.
- To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.
- To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.
- To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.

⁵ Manly LEP 2013: https://legislation.nsw.gov.au/view/html/inforce/2024-02-23/epi-2013-0140#pt-cg1.Zone_C4



3.2 The Site

- 3.2.1 The site is formally identified as Lot A DP24923.
- 3.2.2 Located in the southern extents of the Fairlight, the previously developed site presented with a Southerly aspect leading to Fairlight Beach
- 3.2.3 A single storey brick residence and detached brick garage were the only structures on the site.
- 3.2.4 Landscaping on the site included overgrown vegetation and the assessed trees joined by small areas of lawn.
- 3.2.5 The assessed trees were scattered about the site as indicated on the survey.
- 3.2.6 An existing stormwater main traverses parallel to the Eastern boundary of the site by way of Covenant easement.

3.3 The Development

- 3.3.1 All existing structures and trees on the site are proposed for demolition.
- 3.3.2 A new four-storey plus basement residential flat building is proposed including strata subdivision. Five levels are proposed in total.
- 3.3.3 Sections and elevations indicate an extensive degree of excavation will be required to accommodate the development.
- 3.3.4 The proposal includes an OSD system located beneath the driveway discharging to the street.
- 3.3.5 The supplied landscape plan proposes the replacement planting of four trees including Coastal Banksia (2), Lilli Pilli (1), and Watergum (1) species.

This represents a net increase of one canopy tree compared with the removal of protected species despite an overall loss of canopy trees when considering established exempt trees.



4 Discussion:

4.1 Assessment Data:

4.1.1 The Arborist considers the dimensional data of several trees on the site to be understated in comparison with photographs taken by the Arborist.

4.1.2 Specifically pertaining to tree heights and spreads:

Tree ID	Stated Height	Stated Spread	Estimated Height	Estimated Spread
2	3m	1m	4m	2m
7	8m	3m	9m	12m
10	10m	4m	17m	8m
11 (ex)	7m	7m	11m	13m
12	12m	8m	18m	15m

4.1.3 The methodology of the supplied report indicates (Para. 1.11) that tree heights were “estimated overall in meters”.

It is considered that some discrepancies between observed conditions are possible. In the case of Trees 10 and 12, some of the most significant trees on the site, the discrepancies between estimations varies by 7m and 6m respectively.

4.1.4 Represented canopy spreads were indicated (Para. 1.12) to have been obtained by “metal tape measure and shown in meters”

Photographs taken by the Arborist during their own inspection of the site clearly indicate larger canopy spreads than indicated.

4.1.5 Northern Beaches Council’s public records system does not show any evidence of a tree works permit being issued since 2018. It is therefore unlikely that pruning works have been undertaken since the acquisition of the property.

4.1.6 The Arborist collected visual approximations of trunk diameters whilst on site. These values are generally larger than that shown in the supplied AIA report.

The Arborist is unable to challenge the stated figured for DBH & DGL due to the supplied reports methodology for using a diameter tape for measured values (Para 1.9 & 1.10)

4.1.7 Noting above discrepancies for canopy spreads between that stated and photographs taken by the Arborist, it would be prudent to undertake an independent observation of trunk diameters for the trees.



4.2 Useful Life Expectancy (ULE):

4.2.1 Data of the supplied AIA report indicates several trees scored ULE values of 4.

4.2.2 In cross checking the tree assessment data against photos collected by the Arborist and the supplied methodology (Barrell, 2001), the Arborist is unable to draw the same conclusion as that supplied.

4.2.3 Barrell's methodology for ULE does not include commentary for trees which are *Exempt* under Local Council policy (or otherwise).

A ULE rating of 4 applies to trees which "should be removed within the next five years".

Subcategories of the rating, A-D, describe trees which are Dead, Dying, Dangerous or damaged due to existing conditions.

Subcategories of the rating, E-G, describe trees which could live for more than 5 years but:

- Could be replaced with more suitable individuals, or make space for new planting;
- May cause damage to structures;
- Could become dangerous for reasons in subclauses A-F

4.2.4 In the Arborist's consideration of the Development. Comments for trees scoring a ULE Rating of 4 are below as an example, and not representative of all trees with this rating:

- Tree 2 (Cheese Tree) was a semi-mature specimen not indicated to contain any structural defect and appearing healthy in the Arborist's photographs. The removal of this tree is proposed to permit construction of a new pedestrian access path, not make space for replacement planting. This tree is more closely aligned with test criteria for a **ULE 2(b)**.
- Trees 4, 9, 13, and 15 (Canary Island Date Palms) were mature specimens with condition comments of "exempt". From photographs taken by the Arborist, none of these trees appeared in a condition warranting a ULE 4 rating. These trees are more likely aligned with test criteria for **ULE 2(b)**

4.2.5 Tree 7 (Norfolk Island Pine) scored a ULE rating of 4(d) representing "Damaged trees which are clearly not safe to retain".

Tree 7 presented as a mature tree with Topped appearance. It did not present with any indication of imminent safety risks to the site as topping had removed much of the tree's canopy.

Despite the tree's diminished structural form due to inappropriate past pruning practices, this tree is more appropriately aligned with test criteria of **ULE 2(d)**.

This tree is of a species of special character to the Manly Area and surrounds. It is unlikely the tree would score poorly in an industry accepted risk assessment.

4.3 Tree Significance Ratings (STARS)

- 4.3.1 The supplied Arboricultural methodology relies on *IACA STARS* for the calculation of tree significance ratings.
- 4.3.2 The IACA STARS methodology requires a tree to have a minimum of three (3) criteria in a category to be classified in a particular group.
- 4.3.3 For this section, the Arborist has not considered *exempt* vegetation which could be removed at any time, without council permit.
- 4.3.4 Tree 7 (Norfolk Island Pine) has been scored with *Low* significance by the supplied. The Arborist considers this tree is of **Medium** significance, diminished by previous non-standard pruning. It meets 5 assessment criteria of the Moderate significance rating.

Application of the Tree Retention value matrix returns a **Medium Retention** value based on the Arborist's assessment. This exceeds the supplied report's rating of *Low*.

- 4.3.5 Tree 12 (Norfolk Island Pine) has been assigned a *Medium* significance rating by the supplied.

This tree was seen with Good Health & Vigour, A form typical of the species, Is visually prominent from a considerable distance, and is supports social and cultural sentiments of the local community.

The application of **High** significance is applicable to the tree.

Application of the Tree Retention value matrix returns a **High Retention** value based on the Arborist's assessment. This exceeds the supplied report's rating of *Medium*.

4.4 Norfolk Island Pines in the Community:

- 4.4.1 Trees 7 & 10 are of a species found commonly in the local area and more broadly within the Northern Beaches LGA.
- 4.4.2 Trees on the site contribute to the heritage value associated with the adjoining foreshore as included in the Manly LEP 2013. The loss of the trees for the development represents a significant dilution of the amenity offered to the local community.
- 4.4.3 Trees to the south of the site have excellent public visibility and can be seen from considerable distances such as from *Reef Beach* and parts of Balgowlah heights situated on the opposite side of North Harbour.
- 4.4.4 Historical aerial imagery of the area indicates Norfolk Island Pines have existed in the locality since circa 1978.



5 Construction Impacts:

- 5.1.1 The supplied report has failed to convey any quantitative value of development encroachments in their report and markups other than generic, unsubstantiated commentary.

- 5.1.2 Tree 1 -Broadleaf Paperbark:

"The proposed development will not impact this tree as there is an existing concrete footpath, retaining wall in front of the neighbour's unit complex and the garage on the site has a concrete foundation

All of these structures have acted as a root barrier / deflector that will ensure the retention of the tree"

The supplied fails to consider potential root development beneath the existing concrete footpath which is a lightweight structure offering ideal conditions for root development.

The tree is proposed to incur a TPZ encroachment of 7% - *Minor* per AS4970:2009. Low-moderate impact is likely as roots which may have deflected from existing masonry structures forming a habit parallel to the road alignment – therefore impacted by the construction of a proposed driveway.

- 5.1.3 The supplied report has failed to consider impacts of a proposed retaining wall along the boundary between 5 & 7 Lauderdale Ave which is proposed with an offset of up to 300mm from the centre of Trees 3, 5, and 6.

It is unclear how *"All of these structures will not affect the stability or longevity of these neighbour's trees"* considering site perimeter hoarding plus the loss of potentially half of these trees' root masses will occur.

It is likely to cause **critical impacts**. The retention of three neighbouring trees is not possible.

- 5.1.4 No disagreement with supplied commentary recommending the removal of Tree 7 is offered.

Previous poor pruning practice has irreversibly compromised the tree's amenity and opportunity to recover.

- 5.1.5 The supplied report has not considered proposed dual strip footings proposed across the front of the site within the TPZ and SRZ areas of Tree 10 (Cook Pine).

The report provides generic commentary that an existing sandstone retaining wall (dating to Pre-1943⁶) *"...has acted as a root barrier that will protect this tree from the proposed development works"*

Retaining walls of at least 1.8m in overall height (and indicated to extend 1.35m below natural grade) are proposed along the site frontage in a terraced fashion.

The Arborist is of the opinion that sandstone retaining walls of the time did not include contiguous concrete strip footings to the indicated depth. Therefore, it is likely that root development has occurred beneath the existing wall.

A *Major Encroachment* of Tree 10's TPZ area (including the SRZ) has been proposed to a value of 20.6%. The supplied report has failed to adequately demonstrate the tree can remain viable as part of the development.

- 5.1.6 AS4970:2009 provides guidance on considerations for determining TPZ encroachment potentials per below.

3.3.4 TPZ encroachment considerations

When determining the potential impacts of encroachment into the TPZ, the project arborist should consider the following:

- (a) Location and distribution of the roots to be determined through non-destructive investigation methods (pneumatic, hydraulic, hand digging or ground penetrating radar). Photographs should be taken and a root zone map prepared.

NOTE: Regardless of the method, roots must not be cut, bruised or frayed during the process. It is imperative that exposed roots are kept moist and the excavation back filled as soon as possible.

- (b) The potential loss of root mass resulting from the encroachment: number and size of roots.
- (c) Tree species and tolerance to root disturbance.
- (d) Age, vigour and size of the tree.
- (e) Lean and stability of the tree.
NOTE: Roots on the tension side are likely to be most important for supporting the tree and are likely to extend for a greater distance.
- (f) Soil characteristics and volume, topography and drainage.
- (g) The presence of existing or past structures or obstacles affecting root growth.
- (h) Design factors.

Figure 1: Excerpt from AS4970:2009. Page 12. Copyright Standards Australia.

Outcomes of the above assessment remain to be seen.

⁶ NSW Spatial Services: https://www.spatial.nsw.gov.au/products_and_services/aerial_and_historical_imagery



- 5.1.7 The supplied report indicates Tree 12 (Norfolk Island Pine) to be removed as part of the development.

Removal of the tree must occur if the development is to be approved in its current form regarding side boundary offsets and the height of the development.

The supplied report acknowledges the development will cause the loss of the only significant tree of the site. It contends this is acceptable due to the tree's origins in the south pacific.

It is the Arborist's opinion the supplied report is overlooking the cultural and social links between the broader community (its Amenity offered) and the species which has been naturalised along the NSW coast.

- 5.1.8 The supplied report has considered possible repair work to an existing stormwater pipe along the eastern boundary of the site and has concluded that any work would require excavation within the SRZ area of Tree 12.

The centre of the tree exists with a 3.2m boundary offset on contrast to the easement's 0.6m offset as found in the supplied architectural plans.

The undertaking of remedial works to the stormwater main, if required, does not necessarily require the removal of the tree to occur. Several options for remedial works exist which do not require the excavation of soils.



6 Conclusion

- 6.1.1 The supplied DA set of documents as found on Northern Beaches Council has been reviewed in the preparation of this report which focuses on Tree-Specific impacts.
- 6.1.2 The proposed development represents an expansive change to the site including an apparent doubling of the site coverage and removal of all vegetation within the site perimeter.
- 6.1.3 The Arborist is concerned the supplied Arboricultural Impact Assessment by Jackson's Nature Works has not adequately demonstrated impacts to trees within the vicinity of the development.
- 6.1.4 Specific concerns of the development relate to a lack of regard for the retention of trees outside of the property bounds.

In the case of Trees 3, 5, and 6, up to 50% of their respective root masses could be lost plus canopy pruning.

Major encroachment to the public Tree, T10 have not been adequately assessed to demonstrate viability.

- 6.1.5 Overall, the Arborist believes the Development Application should be refused.

This is due to a lack of particulars relating to the trees and the development's lack of compliance with the objectives of the C4 Land Zoning

7 Recommendations:

- 7.1.1 It is recommended the overall bulk and scale of the development be reduced to permit lesser impacts on trees external to the site.
- 7.1.2 It is recommended that design options which permit the retention of the high significance Tree 12 be explored as part of a design review.
- 7.1.3 It is recommended that additional works are undertaken within the vicinity of Tree 10 to validate the proposed design.

Where significant roots are found, Architectural redesign is required to ensure ongoing survival.

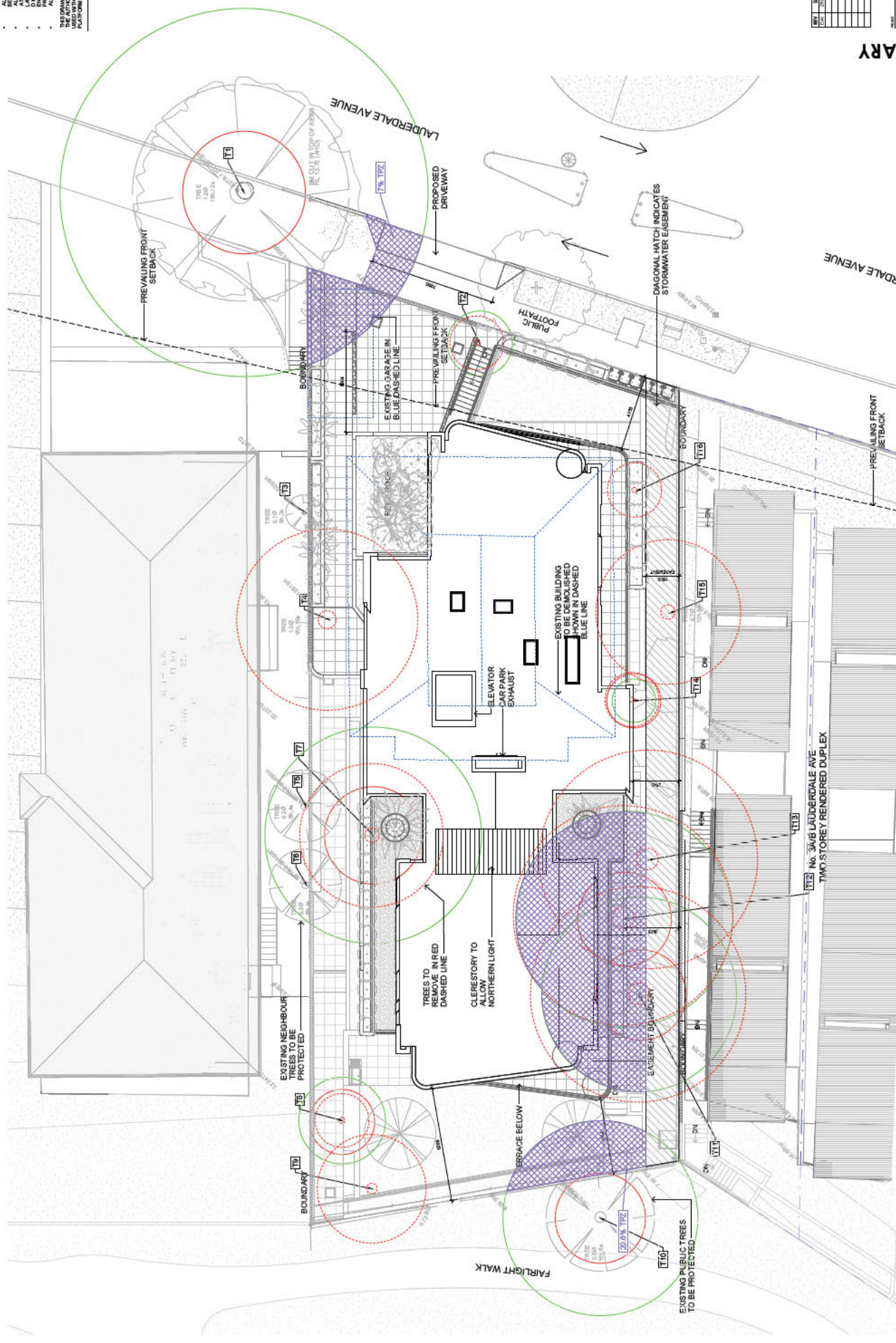
- 7.1.4 It is recommended that a third party AQF5 Arborist be engaged to undertake a peer review of the findings of the original report.
- 7.1.5 It is recommended that the design be amended to permit the retention of Tree 12, or provide clear indication of the species and location of the "2-3 trees to compensate" for the removal of the tree.



Appendix 1 - Tree identification and incursion potentials

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REV	DATE	DWG NO.
CAD	20/7/2024	169-WED-16115











Blues Brothers Arboriculture
PO BOX 4,
TERREY HILLS, NSW, 2084

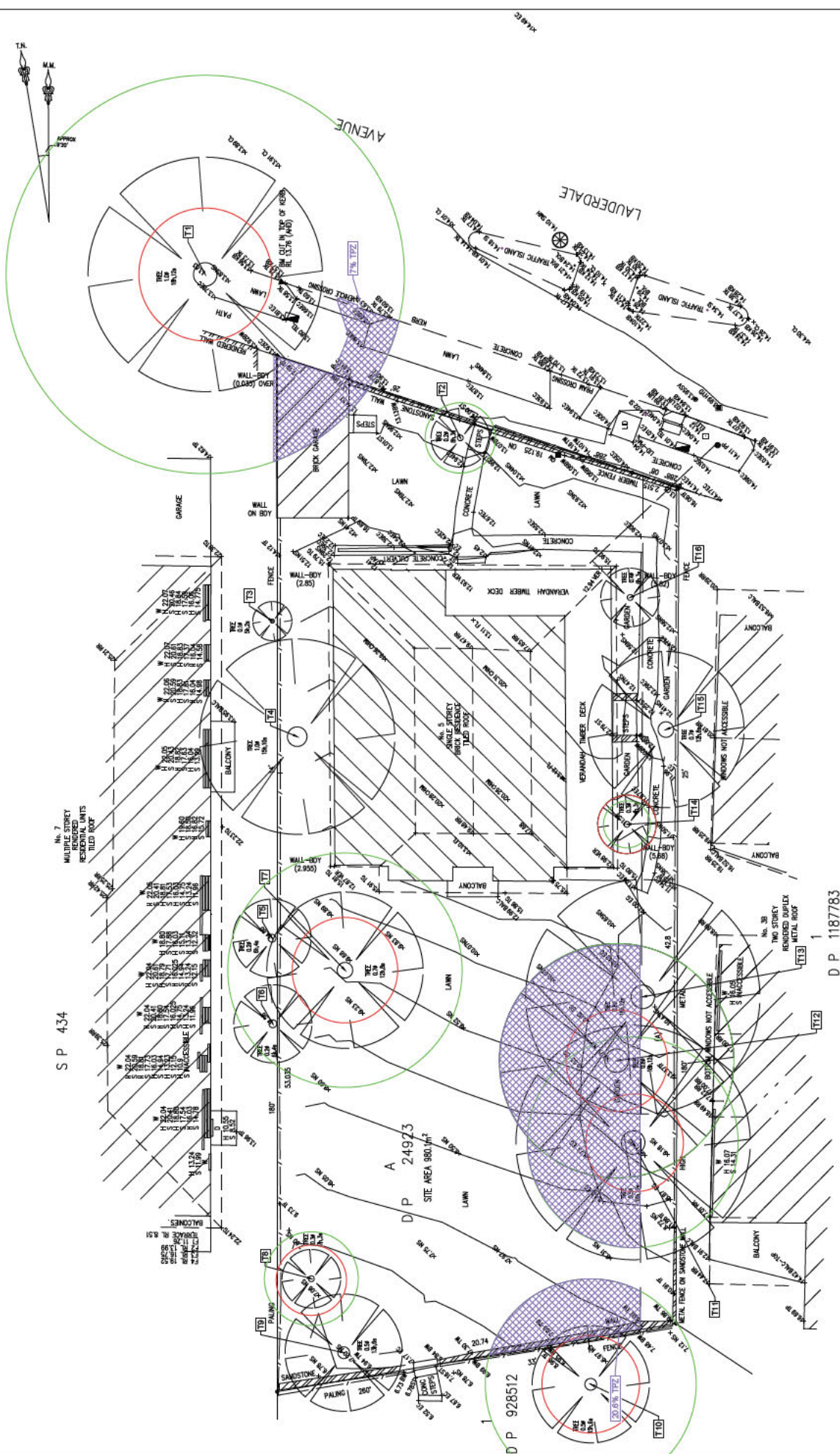
Encroachment Potentials

File: **Encroachment Potentials**
Project: **5 Lauderdale Ave Fairlight.dwg**

Survey Location:	01	Plot Date:	03/12/2024
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 Tree Protection Zone (TPZ)
 Structural Root Zone (SRZ)
 Canopy Spread
 Encroachment Area

 Tree Protection Zone (TPZ)
 Structural Root Zone (SRZ)
 Canopy Spread
 Encroachment Area



NOTE:
LAND IS AFFECTED BY
(A) EASEMENT FOR DRAINAGE (P118664)

	Blues Brothers Arboriculture PO BOX 4, TERREY HILLS, NSW, 2084 Project: [REDACTED]	Title: Tree Identification Revision: 01 Date: 03/12/2024	Key: Tree Protection Zone (TPZ) Structural Root Zone (SRZ) Canopy Spread Enroachment Area
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8 About the Author

Personal Details

Address: PO BOX 4, TERREY HILLS, NSW, 2084

Phone: [REDACTED]

Email: [REDACTED]

Current Position

2014-present: Sole Trader:
Currently self employed as a Consulting Arborist (AQF 5).
Servicing the Greater Sydney Area and Surrounds

Education

2024 ISA
ISA TRAQ Re-certification.

2019-present ISA
ISA TRAQ (Tree Risk Assessment Qualification)
ISA Professional Member

2017 TAFE Top Ryde,
NSW
Diploma Arboriculture (AQF 5)

2011 TAFE Brookvale,
NSW
Diploma of IT (Networking)

Past Experience

Involvement with the preparation of Numerous Arboricultural
Impact Assessment reports across the Greater Sydney Basin
and beyond.

Involvement with the undertaking of tree health assessment
reporting for trees relating to ongoing management not limited
to the undertaking of Risk assessment and destructive testing.

NSW Land and Environment Court as an Expert Witness in the
Arboricultural field as part of Class 1 development application
appeals.

Extensive on-site experience as a Project Arborist. Personal
experience in a former family business has provided valuable
insight into the possibilities of excavation and implementation
of developments.

Appendix E

Heritage Impact Assessment

5 LAUDERDALE AVENUE

FAIRLIGHT NSW 2094

HERITAGE IMPACT STATEMENT

For Four Storey & Basement Residential Flat Development



Prepared for Ms. Vivianne Marston

to accompany a Development Application Objection DA2024/1562
to Northern Beaches Council

FINAL

Issue 02

January 2025

REF: 2404: HIS

Tropman & Tropman Architects

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John Tropman NSW Architects Registration: 5152



REPORT REGISTER

5 Lauderdale Avenue, Fairlight NSW 2094

Heritage Impact Statement

(Reference 2025-HIS)

This table is a register tracking the issue of the above report prepared by Tropman & Tropman Architects. Tropman & Tropman Architects operate under a quality management system, and this register is in compliance with this system.

Issue	Description	Date	Issued To
01	Final Draft	20/01/2025	Vivianne Marston
02	Final	21/01/2025	Vivianne Marston

Cover Image: 5 Lauderdale Avenue, Fairlight (Source: Google)

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1.0 INTRODUCTION

This report has been prepared for Ms. Vivianne Marston to accompany a Development Application Objection DA2024/1562 for the proposed demolition of existing single storey brick dwelling and the construction of a four storey and basement residential flat development to 5 Lauderdale Avenue, Fairlight.

The aim of this report is to review the proposed works and produce a brief heritage impact statement relating to heritage issues associated with the site and the property and surrounding precinct. This brief heritage impact statement has been prepared in accordance with the Australian ICOMOS Burra Charter and Heritage NSW guidelines for Statement of Heritage Impact.

This report is limited to the assessment and impact on non-indigenous cultural heritage and does not include assessment of Aboriginal heritage values. Existing historical information was utilised and limited historical research was undertaken through the course of this report.

Tropman and Tropman Architects has previously undertaken professional work with Ms. Marston and holds no other interests in the site, other than that required to undertake this heritage review of the Development Application DA2024/1562.

The subject site known as 5 Lauderdale Avenue, Fairlight is located adjacent to a number of significant heritage items listed on the Manly Local Environmental Plan 2013. Refer to Appendix A, for the Heritage Listings adjacent and surroundings of the subject site.



Figure 01. Location of subject site, adjacent to foreshore. Source: NSW Spatial Services

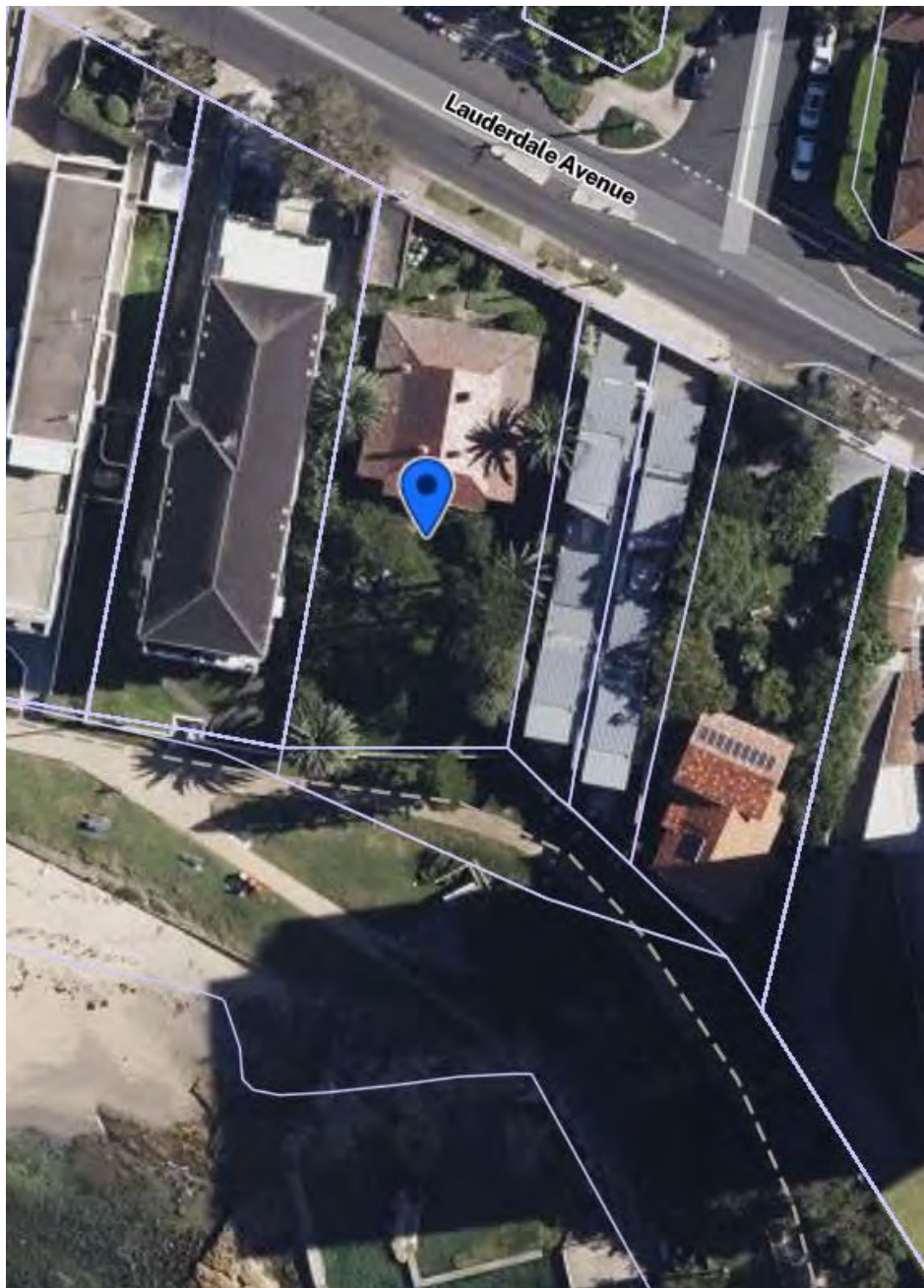


Figure 02. Location of subject site, adjacent to Fairlight Rockpool. Source: NSW Spatial Services

2.0 HERITAGE ASSESSMENT & SIGNIFICANCE

2.1 BRIEF HISTORICAL SUMMARY

2.1.1 FAIRLIGHT

Below is an extract from the "Fairlight Factsheet" from Manly Library Local Studies.

"English migrant John Parker, who had arrived with his family in the colony in 1828 was the first to settle here when in 1837 he bought 20 acres of 'land and rocks on the eastern side of the [Manly] cove'. There he established a market garden on part of the ground, where he grew shrubs, fruit and vegetables for the Sydney markets.

On 11th May 1853, businessman Henry Gilbert Smith bought 26 acres from John Parker, for £350. He added to the holding with the purchase of additional land from Peter Ellery, operator of the Spit punt, in 1858. The land extended north to what is now Hilltop Crescent. He built a small four-roomed stone cottage, designed by Edmund Blacket. Smith wrote in January 1855 "I am now spending a good part of every week at Fairlight...it is a most delightful spot, admired by everyone for its beauty."

This is the first time that the address 'Fairlight' is given. Then circa 1859-60 Smith built a mansion, again designed by Blacket, named Fairlight House, after the village where his first wife came from near Hastings, Sussex, on England's south coast. It was built of stone, two storeys high and five windows wide with an encircling ground-floor verandah. His second wife Anne died at Fairlight House on 7th April 1866 after only nine years of marriage and Smith returned to England in 1867. Fairlight House was rented out, until he sold it and its extensive grounds to John Woods in 1880. Woods, who was the founder of the firm Woods, Shortland and Co attempted in 1882 to buy the reserve in front of Fairlight House, but this was fought off by Manly Council, and in 1884 100 feet in front of Fairlight was resumed for the construction of a public reserve ground. This forms part of the present Manly Scenic Walkway.

Lauderdale Avenue, Manly was first listed in Sands' Directory in 1898, extending from The Crescent. There were three listings in 1898: John Woods at Fairlight, C.H. Rolph at The Bungalow and C.E. Neave at Woodlands, and by 1900 Mr C.A. Lawrence's Dellwood and Henry Maudsley's unnamed home were added – the huge grounds of Dellwood (1886) between Fairlight and The Esplanade were subdivided and the house sold in a spectacular auction in 1924."

The following figures depict the various historic development of the public foreshore precinct where subject site is situated.



Figure 03. Fairlight House & Beach 1880s. Source: Manly Library

NOTE: The Norfolk Island pines planted as landmark trees to Fairlight House property.



Figure 04. Fairlight House 1880s. Source: Manly, Warringah and Pittwater Historical Society

2.1.2 FAIRLIGHT HOUSE

Fairlight House was a grand two storey Georgian style sandstone residence built in c.1855 and was the home of Henry Gilbert Smith, who was known as the “Father of Manly” as he was the founder and developer of the district of Manly.

Fairlight House was demolished in c.1939.



Figure 05. Fairlight House Pleasure Garden. Source: Manly Library

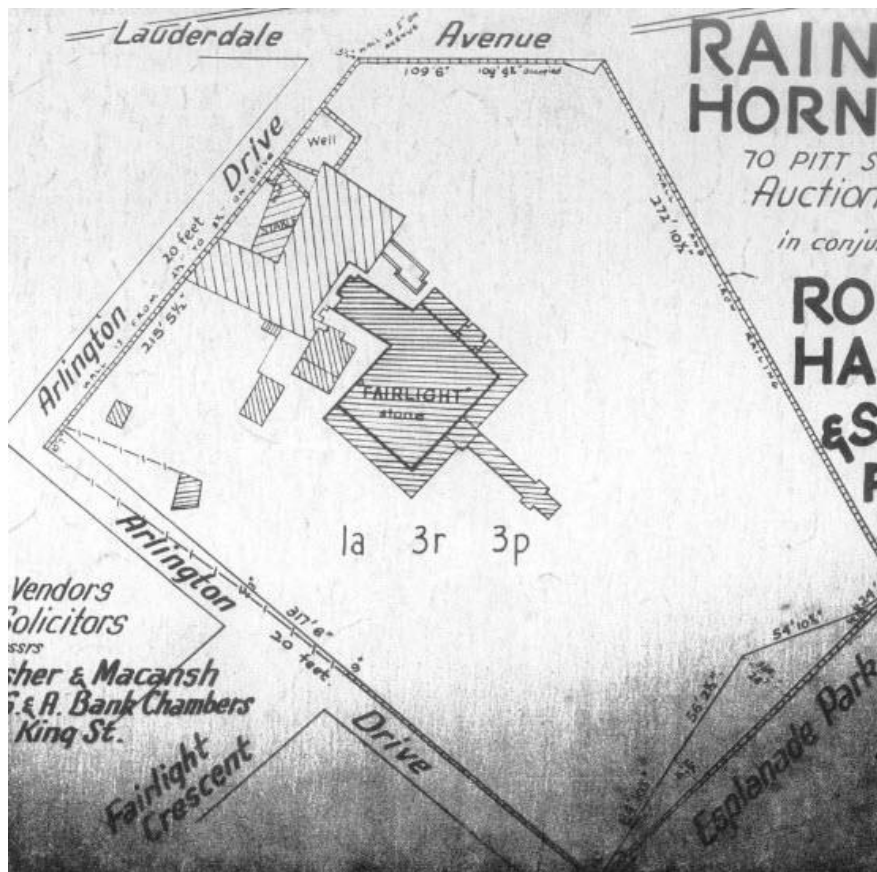


Figure 06. Fairlight House site plan c.1938. Source: Northern Beaches Council

2.1.3 FAIRLIGHT FORESHORE, BEACH AND ROCKPOOL

Fairlight Foreshore and beach is home to a rare known rockpool within Sydney Harbour which was built in the 1920s due to the growing community recreational use of the Fairlight Foreshore Beach and Sydney Harbour. The only other known rockpool within Sydney Harbour is the MacCallum Pool at Cremone.



Figure 07. Fairlight Beach early 1900s. Source: Northern Beaches Library



Figure 08. Fairlight Beach and Rockpool 1970s. Source: Northern Beaches Library

2.1.4 THE WHITE END ESTATE

The “White End” estate was the grand residence of the Pope family, built in c.1901, overlooking Fairlight Beach. The Pope family owned the Farmers Department Store (now Myers). This building was demolished in 1966.



Figure 09. The White End Estate, c.1901. Source: National Library of Australia



Figure 10. Postcard of Manly and White End, c.1905. Source: Manly Library

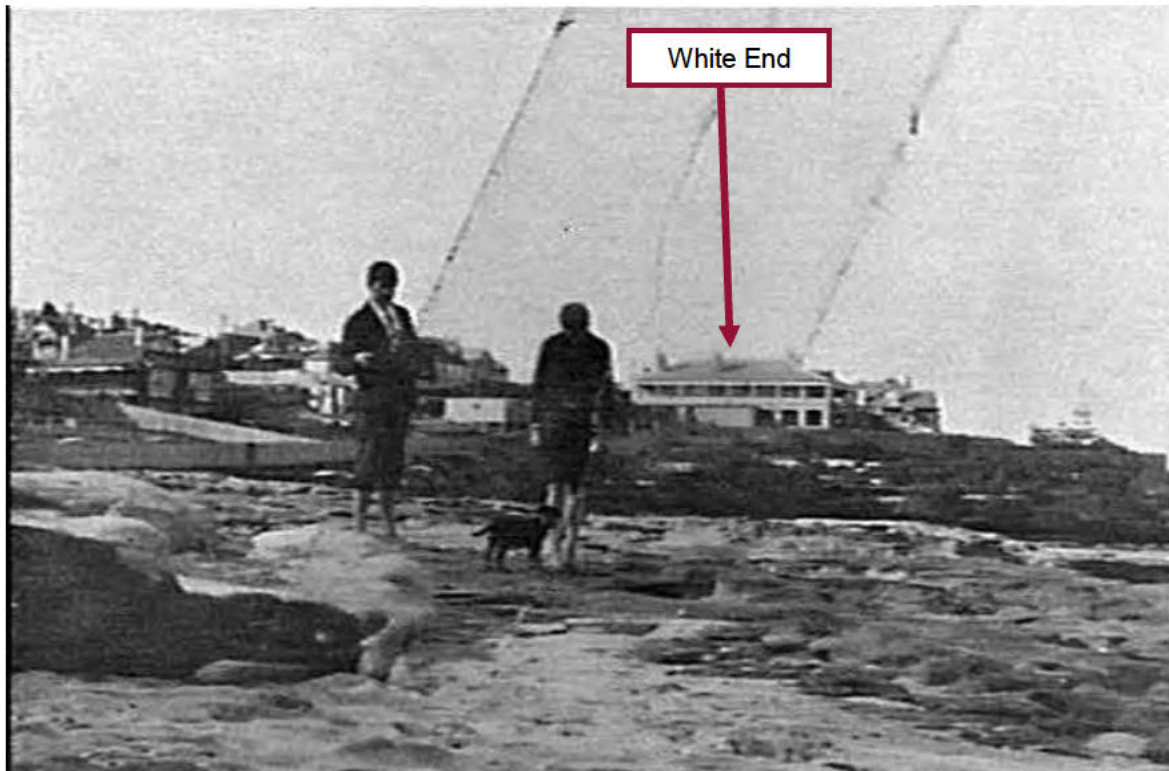


Figure 11. White End, c.1918. Source: Northern Beaches Council

2.1.5 SUBJECT SITE & THE WHITE END ESTATE

The subject site is potentially associated with the neighbouring White End estate, as possibly part of its estate to house the Pope family and staff such as housekeepers and gardeners, as shown in the historical images below, in particular the c.1907 image.



Figure 12. Historic aerial photograph c.1943, location of subject site, adjacent to White End Estate. Source: NSW Spatial Services

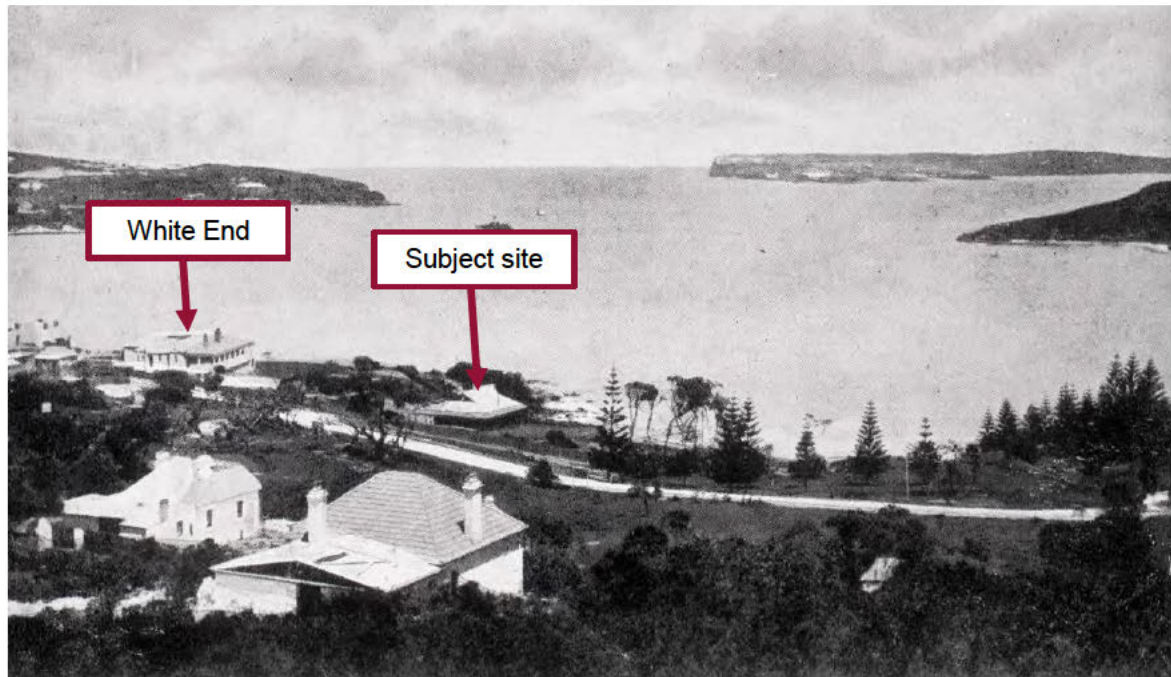


Figure 13. White End and subject site, c.1907. Source: Northern Beaches Council



Figure 14. Comparison images of the c.1907 historical image and existing subject site in 2025.
Source: Northern Beaches Council

Jones Alfred "A.", "Ilfracombe"
 Lauderdale avenue
 Pope John, J.P., "White End"
 Pope Norman, "White End"
 East side
 Davis S. O., "Strathmore"
 Neave Edward, "Blair Athol"

Figure 15. Sands Directory 1906 showing two entries of White End under John Pope and Norman Pope.
Source: Sands Directory 1906

2.2 CONTEXT & PRECINCT

A single storey Federation Period, Arts and Craft style bungalow c.1901 is located on the subject site and is potentially associated with the neighbouring White End estate, as possibly part of its estate to house the Pope family and staff such as housekeepers and gardeners.

The subject site is not a heritage listed item nor is it located within a Heritage Conservation Area.

The subject site is however located adjacent to the following listed local heritage items, as set out in the Northern Beaches Council, Manly Local Environmental Plan 2013.

- “Harbour Foreshores”, Heritage Item no.1
- “Esplanade Park and Fairlight Pool” Heritage Item no.49

Refer to Appendix A, for further details of the heritage listings of these items.

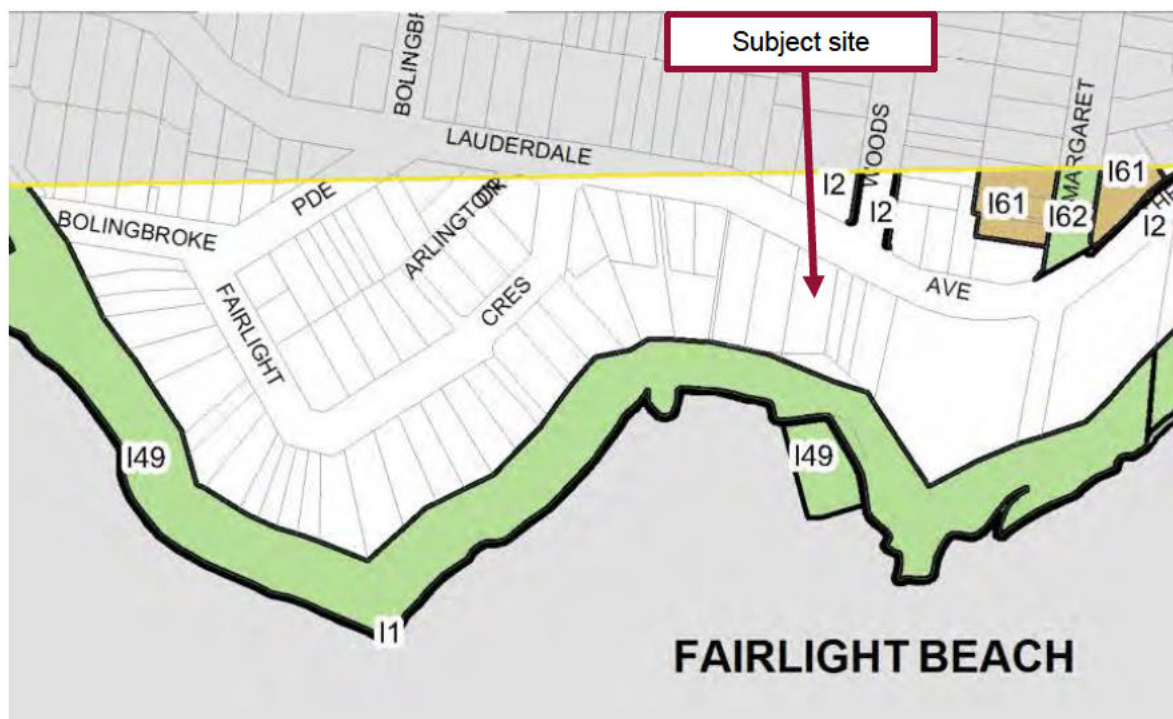


Figure 16. Northern Beaches Council Heritage Mapping showing location of subject site.



Figure 17. South elevation of the subject site, viewed upon from Foreshore



Figure 18. North elevation of the subject site, viewed upon from Lauderdale Avenue.

The following figures depict the various existing development and views and vistas of the public foreshore precinct where subject site is situated.



Figure 19. South elevation of the subject site, viewed upon from the public foreshore.



Figure 20. South elevation of the subject site, viewed upon from the public foreshore.



Figure 21. South east elevation of the subject site, viewed upon from the Fairlight rockpool.



Figure 22. South east elevation of the subject site, viewed upon from the Fairlight rockpool.



Figure 23. South east elevation of the subject site, viewed upon from the Fairlight rockpool.



Figure 24. South elevation of the subject site, viewed upon from the public foreshore.



Figure 25. North elevation of the subject site, viewed upon from Lauderdale Avenue.



Figure 26. North elevation of the subject site, viewed upon from Lauderdale Avenue.

2.3 STATEMENT OF CULTURAL SIGNIFICANCE

The single storey Federation Period, Arts and Craft style bungalow c.1901 located on the subject site is potentially associated with the neighbouring White End estate, as possibly part of its estate to house the Pope family and staff such as housekeepers and gardeners.

The subject site is not a heritage listed item nor is it located within a Heritage Conservation Area. The subject site is however located adjacent to a number of heritage listed items, in particular "Harbour Foreshores" I1, and "Esplanade Park" and Fairlight rockpool" I49, as set out in the Manly LEP 2013. Below is an extract of the statement of significance of the heritage listed items, "Harbour Foreshores" and "Esplanade Park and Fairlight Pool", obtained from the State Heritage NSW Register.

Harbour Foreshores Item I1

Statement of Significance

"Natural landscape type – Aesthetic."

Esplanade Park and Fairlight Pool Item I49

Statement of Significance

"Part of driveway setting leading up to "Fairlight House" in the 1850s. Part of Manly foreshore open space system. Aesthetic."

2.4 ASSESSMENT OF CULTURAL HERITAGE

The following assessment of heritage significance for the heritage items "Esplanade Park and Fairlight Pool" and "Harbour Foreshores" are based on the criteria and guidelines contained in the "Assessing Heritage Significance" produced by Heritage NSW.

2.4.1 Criterion (a) Historic Significance

An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).

	Guidelines for inclusion		Guidelines for exclusion
✓	• shows evidence of a significant human activity	-	• has incidental or unsubstantiated connections with historically important activities or processes
✓	• is associated with a significant activity or historical phase	-	• provides evidence of activities or processes that are of dubious historical importance
✓	• maintains or shows the continuity of a historical process or activity	-	• has been so altered that it can no longer provide evidence of a particular association

TTA Assessment: This place is important in the course and pattern of Fairlight's cultural and natural history as it demonstrates the significant historical and natural evolution of the Fairlight Foreshore, Beach, Rockpool and Sydney Harbour.

The place is important as an excellent example of the cultural and natural history of the local area and region of Sydney. The cultural history dates to the early 1800s and with Fairlight House (c.1855) property and to the 1920s with the construction of the Fairlight Rockpool. The natural history of the place dates from pre settlement with the Foreshore, Beach and Sydney Harbour.

2.4.2 Criterion (b) Historical Association

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).

	Guidelines for inclusion		Guidelines for exclusion
✓	<ul style="list-style-type: none"> shows evidence of a significant human occupation 	-	<ul style="list-style-type: none"> has incidental or unsubstantiated connections with historically important people or events
✓	<ul style="list-style-type: none"> is associated with a significant event, person, or group of persons 	-	<ul style="list-style-type: none"> provides evidence of people or events that are of dubious historical importance
		-	<ul style="list-style-type: none"> has been so altered that it can no longer provide evidence of a particular association

TTA Assessment: This place has a strong and special association with Fairlight and is important cultural and natural history of Fairlight Foreshore, Beach, Rockpool and Sydney Harbour due to its strong association with the Fairlight community and visitors. This precinct is part of the acclaimed Manly to Spit walkway.

The place has special association with the entrepreneur and property developer Henry Gilbert Smith, the naming of the district of Fairlight, and pre settlement occupation by First Nations people. Henry Gilbert was known as the "Father of Manly" as he was the founder and developer of Manly.

2.4.3 Criterion (c) Aesthetic/creative/technical achievement

An item is important in demonstrating aesthetic characteristics and/ or a high degree of creative or technical achievement in NSW (or the local area).

	Guidelines for inclusion		Guidelines for exclusion
✓	<ul style="list-style-type: none"> shows or is associated with, creative or technical innovation or achievement 	-	<ul style="list-style-type: none"> is not a major work by an important designer or artist
-	<ul style="list-style-type: none"> is the inspiration for a creative or technical innovation or achievement 	-	<ul style="list-style-type: none"> has lost its design or technical integrity
✓	<ul style="list-style-type: none"> is aesthetically distinctive 	-	<ul style="list-style-type: none"> its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded
✓	<ul style="list-style-type: none"> has landmark qualities 	-	<ul style="list-style-type: none"> has only a loose association with a creative or technical achievement
✓	<ul style="list-style-type: none"> exemplifies a particular taste, style or technology 		

TTA Assessment: This place is important in demonstrating aesthetic characteristics and technical achievement in Fairlight as it has landmark qualities and represents the evolution of public space on the Fairlight foreshore.

This place has outstanding aesthetic characteristic with the picturesque Foreshore, Beach, Rockpool and Sydney Harbour. The Norfolk Island pines associated with Fairlight House further enhance the place and its landmark qualities.

2.4.4 Criterion (d) Social, cultural and spiritual

An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural, or spiritual reasons.

	Guidelines for inclusion		Guidelines for exclusion
✓	<ul style="list-style-type: none"> is important for its associations with an identifiable group 	-	<ul style="list-style-type: none"> is only important to the community for amenity reasons
✓	<ul style="list-style-type: none"> is important to a community's sense of place 	-	<ul style="list-style-type: none"> is retained only in preference to a proposed alternative

TTA Assessment: This place has high social and cultural significance and it depicts the lifestyle of the community of Fairlight Foreshore, Beach, Rockpool and Sydney Harbour.

This place has strong social and cultural association with Fairlight and the local community and visitors recreating at the Fairlight Foreshore, Beach, Rockpool with views across Sydney Harbour.

2.4.5 Criterion (e) Research potential

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).

	Guidelines for inclusion		Guidelines for exclusion
-	<ul style="list-style-type: none"> has the potential to yield new or further substantial scientific and/or archaeological information 	-	<ul style="list-style-type: none"> the knowledge gained would be irrelevant to research on science, human history or culture
✓	<ul style="list-style-type: none"> is an important benchmark or reference site or type 	-	<ul style="list-style-type: none"> has little archaeological or research potential
-	<ul style="list-style-type: none"> provides evidence of past human cultures that is unavailable elsewhere 	-	<ul style="list-style-type: none"> only contains information that is readily available from other resources or archaeological sites

TTA Assessment: This place has the potential to yield information that will contribute to the understanding of the cultural and natural history of Fairlight Foreshore, Beach, Rockpool and Sydney Harbour with potential pre settlement archaeology in the foreshore.

2.4.6 Criterion (f) Rare

An item possesses uncommon, rare, or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).

	Guidelines for inclusion		Guidelines for exclusion
-	<ul style="list-style-type: none"> provides evidence of a defunct custom, way of life or process 	-	<ul style="list-style-type: none"> is not rare
-	<ul style="list-style-type: none"> demonstrates a process, custom or other human activity that is in danger of being lost 	-	<ul style="list-style-type: none"> is numerous but under threat
-	<ul style="list-style-type: none"> shows unusually accurate evidence of a significant human activity 		
✓	<ul style="list-style-type: none"> is the only example of its type 		
✓	<ul style="list-style-type: none"> demonstrates designs or techniques of exceptional interest 		
✓	<ul style="list-style-type: none"> shows rare evidence of a significant human activity important to a community 		

TTA Assessment: This place is rare with its 1920s rockpool in Sydney Harbour, being one of only two rockpools in the Sydney Harbour. The only other known rockpool within Sydney Harbour is MacCallum Pool, in Cremorne.

This place is of Local significance however it could be considered of State significance due to its rarity. This place illustrates the importance of culture of recreational bathing in the harbour by the community since the early 1800s.

2.4.7 Criterion (g) Representative

An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural or natural environments (or a class of the local area's cultural or natural places; or cultural or natural environments).

	Guidelines for inclusion		Guidelines for exclusion
✓	<ul style="list-style-type: none"> is a fine example of its type 	-	<ul style="list-style-type: none"> is a poor example of its type
✓	<ul style="list-style-type: none"> has the principal characteristics of an important class or group of items 	-	<ul style="list-style-type: none"> does not include or has lost the range of characteristics of a type
-	<ul style="list-style-type: none"> has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity 	-	<ul style="list-style-type: none"> does not represent well the characteristics that make up a significant variation of a type
-	<ul style="list-style-type: none"> is a significant variation to a class of items 		
-	<ul style="list-style-type: none"> is part of a group which collectively illustrates a representative type 		
✓	<ul style="list-style-type: none"> is outstanding because of its setting, condition or size 		
✓	<ul style="list-style-type: none"> is outstanding because of its integrity or the esteem in which it is held 		

TTA Assessment: This place is important in demonstrating the principal characteristics of the community of Fairlight Foreshore, Beach, Rockpool and Sydney Harbour cultural and natural environments as it is part of a special harbour foreshore setting.

This place is a fine example of its rare rockpool feature and is outstanding because of its unique setting within Sydney Harbour.

2.5 FAIRLIGHT FORESHORE STATEMENT OF SIGNIFICANCE

The Fairlight Foreshore, Beach, Rockpool and Sydney Harbour is important as an excellent example of cultural and natural history of the local area and region of Sydney. The cultural history dates to the early 1800s and with Fairlight House (c.1855) property and to the 1920s with the construction of the Fairlight Rockpool. This place is rare with its 1920s rockpool in Sydney Harbour, being one of only two rockpools in the Sydney Harbour. This place illustrates the importance of the culture of recreational bathing in the harbour by the community since the early 1800s, with views across Sydney Harbour.

The place has special association with the entrepreneur and property developer Henry Gilbert Smith, naming of the district of Fairlight, and pre settlement occupation by First Nations people. The natural history of the place dates from pre settlement and has the potential to yield information that will contribute to the understanding of the cultural and natural history of Fairlight Foreshore, Beach, Rockpool and Sydney Harbour with potential pre settlement archaeology in the foreshore.

This place has outstanding aesthetic characteristic with the picturesque Foreshore, Beach, Rockpool and Sydney Harbour. The Norfolk Island pines associated with Fairlight House further enhance the place and its landmark qualities.

This place is of Local significance however it could be considered of State significance due to its rarity and importance to the community and visitors.

The single storey Federation Period, Arts and Craft style bungalow c.1901 located on the subject site is potentially associated with the neighbouring White End estate, as possibly part of its estate to house the Pope family and staff such as housekeepers and gardeners.

3.0 PROPOSED REDEVELOPMENT

The proposed work consist of the demolition of existing single storey brick dwelling and the construction of a four storey and basement residential flat development to 5 Lauderdale Avenue, Fairlight.

The construction of the four storey and basement building includes 5 residential apartments and car parking for 11 vehicles.

The proposal is to be read in conjunction with the architectural drawings by Platform Architects.

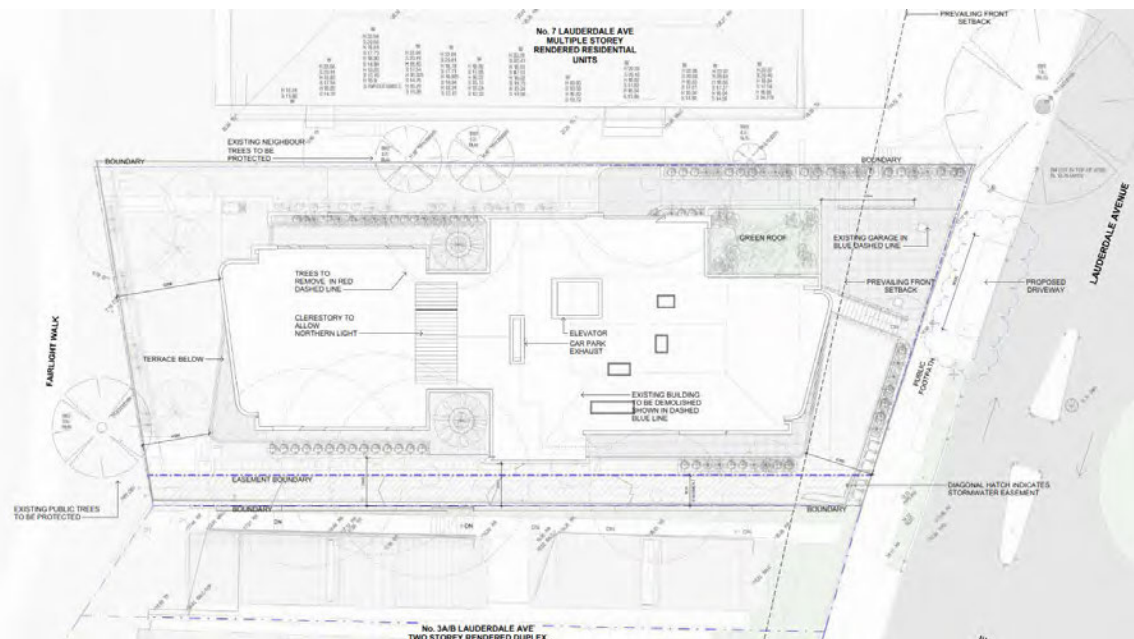


Figure 27. Site Plan

Source: Platform Architects.

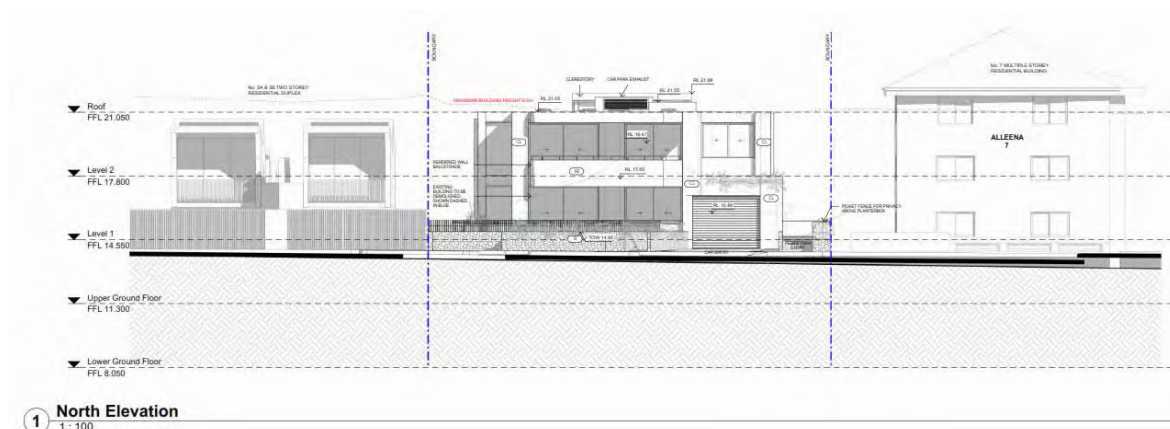


Figure 28. North Elevation

Source: Platform Architects.

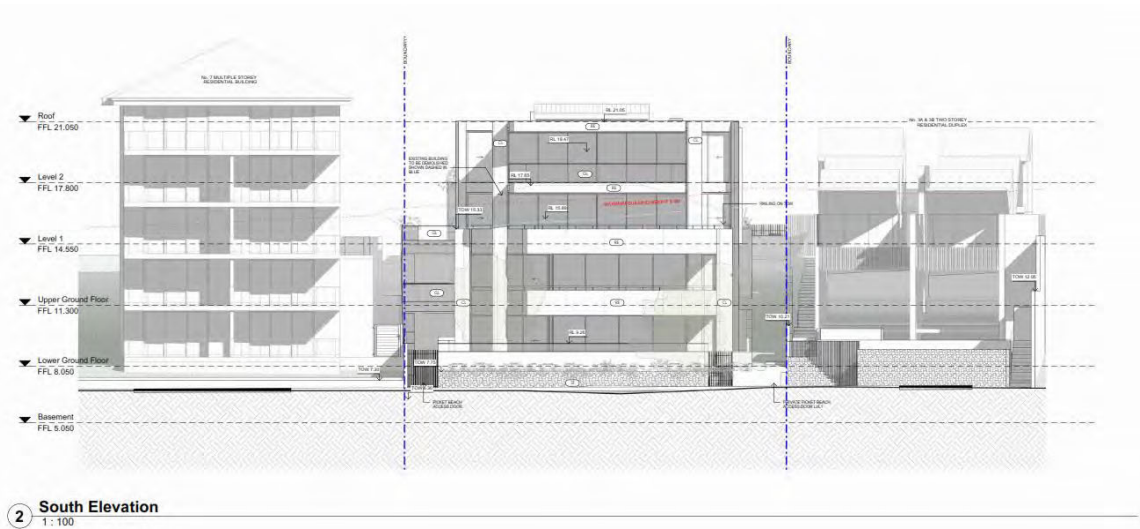


Figure 29. South Elevation
 Source: Platform Architects.

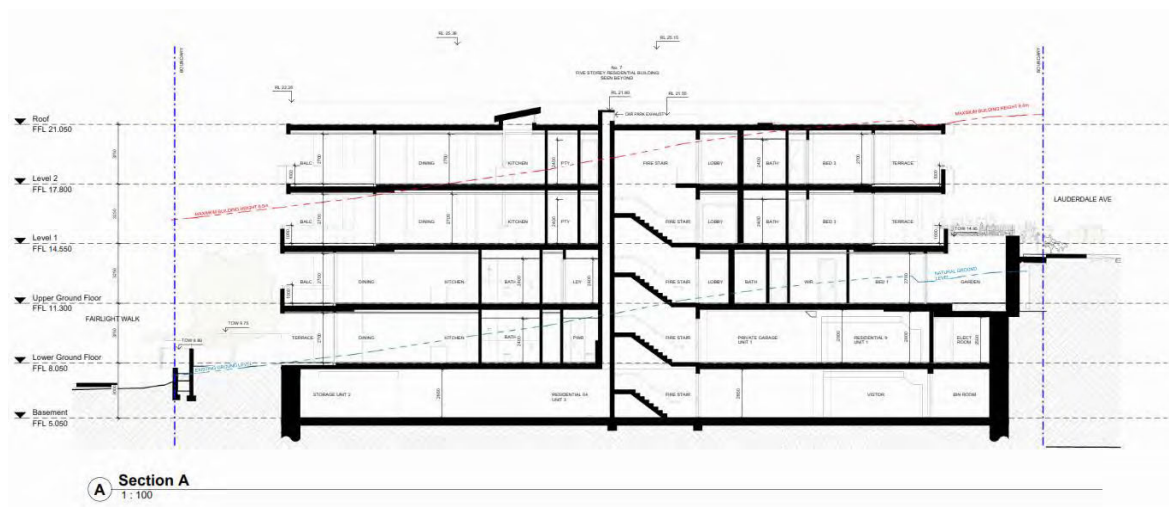


Figure 30. Section A
 Source: Platform Architects.



*Figure 31. Perspective showing the over development of the proposal.
Source: Platform Architects.*

4.0 HERITAGE IMPACT ASSESSMENT

This section assesses the impacts of the proposed work to the subject site against the relevant NSW heritage controls and guidelines.

4.1 NSW HERITAGE GUIDELINES MATTERS FOR CONSIDERATION

This section assesses the impacts of the proposed work to the subject site against the relevant heritage matters for consideration, as set out by the Department of Planning and Environment publication dated June 2023 titled "Guidelines for preparing a statement of heritage impact".

Matters For Consideration	Assessment
<p><i>Fabric and spatial arrangements</i> Describe the proposed alterations and additions to the heritage item and potential impacts to significant fabric and/or spatial arrangements. Address impacts to aesthetic significance or the integrity of the place. Refer to Assessing heritage significance (Heritage NSW 2023) for further information.</p>	<p>Generally, the proposal is intrusive and will have a major adverse impact to the public foreshore precinct, in particular to the heritage items, "Esplanade Park" and Fairlight rockpool" and "Harbour Foreshores".</p> <p>The proposal will have a major adverse impact on the aesthetic significance, integrity and spatial arrangements of this special public foreshore precinct.</p>
<p><i>Setting, views and vistas</i> Describe any impacts to the heritage item's setting including landscape, land use(s) and character. This is particularly relevant to new development and/or signage, flags, umbrellas, air conditioners, solar panels etc. Describe any impacts on significant views and vistas, including views to, from and within the heritage item. Include photographs or photomontages that indicate the potential visual impacts.</p>	<p>The proposal will have a major adverse impact on setting of the adjacent heritage items, "Esplanade Park" and Fairlight rockpool" and "Harbour Foreshores".</p> <p>The significant views and vistas of the landscape and setting character of the heritage items will be compromised by the proposed over development.</p> <p>Further, the proposed over development will cast substantial overshadowing onto the public foreshore precinct which will have an adverse impact to public amenities and recreational use.</p>
<p><i>Landscape</i> Describe the proposed landscape works, features and vegetation and consider how this may impact on the significance of the heritage item.</p>	<p>The proposal has inappropriate and poor landscape that does not consider the existing significant landscape and setting of the special public harbour foreshore precinct and will have a major adverse impact on the heritage items.</p> <p>The removal of significant landmark trees, in particular the Norfolk Island pines (60-70 years old) and mature palms on the subject site will have a major adverse and detrimental impact on the setting of the special public harbour foreshore precinct.</p>

Matters For Consideration	Assessment
<p>Demolition</p> <p><i>If demolition is proposed, clearly describe the area of demolition, and assess the associated impacts, indicating whether the proposed demolition (whole/partial) will or will not have a major detrimental effect on the heritage significance of the heritage item.</i></p> <p><i>If any demolition is proposed to a heritage item listed on the State Heritage Register, the area of demolition must be clearly described, and the assessment must respond to s60(3)c of the Heritage Act.</i></p>	<p>The demolition of the existing single storey Federation Period, Arts and Craft style bungalow c.1901 on the subject site should be assessed for heritage significance and possible retention. There is potential that the subject site is associated with the White End estate, as possibly part of its estate to house the Pope family and staff such as housekeepers and gardeners.</p> <p>A full heritage assessment report of the property should occur prior to the consideration of demolition. This report should be prepared by a qualified heritage consultant, in accordance with the Heritage Council of NSW guidelines "Assessing Heritage Significance" 2023, to assess the heritage significance of the subject site and impact on heritage significance.</p>
<p>Natural heritage</p> <p><i>If the heritage listing identifies the heritage item as a place of natural heritage values, describe impacts to the identified natural heritage values. Note that ecological advice or reports may be required.</i></p>	<p>The proposed over development is in the direct vicinity of the sensitive natural and cultural environment of the Sydney Harbour foreshore and will have a major adverse impact on the natural heritage values.</p> <p>The substantial overshadowing and removal of significant trees will have a major detrimental impact on the setting and natural heritage values of this special public harbour foreshore precinct.</p>
<p>Cumulative Impacts</p> <p><i>Assess the cumulative impact of the proposed works, considering previous approvals and future applications. Indicate whether the proposed works as part of this application are one part of a broader scope of works (or if they are related to any other applications) and if relevant, include a master plan. How do the proposed works contribute to the cumulative impact/effect of works to the heritage item?</i></p>	<p>Generally the proposal will have a major adverse cumulative impact to the public foreshore precinct, in particular to the heritage items, "Esplanade Park" and Fairlight rockpool" and "Harbour Foreshores".</p> <p>The proposed over development and removal of significant trees will cast substantial overshadowing and will erode the heritage significance of the surrounding special public foreshore precinct.</p> <p>The proposal does not have a sustainable long term solution for the present and foreseeable future demands for this special public foreshore precinct.</p> <p>The proposal is generally not respectful or sympathetic to the special public foreshore precinct and lacks the considerations of the sensitive heritage, natural and cultural values of the Sydney Harbour Scenic Protection Area and the heritage items "Esplanade Park" and Fairlight rockpool" and "Harbour Foreshores".</p>

Matters For Consideration	Assessment
<p><i>The Conservation Management Plan</i> <i>Assess the proposed works against any relevant policies of a conservation management plan (CMP) (for works to a State Heritage Register item) using a table format as outlined in the example below. This section could be removed if there is no CMP available for the heritage item. Please include the title of the CMP, the name of the person or organisation that prepared it and the dates of its preparation and endorsement by the Heritage Council (if applicable).</i></p>	<p>There is no Conservation Management Plan associated with the subject site and adjacent heritage items, “Esplanade Park” and Fairlight rockpool” and “Harbour Foreshores”. A Conservation Management Plan should be prepared for these heritage items, to guide future developments along the significant public foreshore precinct.</p> <p>Further, the accompanying Heritage Impact Statement (part of the Statement of Environment Effects report) of the Development Application is insufficient and has not appropriately considered the property nor the highly significant Fairlight foreshore, beach, rockpool and Sydney Harbour.</p>
<p><i>Other heritage items in the vicinity</i> <i>Describe any direct or indirect impacts to the significance of other heritage items in the vicinity.</i></p>	<p>The subject site is not a heritage listed item nor is it located within a Heritage Conservation Area. The subject site is however located adjacent to a number of heritage listed items, in particular “Harbour Foreshores”¹¹, and “Esplanade Park” and Fairlight rockpool”¹⁴⁹, as set out in the Manly LEP 2013.</p> <p>The proposal will have a major adverse and detrimental impact on the setting and context of the heritage listed items due to its over development. The proposal is inappropriate and does not consider the sensitive natural and cultural harbor foreshore precinct.</p>

4.2 MANLY LOCAL ENVIRONMENTAL PLAN 2013

This section assesses the impacts of the proposed work to the subject site against the relevant heritage controls, as set out in the Manly Local Environmental Plan 2013 by Northern Beaches Council.

LEP Heritage Control	Assessment
<p>Clause 5.10 Heritage Conservation</p> <p>(4) Effect of proposed development on heritage significance <i>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</i></p>	<p>The proposed development will have a major adverse and detrimental effects on the heritage significance of the adjacent heritage items “Esplanade Park” and Fairlight rockpool” and “Harbour Foreshores”.</p>
<p>(5) Heritage assessment <i>The consent authority may, before granting consent to any development on land on which a heritage item is located, or on land that is within a heritage conservation area, or on land that is within the vicinity of land referred to in paragraph (a) or (b) require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</i></p>	<p>The demolition of the existing single storey Federation Period, Arts and Craft style bungalow c.1901 on the subject site should be assessed for heritage significance and possible retention. There is potential that the subject site is associated with the White End estate, as possibly part of its estate to house the Pope family and staff such as housekeepers and gardeners.</p> <p>A full heritage assessment report of the property should occur prior to the consideration of demolition. This report should be prepared by a qualified heritage consultant, in accordance with the Heritage Council of NSW guidelines “Assessing Heritage Significance” 2023, to assess the heritage significance of the subject site and impact on heritage significance.</p> <p>There is no Conservation Management Plan associated with the subject site and adjacent heritage items, “Esplanade Park” and Fairlight rockpool” and “Harbour Foreshores”. A Conservation Management Plan should be prepared for these heritage items, to guide future developments along the significant public foreshore precinct.</p>

4.3 MANLY DEVELOPMENT CONTROL PLAN 2013

This section assesses the impacts of the proposed work to the subject site against the relevant heritage controls, as set out in the Manly Development Control Plan 2013 by Northern Beaches Council.

DCP Heritage Control	Assessment
3.2.1 Consideration of Heritage Significance	
<p>3.2.1.1 Development in the vicinity of heritage items, or conservation areas</p> <p><i>a) In addition to LEP listings of Environmental Heritage (LEP Schedule 5), this DCP requires consideration of the effect on heritage significance for any other development in the vicinity of a heritage item or conservation area.</i></p> <p><i>b) Proposed development in the vicinity of a heritage item or conservation area must ensure that:</i></p> <p><i>i) it does not detract or significantly alter the heritage significance of any heritage items, conservation area or place;</i></p> <p><i>ii) the heritage values or character of the locality are retained or enhanced; and</i></p> <p><i>iii) any contemporary response may not necessarily seek to replicate heritage details or character of heritage buildings in the vicinity, but must preserve heritage significance and integrity with complementary and respectful building form, proportions, scale, style, materials, colours and finishes and building/street alignments.</i></p> <p><i>c) The impact on the setting of a heritage item or conservation area is to be minimised by:</i></p> <p><i>i) providing an adequate area around the building to allow interpretation of the heritage item;</i></p> <p><i>ii) retaining original or significant landscaping (including plantings with direct links or association with the heritage item);</i></p> <p><i>iii) protecting (where possible) and allowing the interpretation of any archaeological features; and</i></p> <p><i>iv) retaining and respecting significant views to and from the heritage item.</i></p>	<p>The proposal will detract and significantly impact the heritage significance of the adjacent heritage items, "Esplanade Park" and Fairlight rockpool" and "Harbour Foreshores.</p> <p>The heritage values and characters of this special foreshore harbour precinct will be compromised. The proposal is inappropriate and not respectful in terms of design, building form, proportions, scale, overshadowing, style, materials, finishes and building alignments.</p> <p>The proposal does not consider the significant landscaping of the adjacent heritage items, "Esplanade Park" and Fairlight rockpool" and "Harbour Foreshores and will impact the significant views and vistas to and from the heritage items.</p> <p>The proposed over development and removal of significant trees will cast substantial overshadowing and will erode the heritage significance of the adjacent heritage items and the public foreshore precinct.</p>

5.0 RECOMMENDATIONS

- 5.1 The Development Application's accompanying Heritage Impact Statement (part of the Statement of Environment Effects report) is insufficient and has not appropriately considered the heritage values of the existing property with its Federation Period, Arts and Craft style bungalow c.1901. The property is potentially associated with the neighbouring White End estate, as possibly part of its estate to house the Pope family and staff such as housekeepers and gardeners. Further, the report also has not appropriately considered the heritage values of the highly significant Fairlight foreshore, beach, rockpool and Sydney Harbour precinct.

Therefore, a proper heritage assessment report of the subject property should be undertaken to determine heritage significance and if demolition is appropriate. If so then specific actions recommended, such as Archival Recording and Interpretation for the site should be undertaken. This report should also review possible redevelopment options that would respect the heritage values and precinct. Further, this report should be prepared by a qualified heritage consultant, in accordance with the Heritage Council of NSW guidelines "Assessing Heritage Significance" 2023, to assess the heritage significance of the subject site and impact on heritage significance.

- 5.2 The removal of significant landmark trees, in particular the Norfolk Island pines (60-70 years old) and mature palms on the subject site will have a major adverse and detrimental impact on the setting of the special public harbour foreshore precinct.
- 5.3 The existing Norfolk Island pines on the subject site must be retained due to the foreshore landmark qualities and association with Fairlight House.
- 5.4 An Archaeological Assessment and Aboriginal Cultural Heritage Assessment should be undertaken due to the pre settlement archaeological potential on the foreshore.
- 5.5 If the demolition of the existing dwelling is considered acceptable, then the redevelopment proposal is unreasonable due to the adverse and detrimental impacts on its adjacent significant harbour foreshore precinct. The proposal is inappropriate and not respectful in terms of design, building form, proportions, scale, overshadowing, style, materials, finishes and building alignments. The proposal is contrary to the Manly Local Environmental Plan 2013 and Development Control Plan 2013 and will set a negative and highly undesirable precedent to this significant public foreshore precinct.

Therefore, a proper reconsideration of the redevelopment must be undertaken to minimise the adverse and detrimental impacts on the significant public foreshore precinct.

- 5.6 All new work should be the most sustainable solution for the present and foreseeable future demands for the significant heritage precinct. Further, any new work should ensure no further overshadowing of the public foreshore precinct and fully comply with the MLEP 2013 planning policies, which have the specific intent to protect the listed heritage items, "Esplanade Park" and Fairlight rockpool" and "Harbour Foreshores".
- 5.7 Prior to the commencement of any works, a Photographic Archival Record of the building should be undertaken by a suitably qualified heritage consultant in order to identify and record the site in its current condition. This should be prepared in accordance with the Heritage NSW guidelines.

- 5.8 A Conservation Management Plan should be prepared for the impacted heritage items, “Esplanade Park” and Fairlight rockpool” and “Harbour Foreshores”, to properly understand the heritage values of this highly significant precinct and to guide conservation and the future development along this significant public foreshore precinct.

6.0 CONCLUSION

The proposed over development at 5 Lauderdale Avenue, will have a major adverse and detrimental impact on the special and highly significant public foreshore precinct of Fairlight Beach, Fairlight rockpool, the Esplanade and Sydney Harbour foreshore.

The Development Application’s accompanying Heritage Impact Statement (part of the Statement of Environment Effects report) is insufficient and has not appropriately considered the heritage values and significance of the existing property with its Federation Period, Arts and Craft style bungalow c.1901. The property is potentially associated with the neighbouring White End estate, as possibly part of its estate to house the Pope family and staff such as housekeepers and gardeners. The report also has not appropriately considered the heritage values of the highly significant Fairlight foreshore, beach, rockpool and Sydney Harbour precinct.

The substantial overshadowing and removal of significant trees will significantly reduce the significant natural and cultural heritage elements of the adjacent heritage items that contribute to that significance. The proposed over development is inappropriate and is out of character to this significant natural and cultural heritage public foreshore precinct. Further, the proposal is contrary to the Manly Local Environmental Plan 2013 and Development Control Plan 2013 and will set a negative and highly undesirable precedent to this significant public foreshore precinct.

The proposed over development is not respectful and sympathetic to the significant public foreshore precinct and will permanently erode the integrity and heritage significance of the adjacent local heritage items “Esplanade Park” and Fairlight rockpool” and “Harbour Foreshores”.

APPENDIX A: FAIRLIGHT HERITAGE LISTINGS

Item Details

Name

Harbour Foreshores

SHR/LEP/S170

LEP #I1

Address

Extent of Municipal boundary adjacent to the Harbour MARMONG
POINT NSW 2284

Local Govt Area

Northern Beaches

Local Aboriginal Land Council

Unknown

Item Type

Landscape

Group/Collection

Landscape - Natural

Category

Coastal environment

All Addresses

Addresses

Records Retrieved: 1

Street No	Street Name	Suburb/Town/Postcode	Local Govt. Area	LALC	Parish	County	Electorate	Address Type
	Extent of Municipal boundary adjacent to the Harbour	MARMONG POINT/NSW/2284	Northern Beaches	Unknown			Unknown	Primary Address

Significance

Statement Of Significance

Natural landscape type - Aesthetic.

Manly Council is in the process of updating the inventory sheets for places listed as Items of Environmental Heritage on the Manly Local Environment Plan (2013) as amended.
The information in this inventory entry may not be complete.
For further information, please contact Manly Council’s Heritage Advisor.

Criteria a)

Historical Significance

Landscape, Isolation, Splendid isolation, Permanent Settlement, Villas.

Owners

Records Retrieved: 0

Organisation	Stakeholder Category	Date Ownership Updated
No Results Found		

Description

Designer **Builder/Maker**

Physical Description

Updated

Length of foreshore including natural and built elements of the landscape. Rocky sandstone ledgers, beaches, mud flats and sandstone retaining walls and timber structures.

Physical Condition

Updated

Modifications And Dates

Further Comments

Current Use

Private and public environment.

Former Use

Listings

Listings

Records Retrieved: 1					
Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan	Manly Local Environmental Plan 2013	l1	4/5/2013 12:00:00 AM		

Procedures/Exemptions

Records Retrieved: 0

Section of Act	Description	Title	Comments	Action Date	Outcome
No Results Found					

History

Historical Notes or Provenance

Updated

Historic Themes

Records Retrieved: 1

National Theme	State Theme	Local Theme
3. Economy	Environment - cultural landscape	Unknown

Recommended Management

Management Summary

Management

Records Retrieved: 0

Management Category	Management Name	Date Updated
No Results Found		

Report/Study

Heritage Studies

Records Retrieved: 1

Report/Study Name	Report/Study Code	Report/Study Type	Report/Study Year	Organisation	Author
Manly Heritage Study			1986		Blackmore, Ashton, and Co.

Reference & Internet Links

References

Records Retrieved: 0

Type	Author	Year	Title	Link
No Results Found				

Data Source

The information for this entry comes from the following source:

Data Source	Record Owner	Heritage Item ID
Local Government	Northern Beaches Council	2020474

Every effort has been made to ensure that information contained in the State Heritage Inventory is correct. If you find any errors or omissions please send your comments to council@northernbeaches.nsw.gov.au

Item Details

Name
Esplanade Park and Fairlight Pool
SHR/LEP/S170
LEP #I49

Address
Fairlight Foreshore, North Harbour FAIRLIGHT NSW 2094

Local Govt Area
Northern Beaches

Local Aboriginal Land Council
Unknown

Item Type	Group/Collection	Category
Landscape	Landscape - Cultural	Historic Landscape

All Addresses

Addresses								
Records Retrieved: 1								
Street No	Street Name	Suburb/Town/Postcode	Local Govt. Area	LALC	Parish	County	Electorate	Address Type
	Fairlight Foreshore, North Harbour	FAIRLIGHT/NSW/2094	Northern Beaches	Unknown			Unknown	Primary Address

Significance

Statement Of Significance
Part of driveway setting leading up to 'Fairlight House' in the 1850's. Part of Manly's foreshore open space system. Aesthetic.

Manly Council is in the process of updating the inventory sheets for places listed as Items of Environmental Heritage on the Manly Local Environment Plan (2013) as amended.
The information in this inventory entry may not be complete.
For further information, please contact Manly Council's Heritage Advisor.

Criteria a)
Historical Significance
Isolation, Splendid isolation, Permanent Settlement, Recreation.

Owners

Records Retrieved: 0

Organisation	Stakeholder Category	Date Ownership Updated
No Results Found		

Description

Designer Builder/Maker

Physical Description Updated

Physical Condition Updated

Modifications And Dates

Further Comments

Current Use

Former Use

Listings

Listings

Records Retrieved: 1					
Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan	Manly Local Environmental Plan 2013	l49	4/5/2013 12:00:00 AM		

Procedures/Exemptions

Records Retrieved: 0

Section of Act	Description	Title	Comments	Action Date	Outcome
No Results Found					

History

J. Wheeler/ C. Champman/ J. Parker (1842)| G/ HG Smith (1850's); Manly Municipal Council (1880's)

Historic Themes

Records Retrieved: 2

National Theme	State Theme	Local Theme
4. Settlement	Towns, suburbs and villages	Unknown
3. Economy	Environment - cultural landscape	Unknown

Recommended Management

Management Summary

Management

Records Retrieved: 0

Management Category	Management Name	Date Updated
No Results Found		

Report/Study

Heritage Studies

Records Retrieved: 1

Report/Study Name	Report/Study Code	Report/Study Type	Report/Study Year	Organisation	Author
Manly Heritage Study			1986		Blackmore, Ashton, and Co.

Reference & Internet Links

References

Records Retrieved: 0

Type	Author	Year	Title	Link
No Results Found				

Data Source

The information for this entry comes from the following source:

Data Source	Record Owner	Heritage Item ID
Local Government	Northern Beaches Council	2020462

Every effort has been made to ensure that information contained in the State Heritage Inventory is correct. If you find any errors or omissions please send your comments to council@northernbeaches.nsw.gov.au

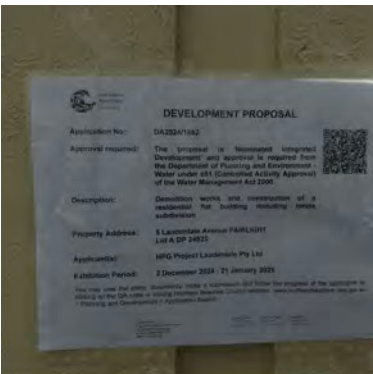
Appendix F

Site Notice Photographs

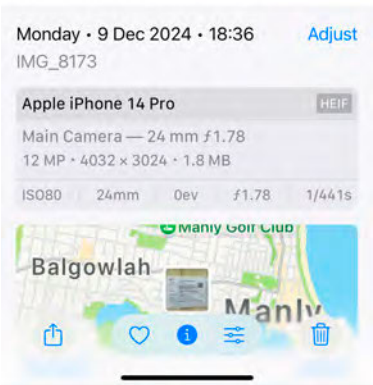
APPENDIX F : SITE NOTICE PHOTOGRAPHS

REQUIRED NOTIFICATION PERIOD 02/12/24 - 21/01/25

24.12.09 - Rear fence signage installed



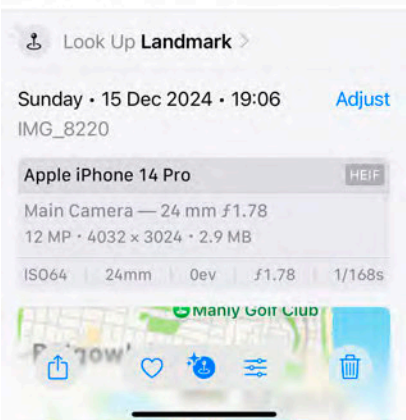
Add a Caption



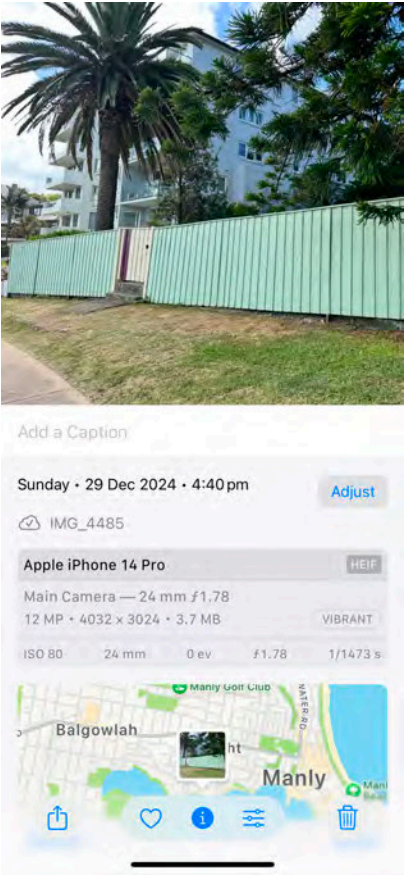
24.12.15 -Rear fence signage removed



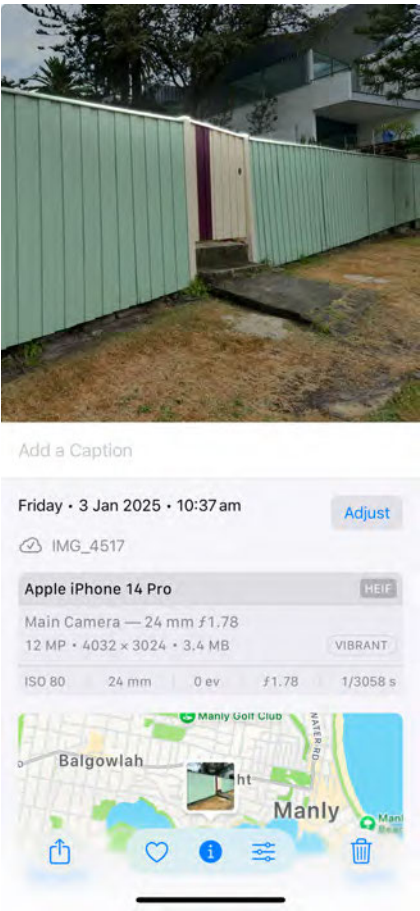
Add a Caption



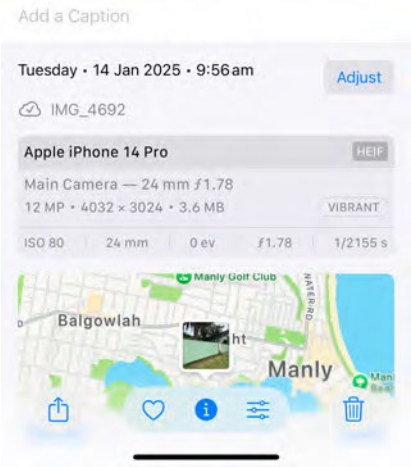
24.12.29 -no signage



25.01.03 no signage



25.01.14 -No signage



25.01.18 -No signage

