

**Four Towns  
Planning**

*Planning and property consultant*

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

## **Demolition Works, Construction of a Dwelling House and Associated Works**

### **15 Baltic Street, Fairlight NSW 2094**

✉ [mathew@fourtowns.com.au](mailto:mathew@fourtowns.com.au)

☎ 0425232018

[www.fourtowns.com.au](http://www.fourtowns.com.au)

PO Box 361, Balgowlah NSW 2093

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

**Report prepared by:**

Mathew Quattroville  
Director – Four Towns Pty Ltd

**Report prepared for:**

Redsquire Pty Ltd

**12 December 2024**

**© Four Towns Pty Ltd**

*NOTE: This document is the property of Four Towns Pty Ltd (trading as Four Towns Planning). This document is Copyright, no part may be reproduced in whole or in part, without the written permission of Four Towns Pty Ltd.*

**Disclaimer**

*This report has been prepared with due care and thoroughness by Four Towns Pty Ltd. The statements and opinions are given in good faith and in confidence that they are accurate and not misleading. In preparing this document, Four Towns Pty Ltd has relied upon information and documents provided by the Client or prepared by other Consultants. Four Towns Pty Ltd does not accept responsibility for any errors or omissions in any of the material provided by other parties.*

## Table of Contents

<b>1. Introduction and Background Information</b>	4
<b>1.1 Introduction</b>	4
<b>1.2 Background Information</b>	4
<b>2. Site Profile</b>	5
<b>2.1 Property Description</b>	5
<b>2.2 Site and Locality Description</b>	5
<b>3. Proposal</b>	12
<b>4. Statutory Planning Controls</b>	14
<b>4.1 Environmental Planning and Assessment Act 1979 (as amended)</b>	14
<b>4.2 State Environmental Planning Policies</b>	14
<b>4.3 Manly Local Environmental Plan 2013</b>	16
<b>4.4 Manly Development Control Plan 2013</b>	30
<b>5. Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning &amp; Assessment Act 1979 (as amended)</b>	54
<b>6. Summary and Conclusion</b>	58

## 1. Introduction and Background Information

### 1.1 Introduction

This report has been prepared as supporting documentation for a Development Application for demolition works and construction of a new dwelling house and associated works at 15 Baltic Street, Fairlight, being Lot 14 Sec B within Deposited Plan 4449.

This report has been prepared following instructions from the client, Redsquire Pty Ltd. In preparing this application consideration has been given to the following:

- *Environmental Planning and Assessment Act, 1979* (as amended) (EP&A Act);
- Environmental Planning and Assessment Regulation 2021;
- Relevant State Environmental Planning Policies;
- Manly Local Environmental Plan 2013 (MLEP 2013);
- Manly Development Control Plan (MDCP);
- Survey Plan prepared by CMS Surveyors;
- Architectural Plans prepared by Mont Architects;
- Landscape Plans prepared by Paul Scrivener Landscape;
- Geotechnical Assessment prepared by Ascent Geo;
- Stormwater Management Plan prepared by NB Consulting Engineers;
- BASIX Certificate prepared by Certified Energy;
- Arboricultural Impact Assessment Report prepared by Urban Arbor Pty Ltd;
- Waste Management Plan.

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

The conclusions of the Statement of Environmental Effects are that the proposed development, being demolition works, the construction of a new dwelling house and associated works is permissible with development consent and is consistent with the relevant statutory planning instruments including the Manly Local Environmental Plan 2013 and planning policies of the Manly Development Control Plan 2013.

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

### 1.2 Background Information

The site is not the subject of any recent Development Applications to Northern Beaches Council. The proposal was not the subject of a pre-lodgement meeting with Northern Beaches Council.

## 2. Site Profile

### 2.1 Property Description

The subject allotment is described as 15 Baltic Street, Fairlight, legally known as Lot 14 within Deposited Plan 4449. The site is zoned R1 General Residential under the Manly Local Environmental Plan 2013.

The site is not listed as a heritage item, nor is it located within a conservation area.

### 2.2 Site and Locality Description

The site is located on the southern side of Baltic Street, east of the intersection with Suwarrow Street and west of the intersection with Daintrey Street. The subject allotment is rectangular in shape with a 9.145m frontage to Baltic Street and a site depth of 36.51m. The total site area is 333.8sqm. The site has varying topography with an approximate 6m slope from the rear of the property to the street frontage. The site is currently occupied by a one-two storey rendered and clad dwelling house with a tiled roof. The site has existing vehicular access to Baltic Street.

The locality maps below show the location and area of the site:

Locality Maps



Source: Nearmaps 2024



Source: Nearthmaps 2024

The locality has a variety of property types and sizes ranging from one-two storey residences to three storey dwellings houses and residential flat buildings. The proposal is not out of context and will fit in with the existing streetscape of the precinct. Relevant photos are provided on the following pages highlighting the site and streetscape of the area.

**Visual Analysis**



*Photograph of the subject site – 15 Baltic Street, Fairlight*



*Photograph of looking south-east of the streetscape – note large bulk and scale of adjoining properties*



*Photograph of the site and the adjoining three (3) storey RFB to the west – 17 Baltic Street*



*Photograph of the site and the adjoining three (3) storey dwelling house to the east – 13 Baltic Street*





*Photograph of to the east of the subject site along the south side of Baltic Street – note single garage built to boundary forward of the building line (11 Baltic St) and double garage forward of the building line (9 Baltic St) [Approved under DA72/2001]*



*Photograph of to the east of the subject site along the south side of Baltic Street – note single garage built to boundary forward of the building line (7 Baltic St)*



*Photograph of to the east of the subject site along the south side of Baltic Street – note three (3) storey bulk and scale and single garage forward of the building line (5 Baltic St)*



*Photograph of to the east of the subject site along the south side of Baltic Street – note double garage forward of the building line (3 Baltic St) [Approved under DA150/2009]*



*Photograph of to the east of the subject site along the south side of Baltic Street – note three (3) storey bulk and scale and double garage forward of the building line (1 Baltic St) [Approved under DA316/2010]*

### 3. Proposal

The proposed development is for demolition works and construction of a new dwelling house and associated works at 15 Baltic Street, Fairlight. The proposal remains consistent with the streetscape of Baltic Street and the locality. The proposal is consistent with relevant Council controls and ensures privacy and solar access are maintained for surrounding properties and the site. The proposed works include the following:

#### **Demolition Works**

- Demolition of existing dwelling house
- Demolition of associated structures as depicted on architectural plans prepared by Mont Architects

#### **Level 1 (Lower Ground Floor/Garage)**

- Double car garage
- AC plant room
- Entry and porch
- Stairs
- Subfloor space
- OSD

#### **Level 2 (Ground Floor)**

- Open living, kitchen and dining
- Stairs
- Family room
- Powder room
- Laundry

#### **Level 3 (First Floor)**

- Bed 1 with ensuite and balcony
- Bed 2
- Bed 3
- Bed 4
- Stairs
- Bath

#### **External Works**

- New driveway and crossover
- Covered ground floor terrace at the front of the property addressing Baltic Street
- Ground floor central courtyard area
- Covered terrace with BBQ area at the rear
- New front fence
- Planters as depicted on architectural plans
- Retaining walls as depicted on architectural plans
- Associated landscaping works

*\*Refer to architectural plans prepared by Mont Architects for a full description of all works.*



*Perspective of 15 Baltic Street (including proposal for 13 Baltic Street subject of separate DA)*

## 4. Statutory Planning Controls

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

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

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

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

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

### 4.2 State Environmental Planning Policies (SEPPs)

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

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

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

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

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

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

#### *4.6 Contamination and remediation to be considered in determining development application* *(1) A consent authority must not consent to the carrying out of any development on land unless—*

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

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

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

*(4) The land concerned is—*

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

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

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

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

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

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

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

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

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

The proposal includes the removal of two (2) trees. The application is supported by an Arboricultural Impact Assessment prepared by Urban Arbor Pty Ltd. The proposal has been designed with regards to mitigate, minimise and avoid. The proposal has been designed with adequate landscaping, deep soil areas and plantings. On this basis, it is our professional opinion that the proposal meets the relevant provisions of the SEPP.

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

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

<b>Part 4: Principal Development Standards</b>			
<b>Standard</b>	<b>Permitted</b>	<b>Proposed</b>	<b>Comments</b>
4.1 Minimum subdivision lot size	250sqm	N/A	N/A – no change to existing lot size.
4.1AA Minimum subdivision lot size for community title scheme	N/A	N/A	N/A
4.1A Minimum lot sizes for manor houses and multi dwelling housing (terraces) in Zone R2	N/A	N/A	N/A
4.2 Rural subdivision	N/A	N/A	N/A
4.3 Height of buildings	8.5m	9.026m	Merit assessment – minor non-compliance by 0.526m (6.19%). Refer to assessment under Clauses 4.3 and 4.6.
4.3A Special height provisions	N/A	N/A	N/A
4.4 Floor space ratio	0.6:1 200.28sqm	0.589:1 196.71sqm	Complies
4.5 Calculation of floor space ratio and site area	Noted	Noted	Noted
4.6 Exceptions to development standards	Noted	Yes – Clause 4.3	Refer to separate Clause 4.6 Variation to Development Standard report for minor breach to Clause 4.3 Height of Buildings.

<b>Part 5: Miscellaneous Provisions</b>	
<b>Provisions</b>	<b>Comments</b>
5.1 Relevant acquisition authority	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissible uses	N/A
5.5 (Repealed)	N/A
5.6 Architectural roof features	N/A
5.7 Development below mean high water mark	N/A
5.8 Conversion of fire alarms	N/A
5.9 Dwelling house or secondary dwelling affected by natural disaster	N/A



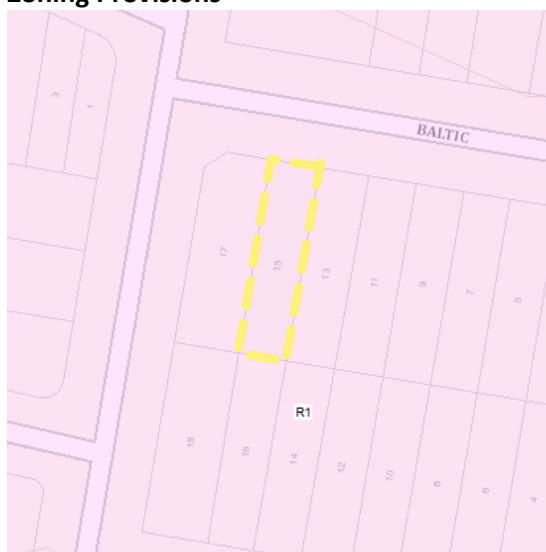
5.9AA (Repealed)	N/A
5.10 Heritage conservation	N/A – the subject site is not identified as a heritage item or a conservation area
5.11 Bush fire hazard reduction	N/A
5.12 Infrastructure development and use of existing buildings of the Crown	N/A
5.13 Eco-tourist facilities	N/A
5.14 Siding Spring Observatory – maintaining dark sky	N/A
5.15 Defence communications facility	N/A
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones	N/A
5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	N/A
5.18 Intensive livestock agriculture	N/A
5.19 Pond-based, tank-based and oyster aquaculture	N/A
5.20 Standards that cannot be used to refuse consent—playing and performing music	N/A
5.21 Flood planning	N/A – the subject site is not identified as flood prone land
5.22 Special flood considerations	N/A
5.23 Public bushland	N/A
5.24 Farm stay accommodation	N/A
5.25 Farm gate premises	N/A

Part 6: Relevant Additional Local Provisions	
Provisions	Comments
6.1 Acid sulfate soils	The site is identified as Class 5 Acid Sulfate Soils. Refer to assessment under 6.1 Acid Sulfate Soils below table.
6.2 Earthworks	The proposal includes excavation works. Refer to assessment under 6.2 Earthworks.
6.3 (Repealed)	N/A
6.4 Stormwater management	Complies – the application is supported by a Stormwater Management Plan prepared by NB Consulting Engineers.
6.5 Terrestrial biodiversity	N/A
6.6 Riparian land and watercourses	N/A
6.7 Wetlands	N/A
6.8 Landslip risk	N/A – the site is not identified within the Landslip Risk Map.
6.9 Foreshore scenic protection area	N/A – the site is not identified within the Foreshore Scenic Protection Area.
6.10 Limited development on foreshore area	N/A
6.11 Active street frontages	N/A
6.12 Essential services	Complies – the site has access to relevant essential services.

6.13 Design excellence	N/A
6.14 Requirement for development control plans	N/A
6.15 Tourist and visitor accommodation	N/A
6.16 Gross floor area in Zone B2	N/A
6.17 Health consulting rooms in Zones E3 and E4	N/A
6.18 (Repealed)	N/A
6.19 Development in St Patrick's Estate	N/A
6.20 Location of sex service premises	N/A
6.21 Noise impacts – licensed premises	N/A
6.22 Development for the purposes of secondary dwellings in certain residential and environmental protection zones	N/A

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

### Zoning Provisions



Land Zoning Map - Sheet LZN\_001

Zone	
B1	Neighbourhood Centre
B2	Local Centre
B8	Enterprise Corridor
F1	National Parks and Nature Reserves
E2	Environmental Conservation
E3	Environmental Management
E4	Environmental Living
R1	General Residential
R2	Low Density Residential
R3	Medium Density Residential
RE1	Public Recreation
RE2	Private Recreation
SP1	Special Activities
SP2	Infrastructure
SP3	Tourist
W1	Natural Waterways

## Zone R1 General Residential

### 1 Objectives of zone

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

### 2 Permitted without consent

Home-based child care; Home occupations

### 3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Tank-based aquaculture; Water recreation structures; Water recycling facilities; Water supply systems

### 4 Prohibited

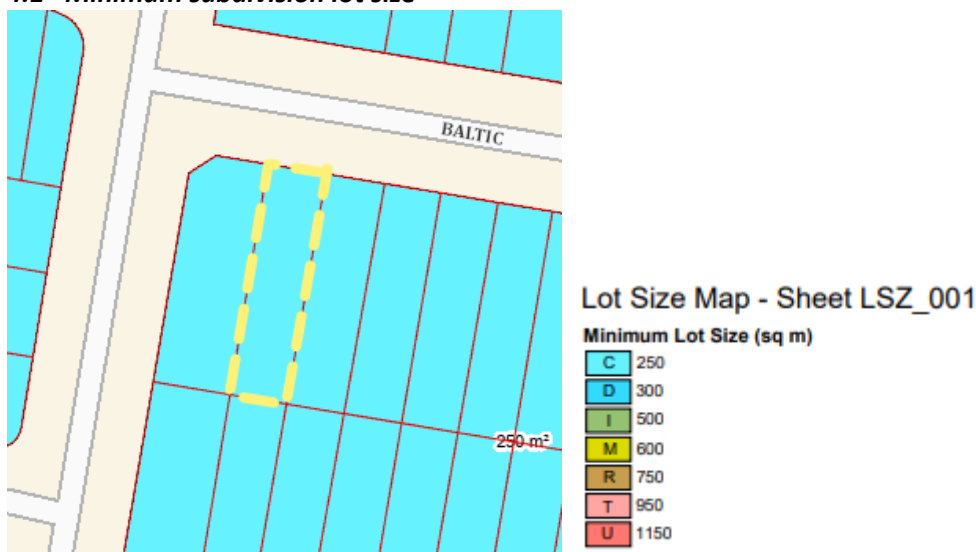
Advertising structures; Water treatment facilities; Any other development not specified in item 2 or 3

#### Comment:

The site is zoned R1 General Residential. A dwelling house is a permissible land use, therefore the proposed development is permissible with Council's consent. The proposal is consistent with the objectives of the zone.

## Part 4 Principal development standards

### 4.1 Minimum subdivision lot size



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

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

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

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

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

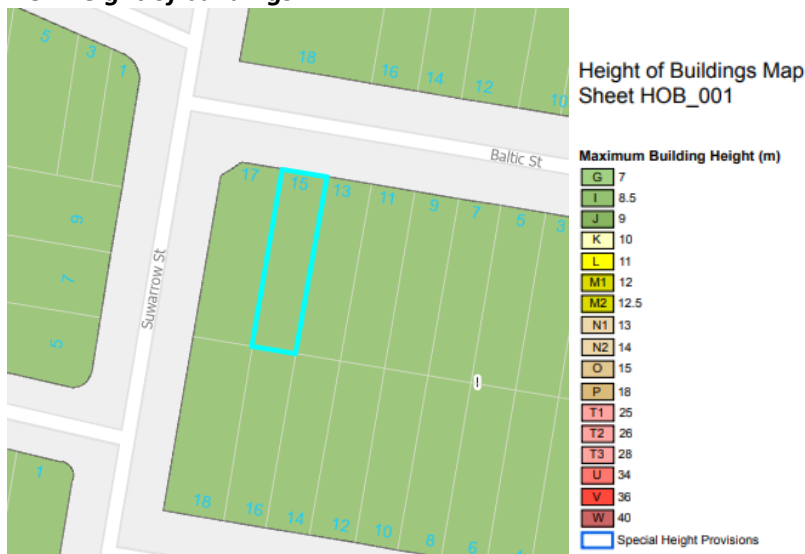
(4) *This clause does not apply in relation to the subdivision of any land—*

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

**Comment:**

Not applicable – the site has a minimum lot size of 250sqm. The proposal is for the construction of a new dwelling house and does not change the lot size of the property. Clause 4.1 is not applicable to this assessment.

**4.3 Height of buildings**



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

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

- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),
  - (iii) views between public spaces (including the harbour and foreshores),
  - (d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,
  - (e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

**Comment:**

Merit assessment – the site has a maximum building height provision of 8.5m. The proposed dwelling house has been designed to a height of 9.026m (6.19% variation).

The court now considers the definition of “ground level (existing)” *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582, which insists that the ground level (existing) is measured from the **excavated** ground level (within the footprint of the existing building) to the highest point of the proposal directly above. It is noted that the Court accepted (at [74]) that there is an ‘environmental planning ground’ that may justify the contravention of the height standard under ‘clause 4.6’ when the prior excavation of the site (within the footprint of the existing building) distorts the maximum building height plane. This falls hand in hand with the original leading cases *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 and *Stamford Property Services Pty Ltd v City of Sydney & Anor* [2015] NSWLEC 1189.

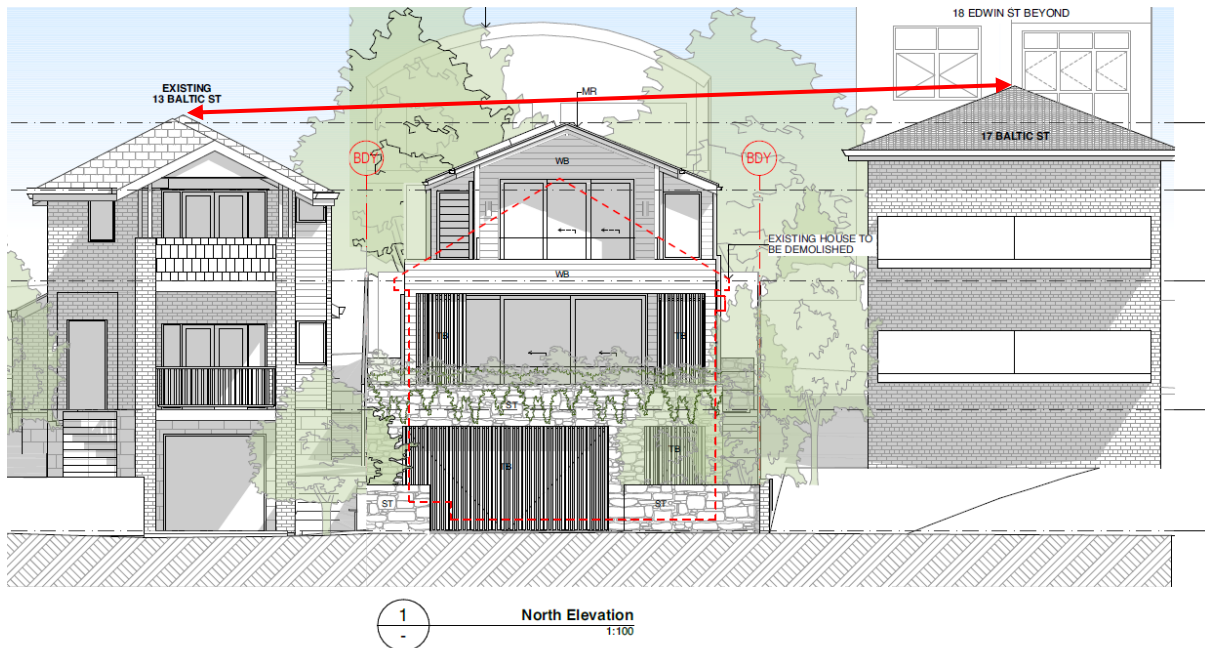
It is noted that common-sense should prevail from the new court case “Merman Investments Pty Ltd” with the fact that many height planes are now going to be distorted creating an argument which goes hand in hand with the original court cases relating to the extrapolated levels of a site through ‘Bettar’.

As a result of the above, it is determined that the maximum building above ground level (existing) is 9.026m for the proposed development. This results in a 0.526m variation or 6.19%. The Development Application is supported by a Clause 4.6 Variation to Development Standard report. The proposed breach relates to the front component of the dwelling and a portion where the excavated ground level distorts the height plane.

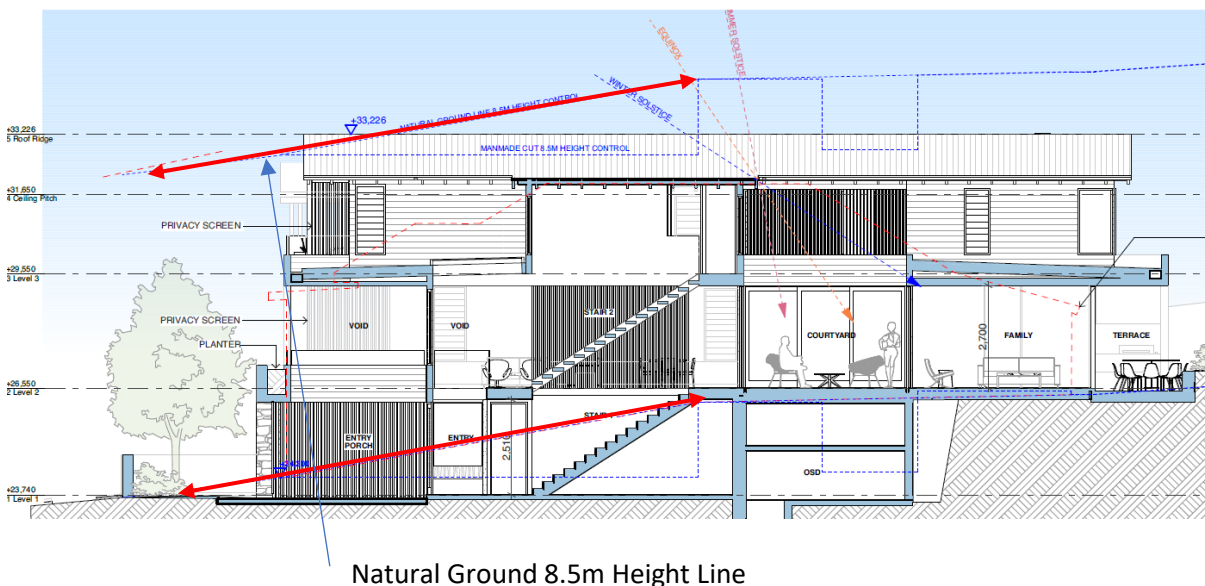
It is noted that the building height flows from 6.7m at the rear of the site to the maximum 9.026m which is consistent with the topography of the southern side of Baltic Street. It is noted that the breach is the result of the sloping nature of the site and several existing man-made level changes which distort the existing ground level. If the natural ground level was applied, the proposed variation would be consistent with other approvals granted in the area. It is noted that if the natural ground level was applied, the proposal would achieve compliance with the 8.5m building height control for the majority of the building footprint. Regardless, the natural topography of the site makes compliance with the building height impractical, and therefore unreasonable for Council to enforce. The bulk and scale and three storey appearance of the southern side of Baltic Street is also retained. The proposal is supported and in our opinion is consistent with the objectives of the Clause, as outlined below:

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

This objective relates to streetscape character and in this regard the proposed dwelling has been designed to be consistent with the three-storey bulk and scale of Baltic Street. The height, bulk, scale of the development, as reflected by floor space, are entirely consistent with the built form characteristics established by the enclave of surrounding development in this precinct noting the topography of the southern side of Baltic Street. It is our considered opinion that the proposal is consistent with the intent and approvals granted in the area, therefore confirming that the proposal is consistent with the prevailing building height, roof forms and the future streetscape of the locality. In this regard, the excerpt below shows that the proposed ridge height (albeit above the 8.5m height limit) is lower than both adjoining properties at 13 and 17 Baltic Street:



The proposed breach relates to the front component of the dwelling and a portion where the excavated ground level distorts the height plane, noting that the rear façade is 6.7m. The resulting variation is due to the natural topography and existing man-made changes which hinders the development when assessed with the ground level (existing) definition. If the merits of the 'Bettar' Court Case are utilised, the natural ground level enables a variation with that consistent with other developments.



The proposal is consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191, in that I have formed the considered opinion that most observers would not find the proposed development by virtue of its roof form and building height, and in particular the non-compliant building height elements, offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the sites visual catchment. The proposal is consistent with this objective notwithstanding the variation to the building height.

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

The proposal has been strategically designed to minimise the impact and bulk and scale of the project. The project architects have worked tirelessly to design a new modern high-end dwelling that meet the sites constraints and the existing bulk and scale of the area. The proposal has been designed to be compatible with the existing streetscape (noting the existing three-storey bulk and scale either side of the subject site) while accommodating a bulk and scale that is complementary to the natural environment. The first floor has been designed with varying and large side setbacks which reduces the bulk and scale and accommodates a dwelling that blends in with the streetscape. As assessed within objective (a) the proposal is consistent with the streetscape of Baltic Street, which therefore dictates the bulk and scale for the locality.

(c) to minimise disruption to the following—

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

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

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

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

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

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

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

The application is accompanied by shadow diagrams drawings DA19 to DA23 which depict the impact of shadowing on the neighbouring properties. The shadow diagrams demonstrate that the proposed development, in particular the non-compliant building height elements, will not cast shadows on the adjoining neighbours living room windows and private open space areas with

compliant levels of solar access maintained between 9am and 3pm on 21st June. The proposal is consistent with this objective notwithstanding the building height breaching elements proposed.

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

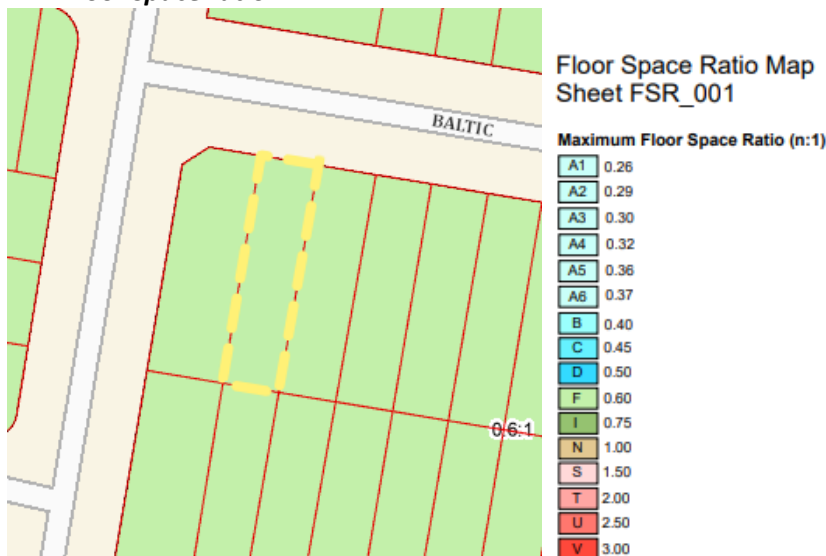
Not applicable – the site is not located within a recreation or environmental protection zone.

The extent of the breach associated are appropriately described both quantitatively and qualitatively as minor. The non-compliant elements of the proposed development do not result in any unreasonable impacts upon the amenity of adjoining sites or the wider public domain.

Consistent with the findings of Commissioner Walsh in *Eather v Randwick City Council* [2021] NSWLEC 1075 and Commissioner Grey in *Petrovic v Randwick City Council* [202] NSW LEC 1242, the particularly small departure from the actual numerical standard and absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act. Overall, there are sufficient environmental planning grounds to justify contravening the development standard.

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

#### 4.4 Floor space ratio



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

- (a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,
- (b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,



- (c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*
- (d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*
- (e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

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

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

**Comment:**

Complies – the site is identified ‘F’ with a maximum FSR control of 0.6:1. The proposed new dwelling house has a gross floor area of 196.71sqm which equates to an FSR of 0.589:1. Refer to the Area Calculations Plan which shows the inclusions and exclusions as per the definition for GFA. On the basis of compliance, it is therefore determined that the objectives are met.

**4.6 Exceptions to development standards**

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

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

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

**Note—**

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

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

*(5) (Repealed)*

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

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

**Note—**

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

(7) (Repealed)

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

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

**Comment:**

The proposed development is non-compliant with Clause 4.3 Height of Buildings. A Clause 4.6 Variation to a Development Standard Report is provided to support the minor variations as proposed. It is submitted that the variation meets the objectives and relevant provisions allowed under Clause 4.6.

**Part 5 Miscellaneous provisions**

**5.10 Heritage conservation**

**Comment:**

Not applicable – the subject site is not identified as a heritage item or within a heritage conservation area.

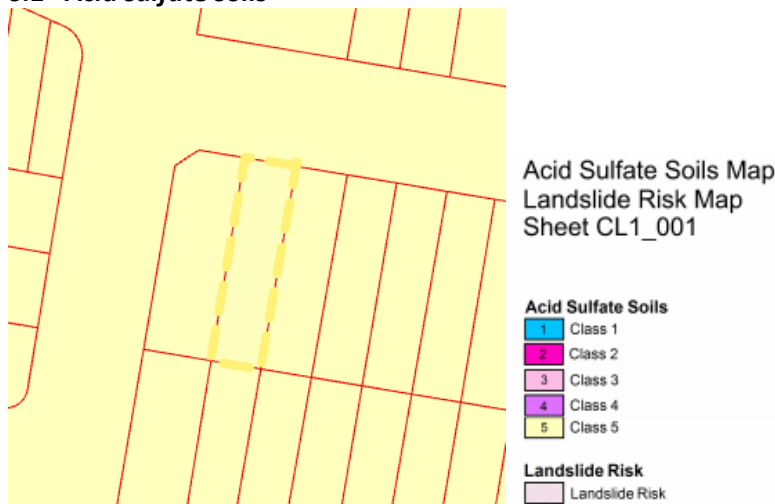
**5.21 Flood planning**

**Comment:**

Not applicable – the subject site is not identified as flood prone land.

**Part 6 Additional local provisions**

**6.1 Acid sulfate soils**



- (1) *The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*
- (2) *Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.*

<b>Class of land</b>	<b>Works</b>
1	<i>Any works.</i>
2	<i>Works below the natural ground surface. Works by which the watertable is likely to be lowered.</i>
3	<i>Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</i>
4	<i>Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.</i>
5	<i>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</i>

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

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

- (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and*
- (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.*

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

- (a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,*
- (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),*
- (c) minor work, being work that costs less than \$20,000 (other than drainage work).*

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

- (a) the works involve the disturbance of less than 1 tonne of soil, and*
- (b) the works are not likely to lower the watertable.*

**Comment:**

Complies – whilst the subject site is classified as Class 5 Acid Sulfate Soils, the proposal will not involve excavation works that trigger the requirements for an Acid Sulfate Soils Management.

**6.2 Earthworks**

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

- (a) to ensure that earthworks and associated groundwater dewatering for which development consent is required will not have a detrimental impact on environmental*

*functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*

*(b) to allow earthworks of a minor nature without requiring a separate development consent.*

*(2) Development consent is required for earthworks unless—*

*(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*

*(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*

*(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

*(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*

*(b) the effect of the development on the likely future use or redevelopment of the land,*

*(c) the quality of the fill or the soil to be excavated, or both,*

*(d) the effect of the development on the existing and likely amenity of adjoining properties,*

*(e) the source of any fill material and the destination of any excavated material,*

*(f) the likelihood of disturbing relics,*

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

**Note.** *The [National Parks and Wildlife Act 1974](#), particularly section 86, deals with harming Aboriginal objects.*

**Comment:**

Complies – the development involves minor excavation works for the construction of the dwelling house. The proposed excavation works are considered to be minor with the application supported by a geotechnical assessment prepared by Ascent Geo. The proposal complies with the relevant objectives and the requirements of Clause 6.2.

**6.4 Stormwater management**

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

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

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

*(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*

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

*(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

**Comment:**

Complies – the proposal is supported by a Stormwater Management Plan prepared by NB Consulting Engineers which complies with Council Water Management Policy and the objective of Clause 6.4.

**6.12 Essential services**

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

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

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

**Comment:**

Complies – the site currently has access to the listed essential services under Clause 6.12, with new connections to be provided for the construction of a new dwelling house.

**General**

The site is not identified on the following maps:

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

## 4.4 Manly Development Control Plan (MDCP)

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

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

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

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

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

##### *3.1 Streetscapes and Townscapes*

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

##### *Streetscape*

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

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

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

##### *Townscape*

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

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

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

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

#### **Comment:**

Complies – the site is located within an established residential precinct and involves the construction of a new dwelling house. The existing streetscape consists of a mixture of one to three storey scaled buildings all of which varies in terms of building configuration, front, rear and side setbacks and building heights. The proposal implements a contemporary approach to the area and will positively contribute to the quality of the existing streetscape. Refer to north elevation plan and photomontage within the architectural package prepared by Mont Architects which depicts the impact of the development on the bulk and scale of the streetscape. The proposal complies with Clause 3.1: Streetscape and Townscape within the Manly Development Control Plan 2013.

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

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

### 3.1.1.1 Complementary Design and Visual Improvement

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

#### Setback Principles in Higher Density Areas

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

#### **Comment:**

Complies – as previously noted, the existing streetscape consists of a mixture of one to three storey scaled buildings all of which varies in terms of building configuration, front, rear and side setbacks and building heights. The proposal implements a contemporary approach to the design of the building having regard to the compatibility with the precinct in terms of bulk and scale and will have no adverse impacts to the visual quality of the area. The southern side of Baltic Street has a consistent approach to small front setbacks including numerous garages to boundary or forward of the building.

### 3.1.1.2 Front Fences and Gates

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

*See also paragraph 4.1.10 Fencing for height controls.*

- a) *Notwithstanding maximum height provisions for fencing at paragraph 4.1.10; the siting, height and form of boundary fences and walls should reflect the fencing characteristic of the locality, particularly those of adjacent properties. All fencing and wall materials must be compatible with the overall landscape character and the general appearance of the building and the streetscape.*
- b) *Boundary fences or walls must not be erected where they would conflict with the local character.*

- c) *Front fences and gates must be constructed in materials that complement the architectural style and period of the dwelling and improve the streetscape. In particular, fencing adjacent to a public road or place must not be constructed in metal cladding, powder coated or otherwise.*
- d) *Gates must not encroach on public land when opening or closing.*

**Comment:**

Complies – the proposal includes the construction of a new front fence to Baltic Street. The proposed fence will meet all relevant construction requirements and will visually compliment the proposed dwelling.

**3.1.1.3 Roofs and Dormer Windows**

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

**Comment:**

Complies – the proposal for a new dwelling includes a contemporary roof which is consistent with approvals in the area and provides a unique design which creates a functional dwelling while helping to retain view corridors and amenity to adjoining properties.

**3.1.1.4 Garages, Carports and Hardstand Areas**

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

**Comment:**

Complies – the proposal includes provisions for a double garage forward on the building line and with a nil boundary to the eastern neighbour at no. 13 Baltic Street. The project architect and the clients have utilised materials and colours to visually reduce the appearance of the garage to the streetscape so it is not a dominant feature. The proposed nil eastern setback is acceptable on merit noting the subject application has been prepared in concurrence with another development application for the adjacent property owners at 13 Baltic Street to reasonably accommodate provisions for a double garage on both properties. Noting the proposed nil setback will have no visual privacy or amenity impacts and will improve the capacity for on-site parking on both adjoining properties, the proposed setback is acceptable on merit and can be supported by Council as submitted.



### **3.2 Heritage**

**Comment:**

Not applicable.

### **3.3 Landscaping**

#### **3.3.1 Landscape Design**

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

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

#### **3.3.2 Preservation of Trees or Bushland Vegetation**

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

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

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

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

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

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

**Comment:**

Complies – the proposal is for demolition works, construction of a new dwelling house and associated works which have been designed with adequate open space and landscaping that integrates and is functional with the layout of the proposed development. The proposal requires the removal of two (2) trees, one at the street frontage and one within the rear setback. The proposal includes provisions for adequate soft landscaping, deep soil areas and plantings. In this regard, the proposal meets the objectives of controls 3.3.1 and 3.3.2 and can be supported by Council as submitted.

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

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

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

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

#### *Designing for Amenity*

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

*b) Development should not detract from the scenic amenity of the area. In particular, the apparent bulk and design of a development should be considered and assessed from surrounding public and private viewpoints.*

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

**Comment:**

Complies – the proposal has been skilfully designed and assessed to ensure that all relevant measures have been undertaken to provide a quality residential product, while also protecting the amenity of existing and future residents. The project architect has skilfully designed the proposed dwelling house to retain the amenity of the adjoining neighbours and the future occupants of the dwelling. It is considered that the impacts to the existing amenity of the neighbouring properties will be negligible.

**3.4.1 Sunlight Access and Overshadowing**

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

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

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

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

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

**Comment:**

Complies – as demonstrated in the shadow diagrams prepared by Mont Architects, the proposal will not result in any unreasonable overshadowing impacts to the adjoining neighbours. The shadowing impacts to the neighbours are consistent with the controls.

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

**3.4.1.1 Overshadowing Adjoining Open Space**

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

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

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

**Comment:**

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

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

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

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

**Comment:**

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

### 3.4.2 Privacy and Security

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

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

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

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

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

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

**Comment:**

Complies – the proposal will ensure that there are no impacts to the privacy or security of adjoining properties or to the occupants of the dwelling. Privacy will be retained for neighbours as the proposed works will not result in any unreasonable overlooking impacts to neighbouring properties.

#### 3.4.2.1 Window Design and Orientation

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

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

**Comment:**

Complies – the proposed window openings will not result in any adverse visual privacy impacts to the immediate neighbouring dwellings. The proposed window configurations will not contribute to any adverse privacy impacts to the neighbouring properties and will maintain a reasonable level of amenity to the adjoining premises.

### **3.4.2.2 Balconies and Terraces**

- a) Architectural or landscape screens must be provided to balconies and terraces to limit overlooking nearby properties. Architectural screens must be fixed in position and suitably angled to protect visual privacy.*
- b) Recessed design of balconies and terraces can also be used to limit overlooking and maintain privacy.*

**Comment:**

Complies – the above ground balconies have been designed with fixed privacy screens on sides facing the adjoining neighbours.

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

- a) Consideration must be given to the protection of acoustical privacy in the design and management of development.*
- b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.*
- c) Council may require a report to be prepared by a Noise Consultant that would assess likely noise and vibration impacts and may include noise and vibration mitigation strategies and measures. See particular requirements for noise control reports for licenced premises below at paragraph g) below.*

**Comment:**

Complies – any noise generated from the proposed development will be associated with a ‘dwelling house’ and is an acceptable form of development within the R1: General Residential Zoning of the site. All noise generating spaces including outdoor living/open areas have been appropriately located in a manner which considers the acoustical privacy of adjoining neighbours particularly to bedrooms and primary living areas.

### **3.4.3 Maintenance of Views**

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

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

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

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

- a) The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.*
- b) Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.*
- c) Templates may be required to indicate the height, bulk and positioning of the proposed development and to assist Council in determining that view sharing is maximised and loss of views is minimised. The templates are to remain in place until the application is determined. A registered surveyor will certify the height and positioning of the templates.*

**Comment:**

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

- The dwelling has been designed with varying setbacks to ensure appropriate building separation is maintained to adjoining properties to retain adequate view corridors.

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

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

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

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

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

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

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

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

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

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

*See also Council's Administrative Guidelines*

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

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

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

**Comment:**

Complies – the Development Application is supported by a BASIX Certificate which ensures the development will comply with the relevant BASIX commitments under the SEPP (Sustainable Buildings) 2022. The proposal will comply with the objectives and controls for Sustainability under the Manly Development Control Plan 2013

**3.6 Accessibility**

**Comment:**

Not applicable.

### **3.7 Stormwater Management**

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

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

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

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

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

**Comment:**

Complies – the proposal is supported by a Stormwater Management Plan prepared by NB Consulting Engineers which complies with Council Water Management Policy and the objectives of control 3.7.

### **3.8 Waste Management**

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

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

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

- sorting of waste into appropriate receptors (source separation, reuse and recycling) and ensure appropriate storage and collection of waste and to promote quality design of waste facilities;*
- adoption of design standards that complement waste collection and management services offered by Council and private service providers;*
- building designs and demolition and construction management techniques which maximises avoidance, reuse and recycling of building materials and which will minimise disposal of waste to landfill; and*
- appropriately designed waste and recycling receptors are located so as to avoid impact upon surrounding and adjoining neighbours and enclosed in a screened off area.*

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

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

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

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

*Objective 7) To discourage illegal dumping.*

**Comment:**

Complies – a Waste Management Plan is submitted with the DA package. All waste generated from the proposed construction works will reuse, recycle and dispose of waste in an environmentally friendly and sustainable manner. In accordance with Northern Beaches Council's waste minimisation plan/policy, where appropriate and achievable, materials will be recycled and reused to ensure that waste avoidance is incorporated into the development.

### **3.9 Mechanical Plant Equipment**

**Comment:**

Complies – a plant room has been located within the lower ground floor/garage level with no impact to adjoining neighbours.

### **3.10 Safety and Security**

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

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

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

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

**Comment:**

Complies – the development has been designed with due regard to safety and security for both the occupants of the dwelling and adjoining neighbours. The proposed works will maintain passive surveillance to Baltic Street, while ensuring the privacy of the occupants is adequately maintained.

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

### **4.1 Residential Development Controls**

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

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

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

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

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

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

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

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

**Comment:**

Complies – the proposed development is consistent with the objectives for residential development in that the proposed development for a new dwelling house will continue to maintain the existing residential character of the immediate locality; is compatible with the bulk and scale of the locality; and will accommodate an increased population growth through additional housing (bedrooms) without compromising the amenity of the neighbouring properties. The development is deemed to be consistent with the desired future character of the area, will not compromise the amenity of the surrounding properties or the aesthetic qualities of the Fairlight area.

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

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

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

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

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

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

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

#### **Comment:**

Not applicable – the site is mapped as density area D3 – which is subject to a minimum density requirement of 250sqm. The allotment comprises an area of 333.8sqm and contains an existing approved dwelling. No changes are proposed to the existing density on the site and no subdivision is proposed.

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

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

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

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

*b) Exceptions to Height*

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

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

#### **Comment:**

Refer to Clause 4.3 under Manly Local Environmental Plan 2013 for further details.

##### **4.1.2.1 Wall Height**

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

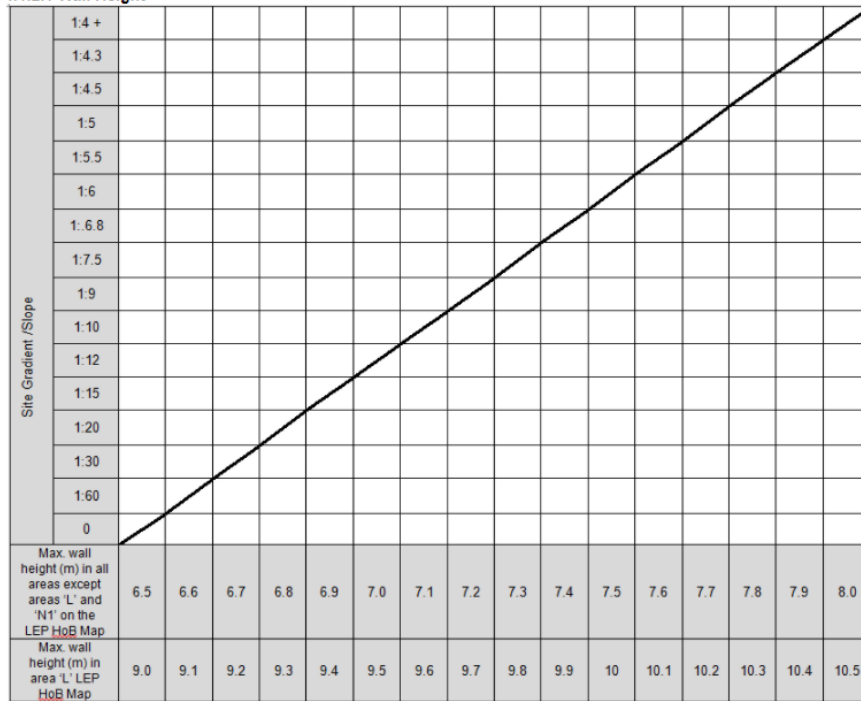


Figure 26 - Wall Height in relation to the LEP Height of Buildings Map

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

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

4.1.2.1 Wall Height



**Comment:**

Merit assessment – the site has a varying topography with a slope of 8.5 therefore allowing for wall heights of 7.2m-7.3m.

The proposal allows for the following wall heights:

East Elevation – 5.4m to 7.5m

West Elevation – 5.53m to 7.4m

Whilst there is a minor non-compliance proposed, the articulation of the elevations and increased varying setbacks ensure there are no impacts to the adjoining neighbours. The eastern elevation first-floor has varying setbacks from 1.5m to 2.5m and the western elevation first-floor 1.08m to 2.34m. The varying setbacks, and wall lengths ensure that any breaches to the wall height are minimal and do not impact the neighbours. It is our professional opinion that the proposal complies with the intent of the control.

**4.1.2.2 Number of Storeys**

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

*ii) to allow an additional understorey where that storey satisfies the meaning of basements in the LEP*

**Comment:**

Merit assessment – it is our professional opinion that the proposed dwelling meets the two storey limit to the streetscape. Although the lower ground/garage and services level is included as a storey as it does not comply with the definition of a basement, the majority of the area consists of non-habitable GFA. Although the proposed dwelling presents as three storeys to the street, the bulk and scale of the building is consistent with the Baltic Street streetscape as outlined under Section 2 – Site Profile / Visual Analysis. The proposal is not out of context and can be supported by Council as submitted.

**4.1.2.3 Roof Height**

*a) Pitched roof structures must be no higher than 2.5m above the actual wall height \*, calculated in accordance with Figure 29.*

*\* Note: In this paragraph ‘actual wall height’ means the wall height that is either existing or proposed rather than the maximum achievable wall height control in this plan.*

*b) Roof parapets may extend up to 0.6m above the actual wall height where Council considers that a parapet is considered to be appropriate to the design of the development and satisfies the objectives of this DCP and the LEP. For example, a parapet roof should not result in the appearance of lift structures and the like that protrude above the roof.*

*Note: As the LEP definition ‘Building Height’ incorporates plant and lift overruns, these structures must be similarly contained and not protrude above the maximum roof height.*

**Comment:**

Complies – the proposal includes a new roof which complies with the controls under 4.1.2.3.

**4.1.3 Floor Space Ratio (FSR)**

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

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

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

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

**Comment:**

Complies – the proposed new dwelling house has been designed with a compliant FSR. Refer to Clause 4.4 for full assessment.

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

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

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

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

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*

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

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

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

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

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

**Comment:**

<b>Side Setback</b>	<b>Rear Setback</b>	<b>Front Setback</b>
<i>Eastern Elevation:</i> Lower Ground Floor – Nil to 0.9m Ground Floor – 0.9m First Floor – 1.5m to 2.5m  <i>Western Elevation:</i> Lower Ground Floor – 0.9m Ground Floor – 0.9m to 3.97m First Floor – 1.08m to 2.34m	8m to terrace 8.947m to BBQ 11m to L2 façade	3.547m

**4.1.4.1 Street Front setbacks**

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

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

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

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

**Comment:**

Merit assessment – the front setback controls of the Manly Development Control Plan 2013 require a minimum setback that is consistent with the prevailing building line along the neighbouring dwellings within the street. The site is located along Baltic Street with varying front building lines and garage structures built forward of the front building line in some circumstances to boundary. The proposal is consistent with the average building lines of the neighbouring properties and can be supported by Council as submitted.

#### 4.1.4.2 Side setbacks and secondary street frontages

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

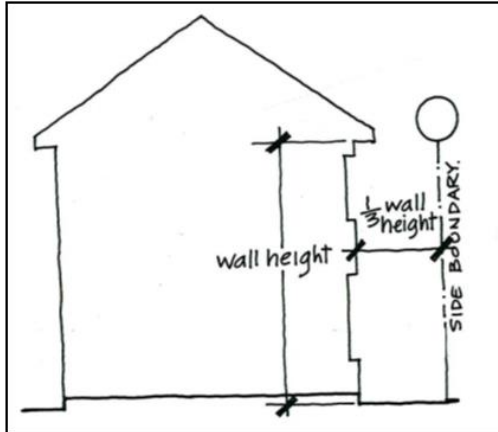


Figure 31 - Side Setback Diagram

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

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

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

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

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

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

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

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

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

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

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

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

i) contain no windows; \*

- ii) be constructed to one side boundary only;*
- iii) limit height to 3m; \**
- iv) limit length to 35 percent of the adjoining site boundary; \*\**
- v) submit a standard of finish and materials for external surfaces which complement the external architectural finishes of adjacent properties and/or the townscape character;*
- vi) obtain a right-of-way to provide access for maintenance; and*
- vii) satisfy the objectives for setback in this plan and the applicant can demonstrate no disadvantage to the adjacent allotment through increased overshadowing, or loss of view and no impediment to property maintenance.*

**Comment:**

Merit assessment – the proposed side setbacks have been designed to comply with the objectives of 4.1.4 and in association with permissible variations under 4.1.4.3. It is considered that the proposal complies with the side boundary setback requirements on merit assessment.

Due to the topography of the site relative to the neighbouring properties, the height is not considered to be overbearing or creates any unreasonable amenity impacts to the neighbouring properties. The proposal has been designed with side setbacks that vary in length which creates articulation and visual interest. It is important for Council to acknowledge the site constraints and the compliance of the majority of the planning controls. As provided under privacy and amenity the site retains adequate access to sunlight, privacy and has strategically located windows to have no overlooking impacts to all neighbours.

The proposed nil eastern setback is acceptable on merit noting the subject application has been prepared in concurrence with another development application for the adjacent property owners at 13 Baltic Street to reasonably accommodate provisions for a double garage on both properties. Noting the proposed nil setback will have no visual privacy or amenity impacts and will improve the capacity for on-site parking on both adjoining properties, the proposed setback is acceptable on merit and can be supported by Council.

The site is located within residential density D3 and therefore variations to the side setback can be applied, as noted above. The departure from the control to accommodate the double garage is acceptable given that adequate and varied setbacks are achieved on the ground and first floors and the building will not compromise the visual privacy or access to sunlight of the adjoining neighbours. The proposed setbacks do not contribute to any excessive visual bulk and scale. The variation from the side setback control is acceptable in considering the merits of the proposal.

**4.1.4.4 Rear Setbacks**

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

**Comment:**

Complies – the proposal complies with the required rear setback of 8m. The proposal has been designed with a rear setback of 8m to 10.85m.

#### 4.1.5 Open Space and Landscaping

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

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

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

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

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

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

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

#### Comment:

Complies – the proposal has been designed with new and enhanced landscaping within the rear and front setback. The project architect has reviewed the topography of the land and designed a house which maximises the use of open space while adding additional landscape features to the site. Refer to landscape plans prepared by Paul Scrivener Landscape which enhance the landscaping on the site to that existing. It is also important to acknowledge that the owners in conjunction with the project architect have designed the building footprint to retain the *Lagerstroemia indica* within the rear yard.

#### 4.1.5.1 Minimum Residential Total Open Space Requirements

##### Numeric Controls

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

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

##### Minimum dimensions and areas for Total Open Space

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

i) horizontal dimension of at least 3m in any direction; and

ii) a minimum unbroken area of 12sqm.

iii) A variation to the minimum specifications in i) and ii) above may only be considered for Above Ground Open Space where it can be demonstrated that lesser dimensions or areas will better

*serve to minimise amenity impacts on neighbours. A lesser areas of above ground open space may be included or calculated under the minimum requirements in the circumstances of the case. In all other cases open space that does not comply with the minimum specification is not included or calculated under the minimum requirements for total open space.*

#### *Provisions for Total Open Space Above Ground*

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

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

#### *Amenity Considerations*

*i) Areas of total open space that are above ground are considered to have a potentially greater impact on the amenity of neighbours. Accordingly the provision of open space that is above ground is to be confined to a maximum percentage of the total open space for any development. In particular, roof terraces and large decks are discouraged and are not a preferred design option when providing open space above ground.*

*ii) All open space above ground including verandas, balconies, terraces, are not to be enclosed.*

*iii) The Total Open Space Above Ground as provided for in Figure 34 may be refused by Council where privacy and/or view loss are issues and where development does not satisfy particular considerations in the following paragraphs iv) and v).*

*iv) Roof terraces are not permitted unless designed for privacy with no direct lines of sight to adjoining private open spaces or habitable window openings both within the development site and within adjoining sites.*

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

#### **Comment:**

Merit Assessment – the site is identified as OS3 requiring at least 55% of site area as total open space and at least 35% of open space as landscaped area. The proposal has been designed to maximise the open space and landscaped area of the site, with proposed:

- Total Open Space 151.86sqm (45.5% of site area)
- Landscaped Area 82.45sqm (44.89% of req. TOS)

The proposal has a slight non-compliance with total open space requirements which is inconsequential to the development as a whole.

The proposed design of the dwelling house avoids excessively large decks and terraces to maintain privacy and amenity for neighbouring properties. The proposal includes new landscaped areas which integrate with the new dwelling and provide a functional dwelling which utilises both indoor and outdoor areas through a strategic design to maximise the use and value of the open space areas throughout the site. The variation to the controls is required due to the 3m minimum requirements for areas to be included in the total open space calculations. It is our professional opinion that the minor variation should be supported by Council, as the proposal meets the objectives of Control 4.1.5 and achieves numerical compliance with the landscaped area requirements.

It is also acknowledged that under the Codes SEPP provisions, only a 15% landscaping requirement (or 50sqm) would be required. On this basis, whilst a variation is proposed, it far outweighs other types of development that could be achieved on the site.

#### 4.1.5.2 Landscaped Area

##### Numeric Controls

a) Landscaped Area must be provided on site in accordance with above Figure 34 - Numeric Requirements for Total Open Space, Landscaped Area and Open Space above Ground Level. The minimum landscaped area requirement is a percentage of the actual\* total open space onsite.  
 \*Note: 'Actual' space refers here to proposed (or existing where no change proposed), rather than the minimum requirement for open space in this plan.

##### Minimum Dimensions and Areas

- b) Minimum dimensions and areas must provide for the following:
- i) soil depth of at least 1m for all landscaped areas either in ground or above ground in raised planter beds; and
  - ii) a minimum horizontal dimension of 0.5m measured from the inner side of the planter bed/box, wall or any other structure which defines the landscaped area and incorporating an appropriate drainage and irrigation regime.
- c) Minimum Tree Plantings
- i) The minimum tree numbers must be in accordance with Figure 37 - Minimum Number of Native Trees Required.
  - ii) The minimum tree requirement may include either existing established native trees or new native trees planted at a pot/container size to be at least 25 litres capacity and being a species selected in accordance with Schedule 4 Part B - Native Tree Selection.
  - iii) The required minimum number of native trees required under this paragraph must be planted in a deep soil zone as defined in this plan's Dictionary.

Figure 37 - Minimum Number of Native Trees Required  
 Note: to be read in conjunction with the LEP Lot Size Map.

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

##### Landscaping Driveways

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

##### Comment:

Complies – the proposal is supported by a landscape plan prepared by Paul Scrivener Landscape.



#### **4.1.5.3 Private Open Space**

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

*Principal Private Open Space*

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

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

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

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

#### **Comment:**

Complies – the requirement for 18sqm of principal private open space has been satisfied with this proposal.

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

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

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

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

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

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

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

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

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

#### **Comment:**

Complies – the proposal includes provisions for a new driveway, crossover and garage to accommodate two car spaces on-site. The design of the garage has utilised materials and colours that blend in with the house and the landscape setting of the front yard.

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

*See also paragraph 3.1.1 Streetscape.*

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

- b) *Garage and carport structures forward of the building line must be designed and sited so as not to dominate the street frontage. In particular:*
- i) *garages and carports adjacent to the front property boundary may not be permitted if there is a reasonably alternative onsite location;*
  - ii) *carports must be open on both sides and at the front; and*
- c) *the maximum width of any garage, carport or hardstand area is not to exceed a width equal to 50 percent of the frontage, up to a maximum width of 6.2m.*

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

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

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

**Comment:**

Merit assessment – although the proposed garage design exceeds a width equal to 50 percent of the frontage and the maximum permissible width of 6.2m; the design, location and bulk and scale of the proposed garage will not adversely impact the streetscape or neighbouring properties and will maintain the desired character of the locality. The garage has been designed with materials and finishes that are sympathetic and complimentary to the existing building to ensure the structure does not dominate the front façade of the dwelling. The proposed garage forward of the front building line is permissible with the consent of Council as the proposal does not dominate the street frontage and is consistent with other approvals granted in the street.

**4.1.6.3 Bicycle Storage**

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

**Comment:**

Complies – the proposed garage provides adequate storage for bicycles.

**4.1.6.4 Vehicular Access**

- a) *All vehicles should enter and leave the site in a forward direction.*
- b) *Vehicular access and parking for buildings with more than 1 dwelling is to be consolidated within one location, unless an alternative layout/design would better reflect the streetscape or the building form.*
- c) *Vision of vehicles entering and leaving the site must not be impaired by structures or landscaping.*
- d) *Particular attention should be given to separating pedestrian entries and vehicular crossings for safety.*

- e) *Vehicular access will not be permitted from pedestrianised areas in Manly Town Centre.*
- f) *In relation to the development of 15-17 Suwarrow Street and 28-34 Balgowlah Road Fairlight, should vehicular access for future development be through L M Graham Reserve, a right of way will be required at the eastern most part of the site, being a 1 metre right of way required for lots 29 and 30 in Sec 5, DP 939916. The right of way should nominate Council or any person nominated by Council as the beneficiary as well as Lot 1 in DP1022202, the other lots of the site, lots 29, 30, 31 and 32 in Section 5 of DP 939916, known as 15-17 Suwarrow Street Fairlight.*

**Comment:**

Complies – the proposed vehicular access to the site has been thoughtfully designed to maintain appropriate sightlines to Baltic Street to ensure the vision of vehicles entering and leaving the site will remain unimpaired. The proposal meets the relevant objectives of clause 4.1.6.4 Vehicular Access.

**4.1.7 First Floor and Roof Additions**

**Comment:**

Not applicable – the proposal is for a new dwelling house and does not involve alterations or additions to any existing structures.

**4.1.8 Development on Sloping Sites**

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

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

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

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

**Comment:**

Complies – the project architect has utilised the topography of the land to design a dwelling that responds to the varying levels while creating a safe and functional dwelling.

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

**Comment:**

Not applicable.

**4.1.10 Fencing**

*See also paragraph 3.1 Streetscapes and Townscapes and paragraph 3.2.3 Fences for Heritage.*

*Freestanding walls and fences between the front street boundary and the building are to be no more than 1m high above ground level at any point.*

**4.1.10.1 Exceptions to maximum height of Fences**

- a) *In relation to stepped fences or walls on sloping sites (see paragraph 4.1.8), the fence and/or wall height control may be averaged.*

- b) *In relation to open/ transparent fences, height may be increased up to 1.5m where at least 30 percent of the fence is open/ transparent for at least that part of the fence higher than 1m.*
- c) *In relation to development along busy roads:*
  - i) *where a development will be subjected to significant street noise, Council may consider exceptions to the permitted fence height where the use of double glazing or thicker glazing for the residence is not available. The use of double glazing for windows in the development is the preferred means of noise reduction. See also paragraph 3.4.2.4 Acoustical Privacy.*
  - ii) *fences to the southern side of French's Forest Road, Seaforth may achieve a maximum height of 1.5m with 'solid' fencing.*

**Comment:**

Complies – the proposal includes provisions for new fencing to the front boundary including where the proposed garage wall meets the eastern boundary. Any rear and side fencing will be undertaken through exempt development provisions. The proposed front fence has been designed to a height of 1.1m to ensure adequate sightlines and casual surveillance is maintained to Baltic Street.

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

**4.4.1 Demolition**

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

*Objective 1)*

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

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

- a) Meet ecologically sustainable development principles by conserving resources and energy and reducing waste from any demolition process; and*
- b) Conserve the cultural heritage of the existing building and that of the locality. An appropriate assessment of potential heritage significance must accompany any DA in relation to demolition. If the property has merit as a potential heritage item, the heritage controls and considerations in this plan apply, and*
- c) Comply with the requirements of the Northern Beaches Waste Management Policy*

**Comment:**

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

**4.4.5 Earthworks (Excavation and Filling)**

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

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

- Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:*
- Limiting excavation, “cut and fill” and other earthworks;*
  - Discouraging the alteration of the natural flow of ground and surface water;*
  - Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*
  - Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.*

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

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

**Comment:**

Complies – the proposal includes minor excavation work for the construction of the dwelling house and associated structures. The excavation works will comply with the relevant objectives and the requirements of Clause 6.2 of MLEP2013.

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

**Comment:**

Not applicable – the site is not identified in any special character precincts, areas or sites.

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

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

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

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

**Comment:**

Complies – the proposal includes provisions to accommodate two parking spaces within a secure garage.

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

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

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

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

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

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

**Comment:** Not applicable.

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

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

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

**Comment:** Not applicable.

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

**Comment:** Not applicable.

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

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

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

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

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

**Comment:** The proposed development has been designed to the character and amenity of the locality. The proposal is of a height, bulk and scale which is consistent with recent approvals and the future character of the precinct. The proposal will have no adverse residential amenity impacts in terms of views, privacy or overshadowing to the neighbouring properties.

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

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

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

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

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

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

**Comment:** The proposal includes a garage for two car spaces and adequate storage for bicycles.

***Public Domain***

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

***Utilities***

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

***Flora and Fauna***

**Comment:** The proposal does not have an adverse impact to flora or fauna. The proposal includes the removal of trees (2) trees to facilitate footprint of the proposed dwelling house. The proposal is supported by an Arboricultural Impact Assessment Report prepared by Urban Arbor Pty Ltd.

***Waste Collection***

**Comment:** Normal domestic waste collection applies to the existing dwelling house.

***Natural hazards***

**Comment:** The site is not identified within natural hazard maps.

***Economic Impact in the locality***

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

***Site Design and Internal Design***

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

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*

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

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

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

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

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

#### **Construction**

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

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

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

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

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

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

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

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

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

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



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

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

## 6. Summary and Conclusion

The proposal for demolition works, construction of a new dwelling housing and associated works at 15 Baltic Street, Fairlight, being Lot 14 Sec B within Deposited Plan 4449, is permissible and consistent with the intent of the built form controls as they are reasonably applied to the proposed works. It is considered that the proposal is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The merits of the application have been assessed in accordance with the provisions of the relevant requirements of MLEP 2013 and the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). There is no evidence that the impacts of the development would warrant amendment to the subject proposal or justify refusal. Where a variation is proposed, adequate documentation has been provided to support the application.
- The nature of the development is appropriate having regard to the area of the site, its geographical location, topography, constraints and adjoining land uses.
- The Development Application is supported by a Clause 4.6 Variation to Development Standard which outlines that compliance with Clause 4.3 Height of Building is unnecessary and unreasonable in this instance and environmental planning grounds are well founded.

Accordingly, the proposal for demolition works, construction of a new dwelling house and associated works at 15 Baltic Street, Fairlight, is acceptable from environmental, social, and planning perspectives and approval should therefore be granted by Council.