

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

Proposed New  
Dwelling

30 Abernethy Street,  
Seaforth

Suite 1, 9 Narabang Way Belrose NSW 2085

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# **Statement of Environmental Effects**

## **Proposed New Dwelling**

### **30 Abernethy Street**

Prepared under instructions from

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## 1 Introduction

This statement has been prepared as part of the supporting documentation for a Development Application in relation to the demolition of the existing site structures and the construction of a new dwelling with associated landscaping and swimming pool.

The architect has responded to the client brief to design a dwelling that is of high amenity that take advantage of the sites superior locational attributes. Particular attention has been given to ensuring that the proposed works maintain appropriate privacy, solar access and view sharing outcomes to both immediately adjoining dwellings. The outcome is a building form which will reinforce the scenic and environmental qualities of the Seaforth coastal areas whilst maintaining appropriate residential amenity, view sharing, foreshore scenic protection and streetscape outcomes.

The proposal is permissible and consistent with the intent of the development standards and built form controls contained within the applicable statutory planning regime as they are reasonably applied. This report demonstrates that strict compliance with the building height and floor space ratio development standards is unreasonable and unnecessary under the circumstances with the clause 4.6 variation requests well founded.

In addition to the Statement of Environmental Effects, the following also accompanies the application:

- Survey;
- Stormwater Management Plans
- Landscape Plan
- Arborist Report
- Architectural Plans
- Geotechnical Report
- Bushfire Report
- Quantity Surveyor Report
- BASIX Certificate

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979;
- Manly Local Environmental Plan 2013 and
- Manly Development Control Plan 2013

- SEPP (Hazard & Resilience) 2021

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

## 2 Site Analysis

### 2.1 Site Description and Location

The site is identified as being lot A in DP 358783. The site has an area of 689.2m<sup>2</sup> and is generally rectangle in shape with a frontage and address to Abernethy Street. The site has a width of 20.665m and a depth of 33.53m. An aerial location view is provided as figure 1 below.



**Figure 1:** Site Location Map (Source: Six Maps)

The topography of the site is steep and falls down from street level approximately 12m-15m. The site gradient is approximately 1:2 which presents a significant design constraint. The site is generally clear of significant trees and vegetation. A significant tree is located on the adjoining property to the rear which does encroach onto the subject site.

The existing development on the site comprises a 2 storey dwelling with swimming pool. Development in the area generally predominately include residential dwellings that range between 2 and 3 storeys which is reflective of the sloping topography.

### 3 Description of Development

#### 3.1 Details of the Proposed Development

The development application proposed demolition of the existing site structures and construction of a new dwelling. Specifically, the works proposed are as follows:

##### **Basement Level (RL 50.65)**

- Rumpus Room which will open out to the entertaining deck and pool area.
- Storage and plant rooms
- Guest bedroom
- Bathroom
- The entertaining deck will include a breakfast bar and BBQ area.

##### **Ground Floor (RL53.85)**

- 3 bedrooms with ensuites. The master bedroom will include a walk-in-robe. The bedrooms will have access to a balcony.
- Study

##### **First floor (RL 57.05)**

- Open plan living/dining/kitchen. Kitchen will include a butlers pantry. This will open out to a rear facing balcony.
- Laundry
- Study
- Bathroom
- 2 car garage

An internal lift provides access to each level. A clerestory roof feature will house the lift overrun and provide increased solar access internally.

A new swimming pool with cabana is proposed. Stormwater management plans and landscape plans accompany this application.

#### **Works proposed within the Road Reserve**

A previous DA application (DA165/2017) approved front boundary fence which sits on the road reserve and effectively creates a front garden for 30 Abernethy Street. The front garden forms part of Council land and a condition of consent (ANS04) stated that:

##### **ANS04**

A "Consent for use of a portion of Road Reserve" for occupation of Council's land must be obtained prior to the issue of the Construction Certificate for the enclosed landscaped area, front fence and access gate within Council's Road Reserve. In this regard please contact Council's Administration Section on 9976 1517.

Reason: To ensure appropriate approval is obtained prior to construction.

The application obtained the relevant construction and occupation certificates. It is understood the road reserve lease arrangement is still in place.

The current proposal seeks to replace the front fence with an appropriately landscaped masonry wall with new pedestrian entry. The front garden landscape detail is shown on the landscape plan provided.



## 4 Statutory Planning Framework

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential environmental impacts are discussed below.

### 4.1 Manly Local Environmental Plan 2013

#### 4.1.1 Zoning and Permissibility

The subject site is Zoned R2 Low Density Residential. The objectives of R2 Zone are as follows:

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

Dwelling houses are permissible with consent and consistent with the objectives of the R2 zone.

#### 4.1.2 Floor Space Ratio

Pursuant to clause 4.4 in the LEP, the site has a maximum floor space ratio (FSR) control calculated at 0.4:1. The objectives of the FSR control are as follows:

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

The amount of gross floor area permissible for this site is calculated at 277.12m<sup>2</sup>. The proposal provides for 300m<sup>2</sup> of GFA which equates to an FSR of 0.43:1. As such, a clause 4.6 request to vary the development standard is provided with this application.

#### 4.1.3 Height of Buildings

Pursuant to clause 4.3 in the LEP the max building height is measured at 8.5m. The objectives of the control are as follows:

- a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- b) *to control the bulk and scale of buildings,*
- c) *to minimise disruption to the following:*
  - i. *views to nearby residential development from public spaces (including the harbour and foreshores),*
  - ii. *views from nearby residential development to public spaces (including the harbour and foreshores),*
  - iii. *views between public spaces (including the harbour and foreshores),*

As indicated on the elevations and section drawings provided the dwelling will extend above the 8.5m height limit. A clause 4.6 request accompanies this application.

#### 4.1.4 Acid Sulfate Soils

The site is mapped as being within class 5 acid sulfate soils. This poses the least amount of risk to the local environment. Sediment controls measures will be in place during construction. A geotechnical report has been provided.

#### 4.1.5 Stormwater Management

Pursuant to clause 6.4 of the LEP, stormwater management plans have been prepared and accompany this application. The site can gravity drain to the street with the required OSD proposed.

#### 4.1.6 Landslide Risk

The subject site is steeply sloping and a geotechnical report has been provided. The recommendations of the geotechnical report are anticipated to form part of the consent, should it be approved.

#### 4.1.7 Scenic Protection Area

Pursuant to clause 6.9 of the LEP the subject site is located within the foreshore scenic protection area. The objective of this clause is to protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore in Manly.

It is considered that the proposed development is consistent with the bulk and scale of development along the Abernethy Street. Development is characterised by multi storey residential dwellings that step down the sloping topography. The dwelling will integrate with

the existing development along the foreshore and would not result in an unreasonable visual impact when views from the public domain or the Harbour and its foreshores. Existing large trees and vegetation will continue to screen the development when viewed from the Harbour.

#### 4.1.8 Bushfire Prone Land

The site is mapped as being bushfire prone land. As such, a bushfire impact assessment has been provided with this application. The report provides recommendations with regard to compliance with the *'Planning for Bushfire Protection'* provisions.

#### 4.1.9 Terrestrial Biodiversity

The site is located within a terrestrial biodiversity area. The works proposed will not have a significant impact on the biodiversity value of the local area with the proposed footprint of the dwelling to be largely the same. No trees are to be removed with tree protection measures in place to ensure their protection. A landscape plan has been provided which includes a range of native treatments. This will result in an enhancement of the biodiversity of the local environment.

The biodiversity layer relates to the endangered bandicoots that are found in the local area. The works will protect bandicoot habitat with the landscape plan providing more native species on site. It is anticipated that any consent will include conditions to ensure the bandicoots are protected.

### 4.2 Manly Development Control Plan 2013

The relevant provisions of the Manly Development Control Plan 2013 in relation the proposed works are detailed as follows:

Control	Requirement	Proposed	Compliance
<b>Streetscape (Residential Areas)</b>  <b>3.1</b>	Streetscape is defined and represents the inter-relationship between buildings, landscape and open spaces in the street scene. Local amenity and identity are closely linked to streetscape character. Development should recognise predominant streetscape qualities, such as building form, scale, patterns, materials	<p>The proposed dwelling development is consistent within the streetscape and comparable with other dwellings and development along Abernethy Street. The proposed structure generally aligns and is compatible with the setbacks and height of existing development along the escarpment.</p> <p>No predominant architectural style dominates the area with</p>	Yes

Control	Requirement	Proposed	Compliance
	and colours and vegetation which contributes to the character of the local area.	a mix of older and newer styles of development present in the streetscape.  The dwelling utilised a range of materials and finishes which are identified on the architectural drawings. A landscape plan has been provided which will see an enhancement of the site.	
<b>Garages, Carports and Hardstand Areas</b> <b>3.1.1.4</b>	<p>a) Garages, carports and hardstand areas must be designed and sited in a manner that does not to dominate the street frontage by:</p> <p>i) its roof form, material choice and detailing by being subservient to the associated dwelling; and</p> <p>ii) being compatible with the streetscape and the location in relation to front setback criteria.</p> <p>b) Exceptions to setback criteria referred to in this paragraph may be considered where parking structures are a positive element of the streetscape.</p>	<p>The existing crossover accessing the site will be retained.</p> <p>The garage proposed is considered to be an improved outcome over the existing circumstance which had the garage structure closer to the front boundary. The proposed garage will be adjacent to the southern boundary and set further into the site. This will reduce the dwellings impact on the streetscape with the increased setback.</p>	Yes
<b>Landscape Design</b> <b>3.3.1</b>	To encourage appropriate tree planting and maintenance of existing vegetation.	A landscape plan by the Studio Botanica has been prepared and accompanies this application.	Yes

Control	Requirement	Proposed	Compliance
	To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.	<p>A range of trees, plants and shrubs are proposed which complement the dwelling and will provide increased amenity to the outdoor areas.</p> <p>Landscaping features within the front setback will ensure the dwelling is softened and screened when viewed from the street and complement the streetscape.</p> <p>The trees, shrubs and plants proposed will increase the landscape value of the site and is a significant enhancement above the existing landscape circumstance.</p>	
<b>Preservation of Trees</b>  <b>3.3.2</b>	<p>To protect and enhance the urban forest of the Northern Beaches.</p> <p>To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.</p>	An arborist report has been prepared and accompany this application. No trees are proposed to be removed.	Yes
<b>Sunlight Access and Overshadowing</b>  <b>3.4.1</b>	New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from	<p>Shadow diagrams have been prepared and are included within the architectural drawings.</p> <p>The shadow diagrams provided show that compliant levels of solar access will be maintained the adjoining</p>	Yes

Control	Requirement	Proposed	Compliance
	<p>9am to 3pm at the winter solstice (21 June)</p> <p>For adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9am to 3pm on the winter solstice (21 June)</p>	<p>property to the south. 26 Abernethy Street will receive compliant levels of solar access to their rear private open space and north facing windows will receive at least 2 hours of sunlight.</p>	
<b>Privacy and Security</b>  <b>3.4.2</b>	<p>To minimise loss of privacy to adjacent and nearby development by:</p> <ul style="list-style-type: none"> <li>appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings;</li> <li>mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.</li> </ul> <p>To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.</p>	<p>The proposed dwelling will provide for reasonable levels of privacy for adjoining dwellings. Modest fenestration is proposed to the side boundary facing elevations to mitigate any potential overlooking. Generous side setbacks provide ample spatial separation between the dwellings.</p> <p>Landscaping treatments proposed will also contributed to the protection of privacy.</p> <p>Casual surveillance of the street is achieved with regard to security. Car and pedestrian gates are proposed providing secure access to the dwelling.</p>	Yes

Control	Requirement	Proposed	Compliance
	To encourage awareness of neighbourhood security.		
<b>Maintenance of Views</b> <b>3.4.3</b>	<p>To provide for view sharing for both existing and proposed development and existing and future Manly residents.</p> <p>To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).</p> <p>To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.</p>	<p>The new dwelling is considered to be consistent with the principal of view sharing pursuant to the planning principal known as <i>Tenacity vs Warringah Council</i>.</p> <p>A view loss assessment has been provided at the end of this DCP table.</p>	Yes
<b>Stormwater Management</b> <b>3.7</b>	To manage urban stormwater within its natural catchments and within the development site without degrading water quality of the catchments or cause	<p>Stormwater Management Plans accompany this application.</p> <p>Easements to drain over the downslope neighbour were sought and rejected. Those letters have been provided</p>	Yes

Control	Requirement	Proposed	Compliance
	<p>erosion and sedimentation.</p> <p>To manage construction sites to prevent environmental impacts from stormwater and protect downstream properties from flooding and stormwater inundation.</p>	<p>with this application. As such, alternative drainage solutions have been proposed in accordance with the Northern Beaches Water Policies</p>	
<p><b>Waste Management</b></p> <p><b>3.8</b></p>	<p>To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development (ESD).</p> <p>Encourage environmentally protective waste management practices on construction and demolition sites which include:</p> <ul style="list-style-type: none"> <li>• sorting of waste into appropriate receptors (source separation, reuse and recycling) and ensure appropriate storage and collection of waste and to promote quality design of waste facilities;</li> <li>• adoption of design standards that complement waste collection and management</li> </ul>	<p>The waste generated from the demolition will be sorted and disposed of appropriately. Materials will be recycled or reused where appropriate.</p> <p>Bin storage can be accommodated with the garage.</p> <p>A waste management plan is provided.</p>	<p>Yes</p>



Control	Requirement	Proposed	Compliance
	<p>services offered by Council and private service providers;</p> <ul style="list-style-type: none"> <li>building designs and demolition and construction management techniques which maximises avoidance, reuse and recycling of building materials and which will minimise disposal of waste to landfill; and</li> <li>appropriately designed waste and recycling receptors are located so as to avoid impact upon surrounding and adjoining neighbours and enclosed in a screened off area.</li> </ul> <p>Encourage the ongoing minimisation and management of waste handling in the future use of premises.</p> <p>To ensure waste storage and collection facilities complement waste collection and management services, offered by Council and the private service providers and support on-going control for such standards and services.</p>		

Control	Requirement	Proposed	Compliance
<b>Safety and Security</b>  <b>3.10</b>	<p>To ensure all development are safe and secure for all residents, occupants and visitors of various ages and abilities.</p> <p>To ensure that the design process for all development integrate principles of 'Safety in Design' to eliminate or minimise risk to safety and security.</p> <p>To contribute to the safety and security of the public domain.</p>	<p>The new dwelling will provide appropriate levels of safety and security to the future occupants.</p>	<p>Yes</p>
<b>Wall Height</b>  <b>4.1.2.1</b>	<p>8m based on the slope of the land.</p>	<p>The topography of the site has a crossfall with the land sloping away in a northerly direction. This results in the southern elevation being compliant with the wall height control and the northern elevation being non-compliant in part.</p> <p>The steep topography is directly contributing to the wall height breach. The side setback to the northern boundary is generous and a range of materials and finishes assist in breaking up the wall massing. In this regard, it is not considered to be unreasonable with regard to bulk and scale. No unreasonable amenity impacts are associated with the wall height with regard to</p>	<p>No – worthy on merit</p>

Control	Requirement	Proposed	Compliance
		privacy, view impacts or overshadowing.	
<b>Number of Storeys</b> <b>4.1.2.2</b>	2 storeys	<p>The proposal is 3 storeys</p> <p>This is consistent with development along Abernethy Street and with development generally on steeply sloping allotments.</p> <p>The 3 storey form does not give rise to any unreasonable amenity impacts with regard to views, privacy or overshadowing.</p>	No – appropriate in this instance.
<b>Roof Height</b> <b>4.1.2.3</b>	Max 2.5m	Achieved	Yes
<b>FSR</b> <b>4.1.3</b>	0.4:1	<p>0.43:1</p> <p>A clause 4.6 is provided with this application, which is reliant, in part, on the undersized lot provisions within the DCP.</p>	No - clause 4.6 provided.
<b>Front Setback</b> <b>4.1.4.1</b>	Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.	The new dwelling will be setback further from the front boundary than the existing dwelling. The two immediately adjoining properties have varying front setbacks with 36 Abernethy having a nil front setback and 26 Abernethy is setback further than the proposed dwelling. The new dwelling is an average of the	Yes

Control	Requirement	Proposed	Compliance
		two established front setbacks of the adjoining dwellings. This is considered reasonable in this instance and an improved streetscape outcome.	
<b>Side Setbacks</b>  <b>4.1.4.2</b>	1/3 of wall height  Approx – 2.6m – 2.7m  All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;	<p>A 3m side setback to the southern boundary is proposed to the dwelling. The garage is to have a nil side setback. The location of the driveway is reflective of the retention of the existing crossover and part of the driveway. The nil setback does not result in any unreasonable amenity impacts on the adjoining property. The existing dwelling was sited in close proximity to the southern side boundary and the new dwelling will remove much of the existing massing off the boundary with the 3m side setback.</p> <p>A small vergola over the BBQ area will have a 1.1m side setback to the southern boundary.</p> <p>The northern boundary will have a 3m setback with the exception of the study on the first floor which will have a 1.1m setback.</p> <p>The side setbacks proposed are considered appropriate in this instance.</p>	No – worthy on merit

Control	Requirement	Proposed	Compliance
<b>Rear Setback</b> <b>4.1.4.4</b>	8m	>8m	Yes
<b>Open Space and Landscaping</b>	60% Open Space (415.68m <sup>2</sup> )	93% (524m <sup>2</sup> )	Yes
	40% Soft Landscaping (166m <sup>2</sup> )	58% soft landscaping (238m <sup>2</sup> )	Yes
<b>Parking Design</b> <b>4.1.6.1</b>	The design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality.	<p>The development provides for an integrated garage which is consistent with the front setback control. This is considered an improvement within the context of the streetscape with the demolition of the existing garage and dwelling that was situated directly adjacent to the front boundary.</p> <p>2 car spaces are provided within the garage.</p>	Yes
<b>Development on Sloping Sites</b> <b>4.1.8</b>	<p>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.</p> <p>b) Developments on sloping sites must be designed to:</p>	A geotechnical report has been provided with this application. The proposed dwelling is considered to respond to the steep topography appropriately and limits any additional excavation required.	Yes

Control	Requirement	Proposed	Compliance
	<p>i) generally step with the topography of the site; and</p> <p>ii) avoid large undercroft spaces and minimise supporting undercroft structures by integrating the building into the slope whether to the foreshore or a street.</p>		
<b>Swimming Pool</b>  <b>4.1.9</b>	<p>The setback of the outer edge of the pool/spa concourse from the side and rear boundaries must be at least 1m, with the water line being at least 1.5m from the boundary.</p> <p>Swimming pools and spas must be built on or in the ground and not elevated more than 1m above natural ground level. Consideration of any exception to exceed the height above ground must demonstrate that any swimming pools and/or spa and their curtilage and/or concourse more than 1m above natural ground level:</p>	<p>The proposed swimming pool is compliant with the setback provisions.</p> <p>The western edge of the swimming pool extends to be more than 1m above natural ground level due to the steep topography. The existing landscaping along the rear boundary will be retained which will screen the pool. The dwelling to the rear sits much lower down than the subject site and will not result in any unreasonable amenity impacts or visual impacts. New landscaping treatments around the pool and entertainment deck will further screen the swimming pool.</p>	<p>No - minor non-compliance.</p>

### 4.3 View Loss Analysis

Manly DCP 2013 requires that development: “

*“..provide for view sharing for both existing and proposed development and existing and future Manly residents; and minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths)...”*

The NSW Land and Environment Court Planning Principle *Tenacity Consulting v Warringah Council* is the mechanism to assess view sharing and contains a 4 step process.

#### **Step 1: assessment of views to be affected.**

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

The views currently obtained by No. 26 are considered to be unaffected by the proposal.

The views obtained by No. 36 take in water views that are filtered through existing trees. Images below are taken from real estate images depicting the views from the first floor living/dining and balcony and the upper level bedroom.



**Image 4:** View from No 36 Abernethy Street





**Image 5: View from balcony**



**Image 6: Upper level master bedroom**

**Step 2: consider from what part of the property the views are obtained.**

*“The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is*



*enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”*

Water views are obtained over the rear boundary. The judgement stated that views across a side boundary are harder to retain. We note that any views currently obtained over the side boundary have been negated by a solid privacy screen to the balcony in any case.

### **Step 3: assess the extent of the impact.**

*“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.”*

The extent of the impact is considered negligible. The dwelling at No. 36 extends towards the rear boundary further than the proposed dwelling which will preserve existing view corridors.

### **Step 4: assess the reasonableness of the proposal that is causing the impact.**

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable.”*

The proposal is supported by 2 clause 4.6 requests with regard to FSR and height of buildings. The non-compliances do not contribute to any view loss and the clause 4.6's are well founded.

## **4.4 State Environmental Planning Policy (Hazard & Resilience) 2021**

The site is identified on the SEPP (hazard & resilience) 2021 map as being within the Coastal Environmental Area Map and Coastal Use Area Map, as shown below:

Clause 13 (1) of the SEPP, coastal environmental area, states the following:

*(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

*(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*

*(b) coastal environmental values and natural coastal processes,*

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

The site is situated in proximity to the developed foreshore of Seaforth. The proposed development will have no impact on the natural coastal processes and environment, marine flora and fauna, public access to the beach and is not within the surf zone.

Clause 14 (1) of the SEPP, Coastal Use Area, states the following:

*(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*

*(a) has considered whether the proposed development is likely to cause an adverse impact on the following:*

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) Aboriginal cultural heritage, practices and places,*
- (v) cultural and built environment heritage, and*

*(b) is satisfied that:*

- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

*(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

The proposed dwelling is consistent with the bulk and scale of development along the foreshore and will not result in any adverse amenity impacts in terms of visual impact or scenic quality. The proposal will have no impact on the coastal environment and its processes.

Clause 15 of the SEPP states:

*Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

The consent authority can be satisfied that proposed works will not risk coastal hazards on the site or in the local area. This application is accompanied by a geotechnical report which states the risk associated with the development is acceptable.

#### **4.5 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX certificate accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

#### **4.6 Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 as Amended**

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

##### **(i) The provision of any planning instrument**

The proposal is permissible and generally in conformity with the General, Development Type and Locality Specific Controls contained within Manly Development Control Plan.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

##### **(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has**

notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

N/A

**(iii) Any development control plan**

Manly DCP applies.

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

N/A

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

N/A

**(v) Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)**

N/A

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

*Context and Setting*

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

*The scenic qualities and features of the landscape*

*The character and amenity of the locality and streetscape*

*The scale, bulk, height, mass, form, character, density and design of development in the locality*

*The previous and existing land uses and activities in the locality*

The proposed new dwelling is entirely commensurate with that established by adjoining development and development generally within the sites visual catchment with no adverse residential amenity impacts in terms of views, privacy or overshadowing.

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

*Relationship and compatibility of adjacent land uses?*

*sunlight access (overshadowing)*

*visual and acoustic privacy*

*views and vistas*

*edge conditions such as boundary treatments and fencing*

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

*Access, transport and traffic:*

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

*Travel Demand*

*dependency on motor vehicles*

*traffic generation and the capacity of the local and arterial road network*

*public transport availability and use (including freight rail where relevant)*

*conflicts within and between transport modes*

*Traffic management schemes*

*Vehicular parking spaces*

2 parking spaces provided.

*Public Domain*

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

*Utilities*

Existing utility services will be connected to service the new dwelling.

*Flora and Fauna*

The application is accompanied by an arborist report.

*Waste Collection*

Normal domestic waste collection applies to the existing dwelling house.

*Natural hazards*

Geotechnical and Bushfire reports provided.

*Economic Impact in the locality*

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

*Site Design and Internal Design*

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

*size, shape and design of allotments*

*The proportion of site covered by buildings*

*the position of buildings*

*the size (bulk, height, mass), form, appearance and design of buildings*

*the amount, location, design, use and management of private and communal open space*

*Landscaping*

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

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

*lighting, ventilation and insulation*

*building fire risk – prevention and suppression*

*building materials and finishes*

*a common wall structure and design*

*access and facilities for the disabled*

*likely compliance with the Building Code of Australia*

The proposed development will comply with the provisions of the Building Code of Australia as required by Clause 98 of the Environmental Planning and Assessment Regulation 2000. There will be no detrimental effects on the occupants through the building design which will achieve the relevant standards pertaining to health and safety.

*Construction*

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

*The environmental planning issues listed above*

*Site safety*

The development will be carried out in accordance with the provisions of the Protection of the Environment Operations Act 1997. Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

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

*Does the proposal fit in the locality*

*Are the constraints posed by adjacent development prohibitive*

*Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*

*Are utilities and services available to the site adequate for the development*

*Are the site attributes conducive to development*

The site is located in an established residential area. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause excessive or unmanageable levels of transport demand.

The site being of moderate grade, adequate area, and having no special physical or engineering constraints is suitable for the proposed works.

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

It is envisaged that Council will appropriately consider any submissions received during the notification period.

**(e) The public interest**

The architect has responded to the client brief to provide for a dwelling of design merit that provides a high level of amenity for the future occupants whilst appropriately addressing the sites setting and maintaining the amenity of the nearby residential properties. The development will provide a quality built form outcome on the site.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes and controls contained within the adopted legislative framework. Accordingly, approval of the development would be in the public interest.

## 5 Conclusion

The proposed new dwelling is permissible with consent and consistent with the intent of the LEP and DCP controls as they are reasonably applied to the proposal. Favourable consideration is sought with regard to minor variations to wall heights and side setbacks which are considered reasonable in this instance.

The 2 clause 4.6 requests are considered to be well founded and worthy of support in this instance. The development meets the objectives of the FSR and height of buildings and does not cause any unreasonable amenity impacts with regard to overshadowing, views or privacy.

It is considered that the proposal is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The application has considered and satisfies the various relevant planning controls applicable to the site and the proposed development.
- The proposed dwelling is compatible with the existing streetscape and development in the local area generally.
- The proposed dwelling will have a satisfactory impact on the environmental quality of the land and the amenity of surrounding properties.
- The site is assessed as suitable for the proposal, having regard to the relevant land use and planning requirements.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of exceptional design merit, that satisfies the outcomes and controls contained within the adopted legislative framework.

Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended, it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance.

Kind regards,

William Fleming  
Director  
BBF Town Planners