

Northern Development Assessment

STATEMENT OF ENVIRONMENTAL EFFECTS

TO ACCOMPANY
DEVELOPMENT APPLICATION

FOR
**PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING RESIDENTIAL
DWELLING**

AT
**77 CASTLE CIRCUIT, SEAFORTH
LOT 33 DP 200638**

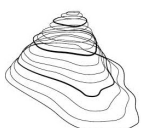
Prepared By

DAVE MOODY
B.Plan. (UNSW), Dipl. Build. & Const. (MIBT), MPIA.

0401 450 989
dave@ndassessment.com.au
www.ndassessment.com.au
Suite 11, 303 Barrenjoey Road,
Newport NSW
2106.

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1. INTRODUCTION

1.1 Summary

I have been commissioned to prepare a Statement of Environmental Effects (SEE) in relation to a Development Application (DA) seeking consent for proposed alterations and additions to an existing residential dwelling on land described as Lot 33 DP 200638, 77 Castle Circuit, Seaforth (The site).

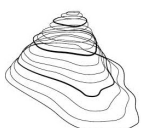
The proposed development is subject to assessment under Part 4 of the *Environmental Planning & Assessment Act 1979* (EP&A Act). The following SEE will consider the potential environmental impacts of the development, having regard to the matters for consideration under Section 4.15(1) of the *EP&A Act 1979*.

This SEE also addresses relevant matters under the *Manly Local Environmental Plan 2013* and the *Manly Development Control Plan 2013*. In the preparation of this SEE consideration has been given to the following documents:

- a) Plans of the proposed development prepared by Hot House Architects dated December 2022;
- b) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- c) State Environmental Planning Policy (Resilience and Hazards) 2021;
- d) Manly Local Environmental Plan 2013 (MLEP);
- e) Manly Development Control Plan 2013 (MDCP);
- f) Planning Principles of the NSW Land and Environment Court.

During the preparation of this SEE, I have attended the subject site and the surrounding locality to gain an understanding of the proposal and its future relationship with the developing streetscape and the immediately surrounding sites.

I am satisfied that the proposal as submitted will not only offer a high standard of accommodation for future residents but will do so in a manner that respects its juxtaposition with adjacent and nearby dwellings and will provide a high standard of design and sustainability when completed.



1.2 Site Description

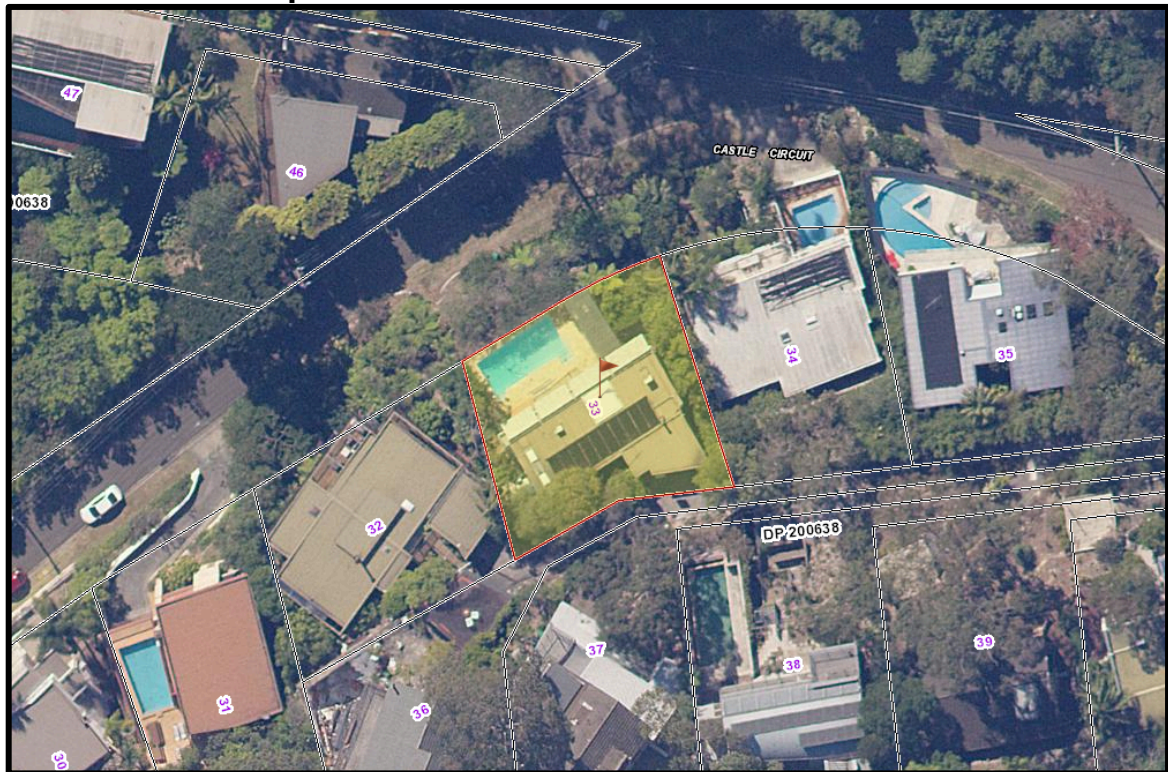
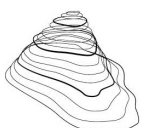


Figure 1.2.1 – Subject Site

The site consists of a single allotment located on the southern (high) side of Castle Circuit, towards the termination of the Circuit. The subject site currently contains a 3 storey residential dwelling with a swimming pool. The residential dwelling is of brick construction with a metal roof. The site has a northern frontage to Castle Circuit with vehicle access obtained from a Right of Carriageway, being a single lane, shared driveway accessed across the southern boundary.

The site is irregular in shape and has a total site area of approximately 526.6m² with the topography maintaining a steep slope from south to north. The northern boundary to Castle Circuit has a total length of approximately 24.341m. The southern boundary fronts the shared driveway and has a total length of approximately 25m. The western boundary adjoins 75 Castle Circuit and has a length of approximately 21.74m, whilst the eastern boundary adjoins 79 Castle Circuit and has a length of 26.245m.

The immediate area is characterised by 2-3 storey residential dwellings in a variety of architectural styles.



1.3 The Proposed Development

The proposed development involves alterations and additions to an existing residential dwelling.

The proposed alterations and additions include the following;

Basement

- Construction of a new double garage, driveway and vehicle cross over at the northern boundary.
- Construction of new pedestrian access adjoining eastern boundary.
- Construction of new internal lift access contained within proposed garage.
- Removal of 9 trees – Only 3 Trees requiring approval.

Pool and Terrace Level

- Construction of terrace over proposed garage.
- Lift access.
- Minor modifications to existing pool and surrounds including a new pergola over the eastern end of the pool enclosure.

Ground Floor

No Change

First Floor

- Minor extension of a portion of the northern wall of the Master Bedroom and new replacement window.

Second Floor

- Extension in northern wall of the Lounge Room to provide internal access for the proposed lift.
- Deletion of existing garage and replacement with storage.
- New pedestrian entrance to southern boundary.

Third Floor

- New Parent's Lounger/Study and deck.

The proposed development is shown on plans prepared by *Hot House Architects* dated May 2023. The Architectural Plans detail the full scope of works and should be referred to in their entirety.

2. PLANNING INSTRUMENTS

2.1 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

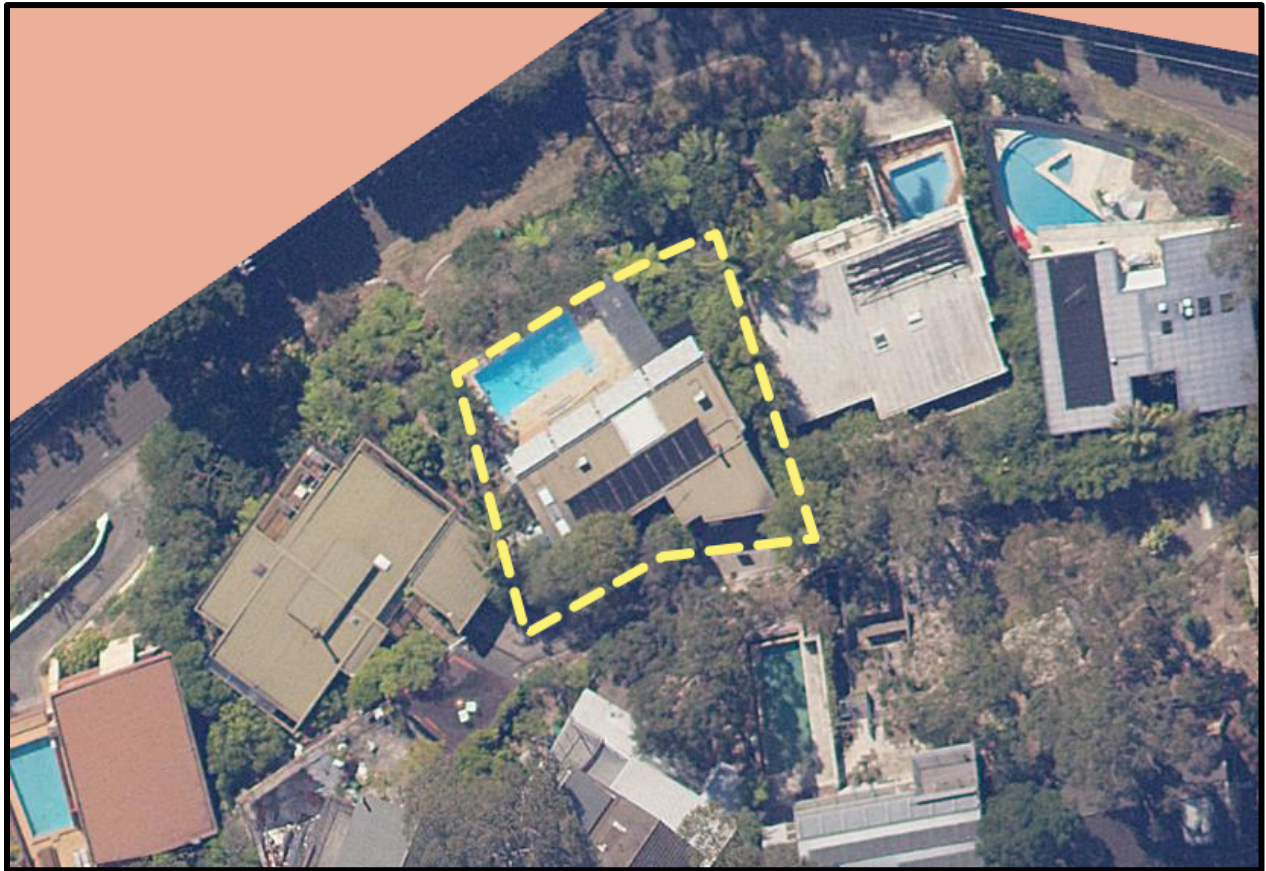
Aim of Policy

- (1) Regulations under the Act have established a scheme to encourage sustainable residential development (the BASIX scheme) under which:
 - a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and
 - b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.
- (2) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.
- (3) This Policy achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

Comment:

The DA is accompanied by a BASIX Certificate prepared by Hot House Studio. This BASIX Certificate confirms that the proposed alterations and additions achieve compliance with the relevant objectives and requirements of the above State Environmental Planning Policy.

2.2 State Environmental Planning Policy (Resilience and Hazards) 2021

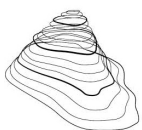


Chapter 2 Coastal Management

2.1 Aim of Chapter

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:

- a) managing development in the coastal zone and protecting the environmental assets of the coast, and
- b) establishing a framework for land use planning to guide decision-making in the coastal zone, and
- c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.



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Comment:

The subject site is not identified as being within the Land Application Map of State Environmental Planning Policy (Coastal Management) 2018, which relates to commitments within a proposed development to ensure that development protects the environmental assets of the coast.

Accordingly, further assessment under State Environmental Planning Policy (Coastal Management) 2018 is not required.

4.1 Object of this Chapter

(1) The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.

(2) In particular, this Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—

(a) by specifying when consent is required, and when it is not required, for a remediation work, and

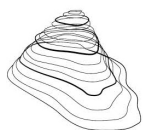
(b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and

(c) by requiring that a remediation work meet certain standards and notification requirements.

Comment:

Due to the previous lengthy residential history of the subject site, the prevailing evidence does not indicate the existence of contamination on the subject site.

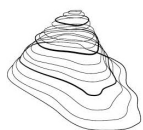
I have not been made aware of any evidence of previous contamination of the subject site. Accordingly, I consider that no further assessment is required under State Environmental Planning Policy (Resilience and Hazards) 2021.



2.2 Manly Local Environmental Plan 2013 (LEP)

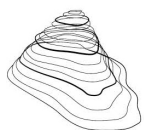
1.2 Aims of Plan

- (1) This Plan aims to make local environmental planning provisions for land in Manly in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*
- (2) The particular aims of this Plan are as follows—*
 - (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
 - (a) in relation to all land in Manly—*
 - (i) to promote a high standard of urban design that responds to the existing or desired future character of areas, and*
 - (ii) to foster economic, environmental and social welfare so that Manly continues to develop as an accessible, sustainable, prosperous, and safe place to live, work or visit, and*
 - (iii) to ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increase in demand, and*
 - (iv) to ensure all development appropriately responds to environmental constraints and does not adversely affect the character, amenity or heritage of Manly or its existing permanent residential population,*
 - (b) in relation to residential development—*
 - (i) to provide and maintain a diverse range of housing opportunities and choices that encourages affordable housing to cater for an ageing population, changing demographics and all socio-economic groups, and*
 - (ii) to ensure high quality landscaped areas in the residential environment, and*
 - (iii) to encourage higher density residential development to be located close to major transport nodes, services and employment opportunities, and*
 - (iv) to maintain active retail, business and other non-residential uses at street level while allowing for shop top housing in centres and offices at upper floors in local centres,*
 - (c) in relation to business and the economy—*
 - (i) to encourage, provide and consolidate business opportunities for a range of uses in appropriate locations that support local employment, community services and economic growth in business centres, and*
 - (ii) to recognise that tourism is a major industry and employer in Manly and to encourage its growth and continuing viability while protecting the needs of the local community,*
 - (d) in relation to transport, infrastructure and amenities—*



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- (i) to reduce private car dependency, increase the viability of various public transport modes, minimise conflict between pedestrians and vehicular movement systems and encourage walking and cycling while concentrating intensive land uses and trip generating activities in locations most accessible to public transport and centres, and*
- (ii) to provide for a range of recreational and community service opportunities to meet the needs of residents and visitors to Manly and promote the efficient and equitable provisions of public services, infrastructure and amenities,*
- (e) in relation to heritage—to identify, protect, sustain, manage and conserve all heritage, including archaeological relics, sites and resources, places of Aboriginal heritage significance, heritage items (and their curtilages), heritage conservation areas and the cultural (natural and built) environmental heritage of Manly,*
- (f) in relation to the natural environment—*
 - (i) to conserve and enhance terrestrial, aquatic and riparian habitats, biodiversity, wildlife habitat corridors, remnant indigenous vegetation, geodiversity and natural watercourses, and*
 - (ii) to promote energy conservation, water cycle management (incorporating water conservation, water reuse, catchment management, stormwater pollution control and flood risk management) and water sensitive urban design, and*
 - (iii) to protect, enhance and manage environmentally sensitive land with special aesthetic, ecological, scientific, cultural or conservation values for the benefit of present and future generations, and*
 - (iv) to protect existing landforms and natural drainage systems and minimise the risk to the community in areas subject to environmental hazards, particularly flooding, bush fires, acid sulfate soils, sea level rise, tsunami and landslip, and*
 - (v) to provide a framework that facilitates and encourages measures to assist the adaptation of the local environment to mitigate the impacts of climate change, and*
 - (vi) to give priority to retaining bushland for its own intrinsic value and as a recreational, educational and scientific resource,*
- (g) in relation to Manly's unique harbour, coastal lagoon and ocean beach setting—*
 - (i) to preserve and enhance the amenity of public places and areas visible from navigable water around Manly, and*
 - (ii) to retain open space, make more foreshore land available for public access and protect, restore and enhance riparian land along watercourses and foreshore bushland.*

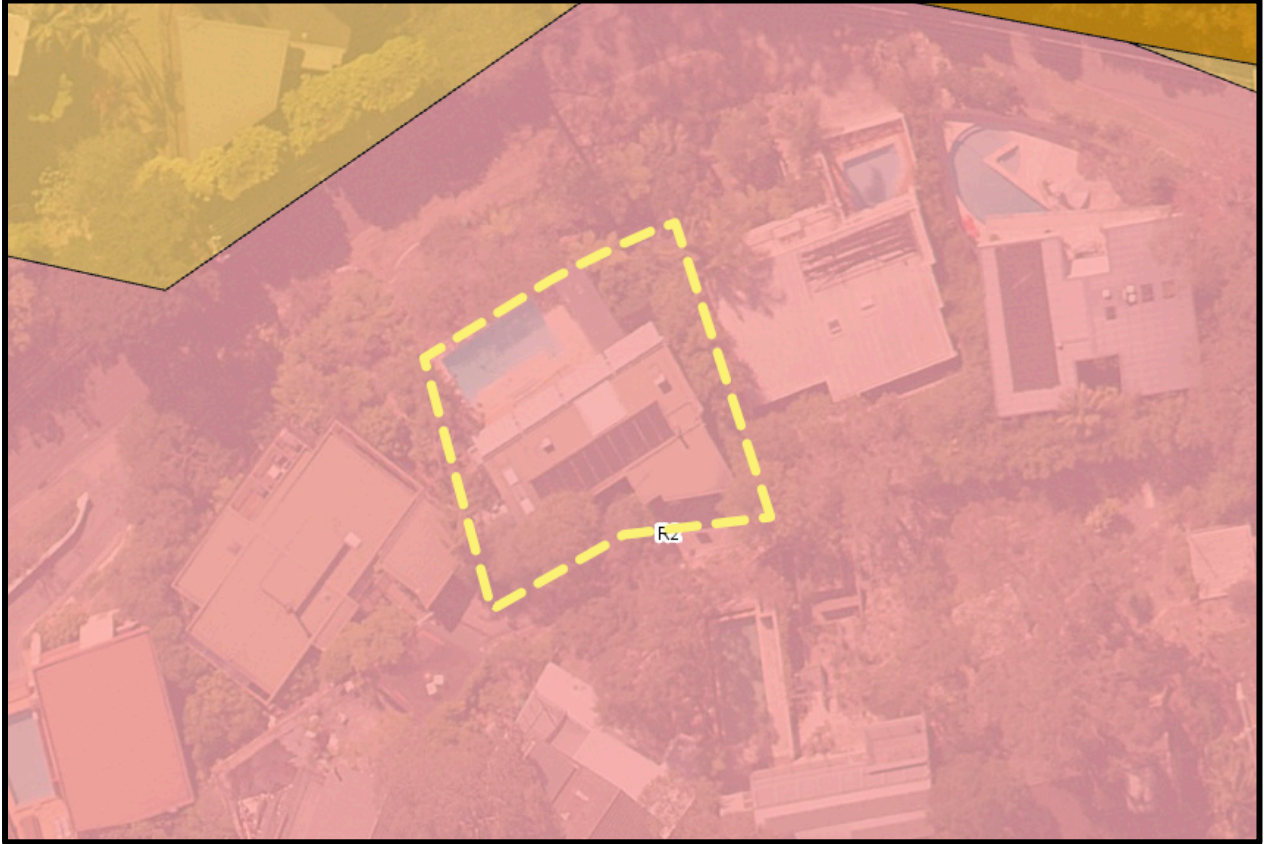


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RESPONSE

The proposal accords with the above objectives, where relevant.

Zoning



Zone R2 Low Density Residential

1 Objectives of zone

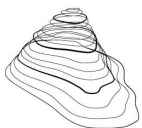
- To provide for the housing needs of the community within a low-density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Centre-based child care facilities; Community facilities; Dual



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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); Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; 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

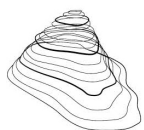
RESPONSE

The proposal is permitted with consent within the R2 Zone.

The proposed alterations and additions comply with the relevant Objectives of the R2 Zone as follows;

- The proposed alterations and additions will provide for improved parking and access to the site, whilst removing traffic from the single lane shared driveway and providing additional off-street parking. Furthermore, the proposed alterations and additions will provide improved accessibility throughout the site through the introduction of the lift.
- The proposed alterations and additions result in an improved bedroom and living area within the residential dwelling. The improved bedroom and living area serve the needs of the current occupants of the subject site providing for the housing needs within the community.
- The proposed alterations and additions contribute to the variety of housing types and densities within the immediate area. The proposed alterations and additions ensure that the existing residential form of housing is retained, allowing for improved amenity for current and future occupants of the subject site without any unreasonable amenity impacts to adjoining properties.

The proposed alterations and additions ensure the residential dwelling remains sympathetic to the existing streetscape and the low-density residential environment. These design elements ensure that the proposed development, when viewed from the street, complements the identified streetscape.



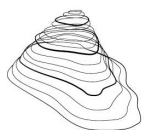
4.1 Minimum subdivision lot size



(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.

RESPONSE



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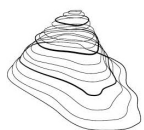
Although no subdivision is proposed, the existing lot size of 562.6m² is significantly below the minimum lot size standard of 1150m².

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,



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(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.

RESPONSE

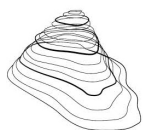
The proposed alterations and additions incorporate a lift and addition in the form of a Parent's Lounge, both of which result in breaches in the Height of Buildings Standard. I note that the remainder of the proposed development remains well below the Maximum Height of Buildings Standard of 8.5m.

The maximum height of the proposed development will be 11.346m relating to the proposed lift, noting that this structure has been positioned to allow continuous access across all existing levels of the dwelling and is incorporated into the existing building façade, terminating below the existing Second Level roof form. The proposed Parent's Lounge will have a maximum building height of 9.703m at its northernmost edge, whilst the balustrading on the associated deck will have a maximum building height of 9.835m

This results in a 33.48% breach of the Height of Buildings Standard for the proposed lift, 15.7% for the balustrade and 14% for the Parent's Lounge. Despite this breach, I consider that variation is reasonable. I should note that the Land and Environment Court has held on previous occasions that the degree of the breach is not the ultimate determining factor in the deciding whether to support a request for variation of a Development Standard.

Furthermore, I note that in order to determine the maximum building height, the following measurements have been taken from existing excavated areas which contribute to the staggered nature of the existing development, which follows the topography of the subject site;

- The Parent's Lounge – Measured from the Ensuite and Storage Area adjoining the Master Bedroom at First Floor. Noting that the majority of the Parent's Lounge complies with the 8.5m Height Standard until the minor overlap with the Ensuite and Storage area at First Floor.
- The Balustrade – Measured from the Storage Area and Gym at Ground Floor noting that this deck maintains the height of the existing Second Floor roof form.
- The Lift – I note that the proposed lift has been incorporated into the existing dwelling façade and at its highest point, remains below the roof form of the second floor roof.



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I consider that the breach of the Height of Buildings Standard does not contribute to the perceived bulk, scale and height of the proposed development. I note the judgement by Commissioner O'Neill of the Court in *Bettar v Council of the City of Sydney [2014] NSWLEC 1070 (Bettar)*. In the *Bettar* judgement, there was a sunken basement level with the public footpath at a higher level. Commissioner O'Neill adopted the level of the "footpath at the boundary" because it "bears a relationship to the context and overall topography".

A similar scenario was considered by Acting Commissioner Bindon in *Nicola v Waverley Council [2020] NSWLEC 1599 (Nicola)*.

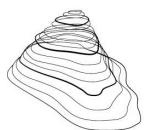
The decision in *Nicola* is an example of where the *Bettar* method was applied to levels contained within the subject site which are the subject of the development application.

In this case, applying *Betta* and *Nicola*, if one views the subject site from adjoining properties to the east and west (75 and 79 Castle Circuit), the perceivable breach is significantly reduced. When viewed from the east, the breaches of the Height of Buildings Standard would be perceived as follows;

- The Parent's Lounge – The maximum breach would be only 689mm measured at the northernmost edge.
- The Balustrade – The maximum breach would be 1.712m, again noting that this deck is located at the existing height of the Second Floor roof form and is required to be at least 1m in height for BCA Compliance.
- The Lift – The maximum breach would be 2.27m. I note that the proposed lift remains below the existing Second Floor Roof Form to which it provides access.

When viewed from the west, the breaches of the Height of Buildings Standard would be perceived as follows;

- The Parent's Lounge – Fully compliant and remaining significantly below the Maximum 8.5m Height Line.
- The Balustrade – Fully compliant and remaining significantly below the Maximum 8.5m Height Line.
- The Lift – Very minor breach of the northernmost edge of the lift and otherwise compliant.

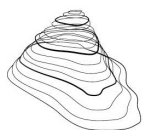


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Furthermore, I note that when the proposed development is viewed from the south, it will only appear as a 2 storey development. When viewed from the north at the level of Castle Circuit, the proposed Parent's Lounge has been significantly recessed back from the roof form of the Level below ensuring it will not be readily visible from the street.

The proposed alterations and addition therefore require the submission of a Clause 4.6 Variation Request for Council to assess the reasonableness of the breach. This is described in the attached Clause 4.6 Variation Request. Despite the breach of the Height of Buildings Development Standard, I consider that the proposed alterations and additions comply with the following relevant objectives of this clause;

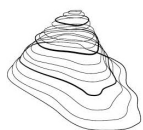
- The proposed alterations and additions will provide for a building height and roof form that is consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality.
- The degree of breach of the Height of Buildings Standard is significantly contributed to by the topographic landscape and the excavated, stepped nature of the existing dwelling. I note that the proposed alterations and additions incorporate significant setback modulation to assist in breaking up the built form.
- The proposed alterations and additions will provide improved living areas as well as providing access throughout the dwelling.
- The proposed alterations and additions do not result in the disruption of any of 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),
- I note that the Owner of 77 castle Circuit provided photographs from 85, 87, 89 and 91 Castle Circuit looking towards the subject site in order to confirm the lack of potential view loss from these properties as a result of the proposed Parent's Lounge. I note that these properties all sit to the south and south-east of the subject site and are situated further upslope ensuring significantly elevated views across the subject site. The topography of the area and the location of the proposed Parent's Lounge ensure that the existing views from these properties to the north and north-west will not suffer any unreasonable view loss. Furthermore, the photographs confirmed that existing significant trees and vegetation



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between the sites will further ensure that the proposed Parent's Lounge is screened from view.

- I note that the Parent's Lounge addition has been sunken into the roof form of the existing development in order to reduce the overall height. Furthermore, this addition has been significantly recessed from the northern leading edge of the roof form below in order to minimise the potential for visual impact when viewed from the north.
- The significant setback of the proposed Parent's Lounge from the north edge of the roof form below ensure that no unreasonable view loss from the adjoining property at 79 Castle Circuit will occur.
- As evidenced by the Shadow Diagrams accompanying this DA, the proposed alterations and additions will not result in any unreasonable overshadowing to adjoining properties.
- The subject site is not located within a recreation or environmental protection zone, however, I note that the height and bulk of the breaching portions of the proposed alterations and additions do not result in any conflict that requires the removal of any significant trees or vegetation or any excavation/significant changes to the existing topography.

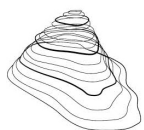


4.4 Floor space ratio



(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



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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.

RESPONSE

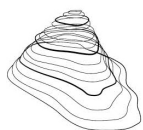
I note that the subject site contains residential dwelling located on a lot with a Site Area of 562.6m² which is significantly below the minimum lot size of 1150m² identified under the LEP. The subject site has an FSR Standard of 0.4:1 allowing for a Gross Floor Area of 225m². The existing dwelling on the subject site has a Gross Floor Area of 266.1m².

Based on the calculations provided on the plans accompanying this DA, I note that under the proposed alterations and additions, the Ground Floor area remains unchanged. The additional floor area comes as a result of the following;

- Construction of the garage at basement level resulting in an additional 19.3m², excluding the 2 car spaces required and access thereto.
- Minor 2.38m² extension at Level 1.
- Minor 9.12m² extension at Level 2 to provide access from the proposed lift into the Living Room and a minor 5.5m² extension to provide a new entrance.
- New Level 3 for the Parent's Lounger resulting in an additional 21.4m² of floor area.

The above additions result in a Gross Floor Area of 304.53m² which provides an FSR of 0.57:1. I note that this results in a breach of the FSR Standard by 43.9%. I should note that the Court has held on previous occasions that the degree of the breach is not the ultimate determining factor in the deciding whether to support a request for variation of a Development Standard.

The proposed alterations and addition therefore require the submission of a Clause 4.6 Variation Request for Council to assess the reasonableness of the breach. This is described in the attached Clause 4.6 Variation Request.



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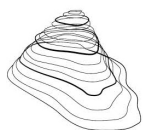
I note that as contained within Council's DCP Clause 4.1.2.1- Exceptions to FSR for Undersized Lots, *"the undersized nature of a lot is a matter that Council may consider in determining whether compliance with the standard is unreasonable or unnecessary in the circumstances of the case"* and *"there is sufficient environment planning grounds to justify contravening the development standard' under LEP clause 4.6(3)."* For the reasons outlined in this SEE and accompanying Clause 4.6 Request, I consider that 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' and that there is 'sufficient environmental planning grounds to justify contravening the Development Standard.'

I note that Clause 4.1.3.1 (a) of Council's DCP advises that *"The extent of any exception to the LEP FSR development standard pursuant to LEP clause 4.6 in this plan is to be no greater than the achievable FSR for the lot size indicated in Figure 30 - Extent of FSR Variation for Undersized Lots."* I note that Figure 30 does not identify Area B within this table as restricting the maximum variation.

Furthermore, I note that under DA 104/2016, Council approved an FSR of 0.6:1 at 75 Castle Circuit which has a comparable lot size and similar topography, advising that this breach was *"within the allowances for it in the Manly DCP Clause 4.1.3.1 Exceptions to FSR for Undersized Lots."*

Despite the breach of the FSR Development Standard, I consider that the proposed alterations and additions comply with the following relevant objectives of this clause;

- The proposed alterations and additions do not represent an overdevelopment of the subject site. I note that the Open Space and Landscaped Area requirements of Council remain compliant with both the numerical requirements and objectives following the proposed alterations and additions.
- The proposed alterations and additions maintain the residential use of the residential dwelling and provide for a built form that is of a bulk and scale consistent with the existing and desired streetscape character.
- The proposed alterations and additions do not result in a development that obscures important landscape and townscape features.
- The proposed alterations and additions maintain an appropriate visual relationship between new development and the existing character and landscape of the area. I note that no significant trees or vegetation are required to be removed as a result of the increase in Gross Floor Area.



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- The proposed alterations and additions which increase the gross Floor Area ensure no unreasonable adverse environmental impacts on the use or enjoyment of adjoining land and the public domain as they do not require any excavation and maintain the existing topography of the subject site. Furthermore, as noted above, no significant trees or vegetation are required to be removed.
- The proposed alterations and additions do not result in any unreasonable overshadowing, overlooking, view loss, view impact or acoustic/visual privacy impact.

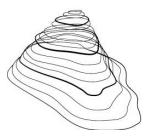
4.6 Exceptions to development standards

(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.*

RESPONSE

The proposal, which breaches the development standards for FSR and Height of Buildings requires the submission of separate Clause 4.6 Variation Requests to these development standards. These 4.6 Requests accompany the DA. I note that neither the FSR Standard or Height of Buildings Standard are specifically excluded under Clause 4.6.



5.10 Heritage conservation



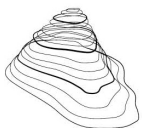
(1) Objectives

The objectives of this clause are as follows:

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

RESPONSE

I note that I am not a Heritage Consultant, however, the subject site does not contain a Heritage Item. Furthermore, I note that the subject site is not located



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within a Heritage Conservation Area. The closest Heritage Item is limited to the Heritage Landscape Item of Bantry Bluff.

I note that the proposed alterations and additions are contained within the boundaries of the subject site and unlikely to adversely impact upon Heritage Items identified under the LEP.

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.

RESPONSE

The subject site is not identified under the above Clause.

6.2 Earthworks

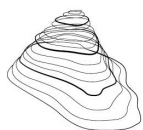
(1) The objectives of this clause are as follows:

- (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.*

RESPONSE

The proposed alterations and additions require excavation works for the proposed garage and access to the residential dwelling. I note that the proposed excavation requires a maximum depth of excavation of approximately 7m for a minor portion of the proposed garage which incorporates the lift access and is located approximately 1.8m off the eastern side boundary. I note that this excavation is reduced to less than 2m as the garage progresses to the north, whilst remaining 1.8m off the eastern side boundary.

A Geotechnical Report prepared by White Geotechnical Group accompanies the DA and the proposed development will be carried out in accordance with the recommendations contained within this report ensuring compliance with the



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Objectives of this Clause. I note that the Geotechnical Report made the following comments in relation to excavation;

“An excavation up to a maximum depth of ~7.0m is required to construct the garage, storage, and lift shaft on the downhill side of the property. The excavation is expected to be through fill, soil, clays, and Very Low Strength Sandstone with Medium Strength Sandstone expected at depths of between ~1.9m and ~2.8m below the current surface in the area of the proposed works. It is envisaged that excavations through fill, soil, and clay can be carried out with an excavator and bucket, and excavations through rock will require grinding or rock sawing and breaking.”

The findings of the geotechnical Report were as follows;

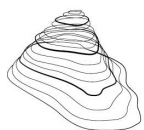
“The proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice.”

Further to the Geotechnical Report, a Shoring Work Methodology Report has been prepared by Northern Beaches Consulting Engineers to accompany the DA and states the following;

“If the shoring is designed by a qualified Structural Engineer, and the above construction methodology is adopted, along with constant monitoring and inspections, by both the geotechnical engineer and structural engineer, then there should be no adverse impact on the existing house structure, the neighbouring house structure, or the pool structure.”

Conditions of Consent should be imposed to further confirm that the recommendations and requirements contained within the Geotechnical Report and Shoring Work Methodology Report will be implemented prior to and throughout construction.

I note that the levels of excavation relating to the proposed garage are in keeping with similar garages at 71 Castle Circuit (DA No. 349/06) which approved a double garage with a nil setback to Castle Circuit and 75 Castle Circuit (DA 104/2016) which also approved a double garage with a nil setback to Castle Circuit. I also note similar development forward of the building line at 79 Castle Circuit.



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.

RESPONSE

The proposed alterations and additions result in an increase of hard surface area as a result of the proposed garage and lift. I note that the proposed roof form incorporates new down pipes connecting stormwater to the existing stormwater system in accordance with AS3500. The topography of the site ensures that stormwater will continue to be gravity fed to Castle Circuit.

6.8 Landslide risk

(1) The objectives of this clause are to ensure that development on land susceptible to landslide—

- (a) matches the underlying geotechnical conditions of the land, and*
- (b) is restricted on unsuitable land, and*
- (c) does not endanger life or property.*

RESPONSE

I note that the subject site is not identified as Landslide Risk under the Landslide Risk Map Sheet CL1_001 contained within the LEP.

A Geotechnical Report prepared by White Geotechnical Group accompanies the DA and the proposed development will be carried out in accordance with the recommendations contained within this report ensuring compliance with the Objectives of this Clause.

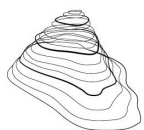
6.9 Foreshore scenic protection area

(1) The objective of this clause is to protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore in Manly.

(2) This clause applies to land that is shown as "Foreshore Scenic Protection Area" on the Foreshore Scenic Protection Area Map.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters—

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) measures to protect and improve scenic qualities of the coastline,*



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(c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,

(d) measures to reduce the potential for conflict between land-based and water-based coastal activities.

RESPONSE

I consider that the proposed alterations and additions result in a dwelling house of a similar scale and housing form to the existing dwelling house on the property and other nearby dwellings, ensuring that the development will not have a significant impact on the visual landscape.

The proposed garage is located at the lowest level of the subject site and will not be visible from Sydney Harbour, the Pacific Ocean and the foreshore in Manly.

The proposed lift is incorporated into the façade of the existing residential dwelling ensuring no detrimental impact to the visual amenity of the harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore.

The proposed Parents Lounge is located at the high end of the site and has been sunken into the existing built form in order to reduce any potential visual impact. Furthermore, the proposed addition is setback from existing development located between the boundary to the shared driveway and also significantly setback from northern edge of the level below. These setbacks ensure that the proposed development maintains a staggered presentation to both Castle Circuit and the shared driveway, following the topography of the subject site, reducing the potential for visual impact.

Table 2.1 provides a summary of the relevant provisions of the LEP and outlines their relationship with the proposed development;

Table 2.1 – LEP Compliance Summary

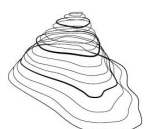
Clause	Control	Comment
Clause 4.1: Minimum Subdivision Lot Size	1150m ² minimum	No subdivision proposed
4.3 Height of Buildings	8.5 metres maximum	Refer to Clause 4.6 Request



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4.4 Floor Space Ratio	0.4:1	Refer to Clause 4.6 request
5.10 Heritage	Consider Objectives	Complies
5.21 Flood planning	Consider Objectives	Complies
6.1 Acid Sulfate Soils	Consider Objectives	Complies
6.2 Earthworks	Consider Objectives	Complies
6.4 Stormwater Management	Consider Objectives	Complies
6.5 Terrestrial biodiversity	Consider Objectives	Complies
6.6 Riparian land and watercourses	Consider Objectives	Complies
6.7 Wetlands	Consider Objectives	Complies
6.8 Landslide risk	Consider Objectives	Complies
6.9 Foreshore scenic protection area	Consider Objectives	Complies
6.10 Limited development on foreshore area	Consider Objectives	Complies



2.3 Manly Development Control Plan 2013

The *Manly Development Control Plan 2013* (DCP) applies to all forms of development within the Manly locality.

1.7 Aims and Objectives of this Plan

The general aims of this plan are to:

- a) Ensure that development contributes to the quality of the natural and built environments.*
- b) Encourage development that contributes to the quality of our streetscapes and townscape.*
- c) Ensure that development is economically, socially and environmentally sustainable and to require the principles of ecologically sustainable development to be taken into consideration when determining development applications.*
- d) Ensure future development has consideration for the needs of all members of the community.*
- e) Ensure development positively responds to the qualities of the site and its context.*
- f) Ensure development positively responds to the heritage and character of the surrounding area.*

RESPONSE

The Aims and Objectives of the DCP, where relevant, have been addressed and endorsed by the proposal to preserve and where possible, enhance the character of the surrounding area.

3.1 Streetscapes and Townscapes

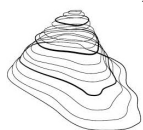
Relevant DCP objectives to be met include the following:

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.



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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.

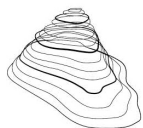
Objective 7) To minimise negative visual impact, in particular at the arterial road entry point into the Municipality, so as to promote the townscape qualities of Manly.

Comment

The proposed alterations and additions are in keeping with the relevant objectives of the Streetscapes and Townscapes clause as follows;

- 1) I note that the proposed development incorporates a new garage to be access via the Castle Circuit frontage. The proposed garage is in keeping with approvals at 71 Castle Circuit (DA No. 349/06) which approved a double garage with a nil setback to Castle Circuit and 75 Castle Circuit (DA 104/2016) which also approved a double garage with a nil setback to Castle Circuit. I also note similar development forward of the building line at 79 Castle Circuit, providing a double garage with direct access from Castle Circuit. In light of the existing nearby garage development along Castle Circuit, it is not considered that the proposed development will result in a negative visual impact.
- 2) As outlined above, the proposed garage complements the identified streetscape. Furthermore, the proposed lift is consistent with and incorporated into the existing façade in order to ensure the development remains sympathetic to the streetscape.
- 3) The proposed Parents Lounge is located at the high end of the site and has been sunken into the existing built form in order to reduce any potential visual impact. Furthermore, the proposed addition is setback from existing development located between the boundary to the shared driveway and also significantly setback from northern edge of the level below. These design elements ensure that the proposed development, when viewed from the street, minimise the potential for visual impact and complement the identified streetscape.

The proposed alterations and additions are in keeping with the Townscape Objectives. The visible components of Castle Circuit and the surrounding street network are predominantly made up of 2-3 storey residential dwellings. The proposal will remain consistent with the established streetscape of Castle Circuit and retains significant portions of the existing front façade, with the proposed



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Parents Lounge remaining well recessed back to ensure that the alterations and additions remain sympathetic.

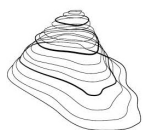
3.1.1 Streetscape (Residential areas)

Complementary Design and Visual Improvement

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

Setback Principles in Low Density Areas

- b) In lower density areas including LEP Zones R2, E3 & E4, setbacks should be maximised to enable open space to dominate buildings, especially on the foreshore.



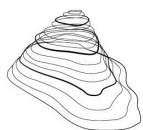
RESPONSE

The proposed alterations and additions are in keeping with the requirements of the Complementary Design and Visual Improvement clause as follows;

- i. The proposed alterations and additions achieve the predominant building form, distinct building character, building material and finishes and architectural style in the locality. Furthermore, the proposed alterations and additions result in a presentation to Castle Circuit which is consistent with adjoining and nearby development.
- ii. The proposed alterations and additions do not result in a form of development that detracts from the scenic amenity of the area.
- iii. The proposed alterations and additions, whilst breaching the Height Standard, result in a building heights which is of a compatible scale with nearby development, particularly at the street frontage, height and building alignment.
- iv. The proposed development does not incorporate elevated structures constructed on extended columns that dominate adjoining sites.
- v. The proposed development is not considered to unreasonably impact any Heritage Items.
- vi. The proposed alterations and additions visually improve the existing streetscapes through innovative design solutions outlined in this SEE.
- vii. The proposed alterations and additions incorporate building materials and finishes complementing those dominant in the locality.

3.1.1.2 Front Fences and Gates

- a) *Notwithstanding maximum height provisions for fencing at paragraph 4.1.10; the siting, height and form of boundary fences and walls should reflect the fencing characteristic of the locality, particularly those of adjacent properties. All fencing and wall materials must be compatible with the overall landscape character and the general appearance of the building and the streetscape.*
- 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.*



RESPONSE

There are no changes proposed to the existing terraced retaining walls facing Castle Circuit, aside from demolition to allow for the garage, vehicle access and cross over.

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.*

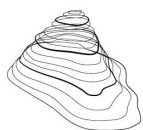
RESPONSE

The proposed alterations and additions are considered to be in keeping with the objectives of this clause.

I note that the roof form over the garage will incorporate a portion of planter bed along the front edge to provide a green roof resulting in a further softening of the built form. The flat roof form of the proposed Parents Lounge has been significantly recessed back from the northern edge of the level below complimenting the existing roof structure and reflecting the character of the existing/proposed building.

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.*



RESPONSE

The proposed alterations and additions are considered to be in keeping with the objectives of this clause. It is not considered that the proposed garage dominates the street frontage due to achieving the following;

- i. The roof form material choice and detailing incorporates a portion of planter bed along the front edge to provide a green roof resulting in a further softening of the built form ensuring the garage is subservient to the primary dwelling.
- ii. The proposed garage is compatible with the streetscape noting the similar approved forms of development at 71, 75 and 79 Castle Circuit.

The proposed garage is considered to be a positive element to the streetscape, providing off street parking and reducing traffic along the single lane shared driveway which previously provided vehicle access to the subject site.

3.1.1.5 Garbage Areas

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

- a) not visible off site;*
- b) integrated into the building design;*
- c) unobtrusive and blend in with the design of front fences and walls when forward of the building;*
- and*
- d) located and designed with consideration given to the amenity of adjoining properties*

RESPONSE

The proposed garbage area is considered to be in keeping with the objectives of this clause.

3.3.1 Landscaping Design

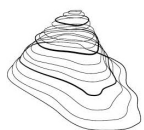
Relevant DCP objectives to satisfy in relation to this part include the following:

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.

Landscape Character

- a) The design, quantity and quality of open space should respond to the character of the area. In particular:*



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- i) In low density areas (including LEP Zones R2 Low Density, E3 Environmental Management and E4 Environmental Living); open space should dominate the site. Setbacks of buildings from open space should also be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshore.*
- ii) In higher density areas the provision of adequate private open space and landscaped areas are to maximise residential amenity. Site works must be minimised to protect natural features.*
- iii) In areas adjacent to native vegetation, the design of development should be sympathetic to the natural environment in order to protect and enhance the area as habitat for native fauna.*
- iv) In areas of habitat for the long-nosed bandicoot (see paragraph 5.4.2), landscape design must include native plant species to provide new and/or improved low dense clumping habitat to provide for potential foraging and nesting. The planting schedule should comprise species such as Lomandra sp., Dianella sp., Banksia spinulosa, Caustis sp., Xanthorrhoea sp., Isolepis sp., Juncus sp., Adiantum sp., Calochlaena sp., Callistemon sp., Grevillea juniperina, Gleichenia sp., Grevillea 'Robyn Gordon' and tussocky native grasses (eg. Kangaroo Grass)*

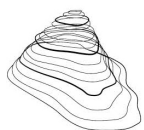
b) Planting criteria including Native Plant Species and Amenity

- i) Landscaped Areas must be capable of supporting new native tree species that are typically expected to reach a mature height of 10m notwithstanding the minimum dimension requirements at paragraph 4.1.5.2 of this plan.*
- ii) The use of locally occurring native plant species is preferred to assist in providing habitat for local fauna; and preserve threatened native plants.*
- iii) Trees should not be positioned in locations that may significantly affect neighbouring properties in terms of:*

Blocking winter sunlight to either living rooms, private open space or solar collectors; or where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views

Undercroft areas

- c) Undercroft areas must be presented as a positive space and integrated into the design of the building by use of appropriate landscaping and/or the retention of natural features and vegetation where possible, having regard to*



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the volume of the space and its orientation. In relation to sloping sites (see also paragraph

4.1.8) and in lower density areas, any supporting undercroft structures must be minimised.

RESPONSE

I note that aside from the proposed garage and driveway, the proposed works are limited to existing built upon area. The proposed garage results in the reduction of landscaped area and I note that the Arborist Report accompanying the DA has recommended 9 trees to be removed to accommodate the development works, including tree 13, 14, 15, 16, 19, 20, 21, 25 and 26.

I note that of these 9 trees, 6 trees have been assigned a retention value of Z1, being 'Young or insignificant small trees, i.e below the local size threshold for legal protection.' Furthermore, 1 of the remaining 3 trees was assigned a retention value of Z10, being 'Poor condition or location with a low potential for recovery or improvement, i.e. dominated by adjacent trees or buildings, poor architectural framework etc.' The remaining 2 trees requiring removal are Weeping Lilly Pillies and were assigned a retention value of A1 – 'No significant defects and could be retained within minimal remedial care.'

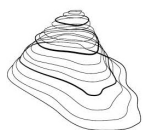
The proposed alterations and additions ensure that compliant levels of Open Space and Landscaped Area are maintained on the subject site. Under Council's DCP, a Total Open Space of 60% of the site area is required. Based on the Architects calculations, the proposed alterations and additions will result in 68.1% of the site area remaining as Open Space.

Under Council's DCP, a Landscaped Open Area of 25% of the open space of the site area is required. Based on the Architects calculations, the proposed alterations and additions will result in 28% of the open space of the site area remaining Landscaped Open Area.

I note that the proposed built form and landscape setting will remaining consistent with adjoining and nearby development, ensuring that the objectives of this clause are achieved.

3.3.2 Landscape/Tree Preservation

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



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Objective 1) To ensure that development protects and conserves the natural environment.

Objective 2) To protect and preserve urban bushland areas in recognition of their:

- Value as part of the natural heritage*
- Aesthetic value; and*
- Value as recreational, educational and scientific resource.*

Objective 3) To protect and prevent clearing of remnant and or rehabilitated riparian land value as a recreational, educational and scientific resource.

a) Developments must maximise the retention and protection of natural landscape features including significant rock outcrops and vegetation including canopy trees and under-storey vegetation, which would require a tree permit under this plan.

b) The siting of buildings and landscaping must protect local waterways, drainage lines and riparian land by:

i) protecting existing riparian native vegetation and/or rehabilitating riparian land;

ii) retaining natural ground levels; and

iii) providing a buffer of native planting to existing vegetation, particularly when adjoining land in LEP Zones RE1, RE2, E1 & E2 as further detailed in paragraph 4.1.4.6 of this plan.

c) In relation to conservation and energy efficiency, plant species should be retained, selected and planted to achieve:

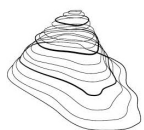
i) shaded buildings in summer;

ii) reduced glare from hard surfaces;

iii) sunlight access into living rooms in cooler months;

iv) cooling air currents channelled into the dwelling in summer;

v) windbreaks where desirable; and



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vi) landscape construction taking advantage of, and using existing site materials, recycled materials and materials that have a low embodied energy.

RESPONSE

As previously noted, the proposed works are generally limited to existing built upon area with the only tree removal occurring as a result of the proposed garage, with only 2 trees to be removed with any retention value.

The proposed development is considered to comply with the objectives of this control and is consistent with Clause 3.3.2.2 Exceptions to Requirements.

Please refer to the Arborist Report accompanying this DA.

The proposed development will remain compliant with Council's Open Space and Landscape Area requirements and ensures that the proposed development remains consistent with adjoining and nearby development, ensuring that the objectives of this clause are achieved.

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.

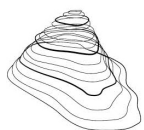
Objective 2) To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.

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/or other occupants of the development property. This is especially relevant in higher density areas and in relation to development adjacent to smaller developments.

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



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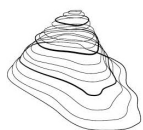
minimal in accordance with industry standards. See also paragraph 2.1.6 regards DA lodgement requirements for material and finishes.

RESPONSE

The proposal will not see a reduction in existing levels of privacy to both occupants of the site and adjoining properties due to a number of design elements, particularly the lack of new openings on the eastern elevation and the significant setback from the western and northern edge of the Second Floor roof form for the proposed Parent's Lounge.

I consider that the proposed alterations and additions are in keeping with the following objectives of this clause;

- 1) The proposed development will not result in unreasonable amenity impacts in terms of privacy, loss of views, solar access of adjoining properties or noise and vibration impacts.
- 2) As previously noted, the proposed alterations and additions ensure that compliant levels of open space and Landscaped Area for the recreational needs of the occupier will be maintained.
- 3) As noted previously, aside from garage level, no new windows on the eastern façade are proposed. I note that aside from the proposed Parent's Lounge, new windows are replacing existing on the northern elevation. The proposed windows on the northern and western façade of the proposed Parent's Lounge are setback significant distances from the leading edge of the roof form below, ensuring the opportunity for overlooking to adjoining properties is removed.
- 4) I note that the Owner of 77 Castle Circuit provided photographs from 85, 87, 89 and 91 Castle Circuit looking towards the subject site in order to confirm the lack of potential view loss from these properties as a result of the proposed Parent's Lounge. I note that these properties all sit to the south and south-east of the subject site and are situated further upslope ensuring significantly elevated views across the subject site. The topography of the area and the location of the proposed Parent's Lounge ensure that the existing views from these properties to the north and north-west will not suffer any unreasonable view loss. Furthermore, the photographs confirmed that existing significant trees and vegetation between the sites will further ensure that the proposed Parent's Lounge is screened from view.
- 5) The significant setback of the proposed Parent's Lounge from the northern edge of the roof form below ensure that no unreasonable view loss from the adjoining property at 79 Castle Circuit will occur.



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- 6) The Shadow Diagrams prepared by the Architect accompanying the DA confirm that the proposed alterations and additions will not result in any unreasonable loss of solar access to adjoining properties and remain significantly in excess of that required under Council's DCP.
- 7) The staggered nature of the proposed design, incorporating significant setbacks for new development from existing built form below, ensure that the building bulk and scale remains in keeping with adjoining and nearby development.

3.4.1 Sunlight Access and Overshadowing

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

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.*

RESPONSE

The proposed development complies with the objectives of this clause.

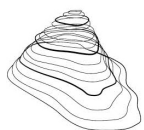
As evidenced by the Shadow Diagrams accompanying this DA, the proposed alterations and additions will not result in any unreasonable overshadowing to adjoining properties.

For the above reasons, I consider that the proposed alterations and additions are in keeping with the objectives of this clause.

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*



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- 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.*

RESPONSE

Solar access to adjoining properties will be generally maintained

The proposed development does 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) and therefore more than complies with the requirements of this clause.

3.4.1.1 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.*

RESPONSE

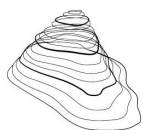
Solar access to living rooms of adjacent sites is not impacted by the proposed development.

3.4.1.3 Overshadowing Solar Collector Systems

A minimum of 6 hours solar access be retained to solar collectors on neighbouring properties.

3.4.1.4 Overshadowing Clothes Drying Areas

A minimum of 6 hours solar access be retained to a suitable clothes drying area.



3.4.1.5 Excessive Glare or Reflectivity Nuisance

All external material and finishes incorporated into the development must consider and mitigate any excessive glare or reflectivity nuisance.

RESPONSE

No solar systems, collectors or clothes drying areas will be overshadowed. Furthermore, the proposed alterations and additions will not result in any excessive glare or reflectivity nuisance (note: Please refer to the submitted Schedule of Finishes accompanying the Development Application documentation).

3.4.2 Privacy and Security

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 closely spaced buildings adjacent buildings.

Objective 2) To encourage awareness of neighbourhood security.

RESPONSE

It is not considered that the proposal will result in an unreasonable loss of privacy to adjoining neighbours for the reasons outlined in this SEE.

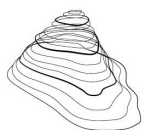
3.4.2.1 Window Design and Orientation

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.

RESPONSE

As noted previously, aside from garage level, no new windows on the eastern façade are proposed. I note that aside from the proposed Parent's Lounge, new windows are replacing existing on the northern elevation. The proposed windows on the northern and western façade of the proposed Parent's Lounge are setback significant distances from the leading edge of the roof form below, ensuring the opportunity for overlooking to adjoining properties is removed.



3.4.2.1 Balconies and Terraces

Architectural or landscape screens must be provided to balconies and terraces to limit overlooking nearby properties.

Comment

The proposed alterations and additions incorporate a new deck at Third Floor leading from the proposed Parent's Lounge. The proposed deck is set back significantly from the northern and western edge of the roof form below ensuring no potential for privacy impacts to these orientations. I note that the orientation of 79 Castle Circuit assist in ensuring no unreasonable privacy impacts to the property to the west.

3.4.2.3 Acoustical Privacy (Noise Nuisance)

RESPONSE

The proposed alterations and additions will not result in any unreasonable additional Acoustic Impacts to adjoining properties and remain consistent with the residential environment.

Acoustic Privacy from any associated plant and equipment will be facilitated by the provision of required equipment in acoustically treated enclosures.

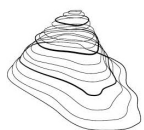
3.4.3 Maintenance of Views

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.



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- 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.*

RESPONSE

I note that the Owner of 77 Castle Circuit provided photographs from 85, 87, 89 and 91 Castle Circuit looking towards the subject site in order to confirm the lack of potential view loss from these properties as a result of the proposed Parent's Lounge. I note that these properties all sit to the south and south-east of the subject site and are situated further upslope, ensuring significantly elevated views across the subject site. The topography of the area and the location of the proposed Parent's Lounge ensure that the existing views from these properties to the north and north-west will not suffer any unreasonable view loss. Furthermore, the photographs confirmed that existing significant trees and vegetation between the sites will further ensure that the proposed Parent's Lounge is screened from view.

I note that the proposed alterations and additions comply with the following objectives of this clause;

- The proposed alterations and additions provides for view sharing for both the existing and proposed development and existing and future residents.
- The proposed development does not result in the unreasonable disruption of views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).
- The proposed alterations and additions do not result in accumulated view loss.

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 adaption 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.

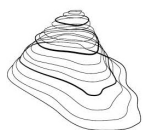
Objective 8) To site and design development to optimise energy conservation and sustainability in accordance with BASIX legislation and encourage development to exceed requirement particularly to ensure energy efficient use of energy for internal heating and cooling.

See also paragraph 2.1.7 Lodgement Requirements.

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.



RESPONSE

The Development Application is accompanied by BASIX Certificate confirming compliance is achieved with energy saving measures.

The proposed alterations and additions are considered to achieve the objectives contained within clauses 3.5.1-3.5.7.

3.6 Accessibility

Objective 1) *To ensure equitable access within all new developments and ensure that any refurbishments to existing buildings provide improved levels of access and facilities for people with disabilities.*

Objective 2) *To provide a reasonable proportion of residential units that should be designed to be adaptable and easily modified to promote 'ageing in place' and for people with disabilities.*

Objective 3) *To highlight consideration of access issues early in the development design process.*

Objective 4) *To continue improving understanding and awareness of access issues for people with disabilities through a commitment to implementation of best practice.*

Objective 5) *To ensure that the public domain, including public domain in new developments provides connectivity, legibility, flexibility and consistency to allow for equitable and safe access for all people.*

RESPONSE

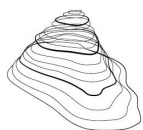
The proposed alterations and additions are in keeping with the Objectives of this clause and the accessibility requirements contained within relevant Australian Standards and BCA. Furthermore, the proposed alterations and additions incorporate a lift that will further improve accessibility throughout the site for current and future occupants.

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.*



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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.

RESPONSE

The proposed alterations and additions result in an increase of hard surface area as a result of the proposed garage and lift. I note that the proposed roof form incorporates new down pipes connecting stormwater to the existing stormwater system in accordance with AS3500. The topography of the site ensures that stormwater will continue to be gravity fed to Castle Circuit.

3.8 Waste Management

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

Objective 1) Minimise overall environmental impacts of waste in accordance with regional waste plans and Federal and State Government waste minimisation targets.

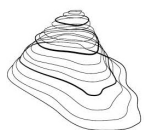
Objective 2) Encourage environmentally protective waste management practices on construction and demolition sites which include:

- 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.



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

Objective 7) To discourage illegal dumping.

RESPONSE

The accompanying Waste Management Plan provides details on the proposed waste handling procedures to be implemented. I note that a new waste storage area is proposed which complies with Council's requirements.

3.9 Mechanical Plant Equipment

RESPONSE

Plant and equipment will be retained or enhanced as required incorporating acoustic treatment.

Noise from Mechanical Plant

External mechanical plant systems (for pools, air conditioning and the like) must be acoustically enclosed and located centrally and away from neighbours living areas of neighbouring properties and side and rear boundaries.

RESPONSE

Plant and equipment will be acoustically treated or separated where required.

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.

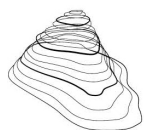
Objective 3) To contribute to the safety and security of the public domain.

RESPONSE

The proposed alterations and additions will provide for additional passive surveillance of the street and maintain the existing safety and security of occupants of the subject site and adjoining properties.

4.1 Residential Development Controls

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



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

Objective 2) To provide for a variety of housing types and densities while maintaining the existing character of residential areas of Manly.

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 Manly.

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

The proposal seeks to endorse the above objectives, where relevant.

4.1.1 Dwelling Density and Subdivision

4.1, the density controls in conjunction with other controls in this plan are also important means of prescribing the nature and intended future of the residential areas of Manly.

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

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

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

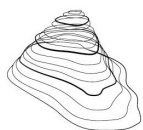
Objective 3) To promote a variety of allotment sizes, residential environments and housing diversity.

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

Objective 5) To maximise the use of existing infrastructure.

RESPONSE

The proposal seeks to maintain and bolster the character of the locality by the sensitive design in keeping with the surrounds of the subject site.



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I note that the proposed alterations and additions are in keeping with the following objectives;

- The proposed alterations and additions contribute to the variety of dwelling types, allotment sizes and residential environments in Manly, whilst maintaining the low-density residential nature of the existing residential dwelling.
- The proposed alterations and additions will have a minor impact on existing vegetation (remaining compliant with Council's Open Space and Landscaped Area Controls) and will have minimal to no impact on waterways, riparian land and the topography. I note that the proposed garage is located at the lowest point of the subject site to reduce the level of excavation required.
- The proposed development promotes housing diversity and a variety of dwelling sizes to provide an acceptable level of internal amenity for current and future occupants without unreasonable amenity impacts to adjoining properties. The proposed lift will provide improved accessibility across the site for current and future occupants.
- For the reasons outlined in this SEE, the proposed development maintains the character of the locality and streetscape.
- The proposed alterations and additions incorporate a design that does maximise the use of existing infrastructure.

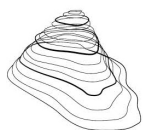
4.1.1.1 Residential Density

This section contains maximum permissible residential density controls which generally apply to land identified on the LEP Lot Size Map and determine the maximum number of dwellings that may be achieved on any one parcel of land.

a) *The maximum permissible residential density control at Figure 24 - Minimum Residential Density applies to land identified in Residential Density Areas on the Minimum Residential Density Map at Schedule 1 - Map A in this plan.*

Figure 24 - Minimum Residential Density determines the maximum number of dwellings that may be achieved on any one development site. This figure indicates the minimum site area required for every dwelling contained on a site. For example, if a density control of 300sqm per dwelling applies to a site with a site area of 600sqm the density control would allow for a maximum of 2 dwellings.

b) *For the purposes of calculating the residential density control for battle-axe lots, the area of the access handle is excluded from the site area,*



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consistent with the provisions for minimum subdivision lot size in LEP clause 4.1(3A).

RESPONSE

No changes are proposed to the existing Residential Density.

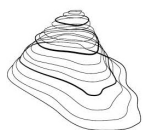
4.1.2 Height of Buildings

(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.

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.
- b) For the purpose of determining maximum wall height, the slope of the land is calculated at natural ground level along the full length of the proposed wall expressed as a ratio that is applied in Figure 27 - Interpretation of Wall Height based on Slope. The slope of land on which the wall is sited will differ from one building to another and from one elevation of that building to another elevation and will be used in Figure 28 below to determine the maximum wall height in each case.



RESPONSE

The proposed alterations and additions will result in a breach of the 8m Wall Height Control as a result of the proposed lift shaft. I note that the proposed Parent's Lounge will have a wall height of approximately 8m and provides articulation of the eastern façade by stepping in the Third Level from the eastern wall of the level below.

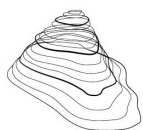
In accordance with the provisions of the DCP, despite the numerical non-compliance, the proposed Wall Height complies with the objectives of the Height of Buildings Standard under MLEP 2013. Please refer to further comments in the accompanying Clause 4.6 request.

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.*

RESPONSE

The proposed alterations and additions result in a new addition incorporating the Parent's Lounge. I note that this addition has been sunken into the roof form of the existing development in order to reduce the overall height. Furthermore, this addition has been significantly recessed from the northern leading edge of the roof form below in order to minimise the potential for visual impact when viewed from the north. I note that when viewed from the eastern or western boundary, the proposed Parent's Lounge presents as a 2 storey structure, with the Section Plan for the design revealing that a very minor portion of ensuite and storage area at first floor overlap.



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.*

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.*

c) *Roof Pitch*

The maximum roof pitch must be generally no steeper than 35 degrees. A roof with a steeper pitch will be calculated as part of the wall height. In this regard the wall height controls at paragraph 4.1.2.1 of this plan will apply to the combined wall height and the height of the roof steeper than 35 degrees.

RESPONSE

The proposed roof forms match existing, whilst the proposed roof over the Parent's Lounge proposes a flat roof which complies with the objectives of this clause.

4.1.3 Floor Space Ratio (FSR)

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:

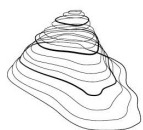
Objective 1) To ensure the scale of development does not obscure important landscape features.

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.

RESPONSE

The proposal, although exceeding the FSR development standard of 0.4:1 will not obscure important landscape features or disrupt views and will allow effective penetration of sunlight to the subject site and adjacent areas. Please refer to further comments contained within the Clause 4.6 Request.



4.1.3.3 Exceptions to FSR for Open Balconies

Objective 1) To maintain open balconies which contribute to the articulation of building facades without adding to the building bulk and provide an amenity of open space for occupants.

In calculating the Gross Floor Area under the LEP dictionary meaning for the purpose of calculating FSR, balconies that are enclosed will not be excluded from the LEP definition of Gross Floor Area i.e. will be included in FSR when the balcony is:

- i) enclosed to the extent that it is part of the building envelope as defined by the Building Code of Australia; and
- ii) considered by Council to have the character of a habitable room.

RESPONSE

The FSR for the proposal has been calculated in accordance with the provisions of the LEP.

4.1.4 Setbacks (front, side and rear)

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

Objective 1) To maintain and enhance the existing streetscape.

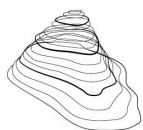
Objective 2) To ensure and enhance local amenity by:

- 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 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.



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

RESPONSE

The proposed double garage will be set back between 1.794m and 896mm at Basement Level and I note that the proposed development provides a greater setback than similar development at 71, 75 and 79 Castle Circuit.

The proposed double garage will provide a 1.733m Side Boundary Setback at Basement Level which is further increased for the proposed lift. The proposed Parent's Lounge is setback 2.082m at its closest point which is increased to the north.

The new pedestrian entry is located immediately adjoining the southern boundary whilst the setback to the Parent's Lounge is increased to the east.

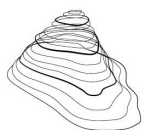
Despite the noncompliant setbacks of the proposed development I consider that the proposed alterations and additions are in keeping with the objectives of this clause for the following reasons;

- For the reasons outlined in this SEE, the proposed alterations and additions maintain and enhance the existing streetscape.
- The proposed alterations and additions maintain privacy to adjoining dwellings;
- The proposed alterations and additions provide equitable access to light, sunshine and air movement.
- The proposed alterations and additions facilitate view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces. And provide adequate space between buildings to maintain a rhythm or pattern of spaces
- The proposed alterations and additions generally maintain the existing opportunities for landscaping and planting except for the proposed garage.

4.1.4.1 Front setbacks

See also paragraph 3.2.4 in relation to Heritage and paragraph 4.2 in relation to controls in LEP Business Zones.

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



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- b) Where the front building line of neighbouring properties is 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 applies.*
- c) 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.*

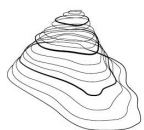
RESPONSE

Due to the topography of the site and the existing layout of the dwelling, the front boundary has been the southern boundary accessed by the Right of carriageway providing the single lane shared driveway. By constructing the proposed Double Garage at the Castle Circuit frontage, this will reorientate access to the dwelling, resulting in the Front Setback being the northern boundary or Castle Circuit frontage.

The proposed double garage will be set back between 1.794m and 896mm at Basement Level and I note that the proposed development provides a greater setback than similar development at 71, 75 and 79 Castle Circuit. The proposed garage relates to the front building line of adjoining and nearby properties at 71, 75 and 79 Castle Circuit as required by this clause.

I consider that the front setback of the proposed garage is in keeping with the prevailing building line and is in keeping with the objectives of this clause for the following reasons;

- For the reasons outlined in this SEE, the proposed alterations and additions maintain and enhance the existing streetscape.
- The proposed alterations and additions maintain privacy to adjoining dwellings;
- The proposed alterations and additions provide equitable access to light, sunshine and air movement.
- The proposed alterations and additions facilitate view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces, and provide adequate space between buildings to maintain a rhythm or pattern of spaces
- The proposed alterations and additions generally maintain the existing opportunities for landscaping and planting except for the proposed garage.

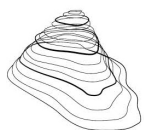


4.1.4.2 Side setbacks and secondary street frontages

- 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.
- 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)

- 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.



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- 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.*

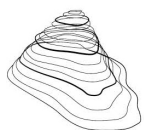
RESPONSE

The proposed alterations and additions generally comply with the Side Setback Control noting the following breaches;

- The northern extension of the lounge at the Second Floor complies with the side setback control, whilst the proposed lift is located within the setback area.
- The south-eastern corner of the proposed Parent's Lounger results in a very minor non-compliance of the Side Setback Control (170mm) whilst the remainder of the Third Floor, including the deck, is setback greater than required by Council's Control.
- Due to the proposed lift providing access to all levels of the residential dwelling, the unbroken lift shaft results in a breach of the side boundary setback control.

I consider that the side setback of the proposed development is in keeping with the objectives of this clause for the following reasons;

- Aside from the proposed lift, the proposed breach of the Parent's Lounge outlined above represents a very minor encroachments into the side



setback area with the remainder of the proposed structure providing greater than compliant side setbacks.

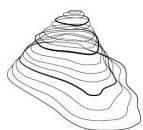
- For the reasons outlined in this SEE, the proposed alterations and additions maintain and enhance the existing streetscape.
- The proposed alterations and additions maintain privacy to adjoining dwellings. I note that no new windows are proposed on the eastern elevation.
- The proposed alterations and additions provide equitable access to light, sunshine and air movement. The breach of the side setback control does not result in any overshadowing to the property to the east.
- The proposed alterations and additions facilitate view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces and provide adequate space between buildings to maintain a rhythm or pattern of spaces
- The proposed alterations and additions generally maintain the existing opportunities for landscaping and planting within the side setback area. I note that the breaching elements of the side setback control do not require the removal of any significant trees or vegetation.

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. 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

The proposed conversion of the existing garage area to a storage area with Parent's Lounge over and new entrance has a varying setback from a Nil setback to over 2m at the eastern extent. The setback is considered reasonable as it's setback greater than the existing garage building footprint and will not



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have any unreasonable impact on surrounding properties in terms of views, solar access or privacy.

The proposed alterations and additions comply with the objectives of this clause as follows;

- The proposed alterations and additions maintain the existing rear setback at Ground Floor Level and increase this setback for the proposed Parent's Lounge.
- The proposed Parent's Lounge does not result in the removal of any significant trees or vegetation within this rear setback area.
- The proposed Parent's Lounge will not result in unreasonable amenity impacts to adjoining owners in terms of overshadowing, overlooking, view loss, acoustic impact or view impact.

4.1.5 Open Space and Landscaping

4.1.5.2 Landscaped Area

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, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Objective 3) To enhance the amenity of the site, streetscape and surrounding area.

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

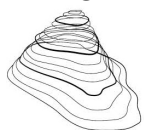
Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

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

RESPONSE

I note that aside from the proposed garage and driveway, the proposed works are limited to existing built upon area. The proposed garage results in the reduction of landscaped area and I note that the Arborist Report accompanying the DA has recommended 9 trees to be removed to accommodate the development works, including tree 13, 14, 15, 16, 19, 20, 21, 25 and 26.

I note that of these 9 trees, 6 trees have been assigned a retention value of Z1, being 'Young or insignificant small trees, i.e below the local size threshold for



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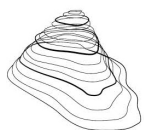
legal protection.' Furthermore, 1 of the remaining 3 trees was assigned a retention value of Z10, being 'Poor condition or location with a low potential for recovery or improvement, i.e. dominated by adjacent trees or buildings, poor architectural framework etc.' The remaining 2 trees requiring removal are Weeping Lilly Pillies and were assigned a retention value of A1 – 'No significant defects and could be retained within minimal remedial care.'

The proposed alterations and additions ensure that compliant levels of Open Space and Landscaped Area are maintained on the subject site. Under Council's DCP, a Total Open Space of 60% of the site area is required. Based on the Architects calculations, the proposed alterations and additions will result in 68.1% of the site area remaining as Open Space. Under Council's DCP, a Landscaped Open Area of 25% of Open Space of the site area is required. Based on the Architects calculations, the proposed alterations and additions will result in 27.6% of the Open Space of the site area remaining Landscaped Open Area.

I note that the proposed built form and landscape setting will remaining consistent with adjoining and nearby development, ensuring that the objectives of this clause are achieved.

I consider that the proposed alterations and additions are in keeping with the objectives of this clause as follows;

- 1) The proposed alterations and additions do not impact important landscape features or vegetation, including remnant populations of native flora and fauna.
- 2) The proposed alterations and additions achieve the objective of ensuring that soft landscaped areas and open space remain compliant with the numerical requirements.
- 3) The proposed alterations and additions achieve the objective of maintaining and enhancing the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.
- 4) The proposed development ensures that the design assists in the water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.
- 5) The proposed alterations and additions will not result in the spread of weeds and the degradation of private and public open space.
- 6) The proposed alterations and additions will not impact any wildlife habitat and the potential for wildlife corridors.



4.1.5.3 Private Open Space

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.*

Private open space for Boarding Houses

b) Private open space for Boarding Houses is to be provided in accordance with the following minimum specifications:

- i) Minimum area of Private Open Space for a boarding house is 20sqm with a minimum dimension of 3m for the use of the lodgers.*
- ii) if accommodation is provided on site for a boarding house manager – 1 area of at least 8sqm with a minimum dimension of 2.5m is to be provided adjacent to that accommodation.*
- iii) the area prescribed in paragraph i) above is to receive a minimum of 3 hours direct sunlight between 9am and 3pm in midwinter.*

RESPONSE

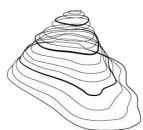
The proposed alterations and additions ensure that compliant levels of Open Space are maintained on the subject site. Under Council's DCP, a Total Open Space of 60% of the site area is required. Based on the Architects calculations, the proposed alterations and additions will result in 68.1% of the site area remaining as Open Space.

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).



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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.

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

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

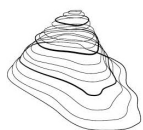
a reasonably alternative onsite location;

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% of the frontage, up to a maximum width of 6.2m.

RESPONSE

The proposed garage is considered to minimise its visual impact, noting the incorporation of a partial green roof along the northern edge. Furthermore, I note that the proposed garage width is significantly below the site width measured at the building line.



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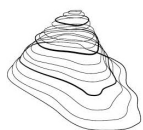
The proposed garage is in keeping with approvals at 71 Castle Circuit (DA No. 349/06) which approved a double garage with a nil setback to Castle Circuit and 75 Castle Circuit (DA 104/2016) which also approved a double garage with a nil setback to Castle Circuit. I also note similar development forward of the building line at 79 Castle Circuit, providing a double garage with direct access from Castle Circuit. In light of the existing garage development along Castle Circuit, it is not considered that the proposed development will result in a negative visual impact.

The proposed garage is considered to achieve the objectives of this clause as follows;

- The proposed alterations and additions will provide for improved parking and access to the site, whilst removing traffic from the single lane shared driveway and providing additional off-street parking. Furthermore, the proposed garage will provide improved accessibility throughout the site through the introduction of the lift accessed from within this space.
- The proposed garage will reduce the demand for on-street parking through the provision of an easily accessed garage directly off Castle Circuit.
- The location and design of the driveway and garage ensure an efficient, safe and convenient design and has been integrated into the design of the development to minimise the visual impact in the streetscape.
- The location of the proposed garage at the lowest level of the site has ensured the minimal level of excavation possible. I note that the level of excavation required is in keeping with similar garage development along Castle Circuit.
- The proposed location of the garage has minimised the width of the crossing, limited to a single crossing. I note that this allows the removal of the existing vehicle crossing adjoining the shared driveway access across the southern boundary.
- The proposed location of the driveway does not raise any concern for pedestrian or vehicle safety.

First Floor and Roof Additions First Floor Additions

a) First floor additions must complement the architectural style of the ground floor and where possible retain existing roof forms. Notwithstanding setback provisions, the addition may follow the existing ground floor wall setbacks providing adjoining properties are not adversely impacted by overshadowing, view loss or privacy issues.



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- b) The dwelling and the form of alterations and additions must retain the existing scale and character of the street and should not degrade the amenity of surrounding residences or the aesthetic quality of Manly. In this regard, it may be preferable that the addition be confined to the rear of the premises or be contained within the roof structure.*

RESPONSE

The proposed alterations and additions resulting in the Parent's Lounge are in keeping with the requirements of this clause.

I note that the proposed first floor alterations and additions achieve the following objectives of this clause;

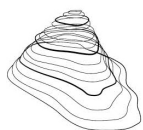
- a) The proposed alterations and additions complement the architectural style of the existing dwelling and retain much of the existing roof form. I note that adjoining properties are not adversely impacted by overshadowing, view loss or privacy issues.
- b) The proposed alterations and additions are in keeping with the existing scale and character of the street and does not degrade the amenity of surrounding residences or the aesthetic quality of the immediate area. The proposed alterations and additions for the Parent's Lounge are recessed back from the level below in order to ensure the addition remains sympathetic to the existing dwelling.

4.1.8 Development on Sloping Sites

- a) The design of development must respond to the slope of the site, to minimise loss of views and amenity from public and private spaces.*
- b) Developments on sloping sites must be designed to:*
- i) generally step with the topography of the site; and*
 - ii) avoid large undercroft spaces and minimise supporting undercroft structures by integrating the building into the slope whether to the foreshore or a street.*

Driveways on sloping sites

- c) On steep sites, driveways must be designed so they do not dominate the street frontage, by:*
- i) limiting their height above existing ground level to avoid the need for elevated ramps and similar structures to access car parking areas, especially those which may encroach on public land;*



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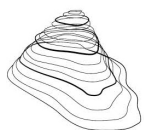
ii) limiting their width;

iii) using materials that do not visually detract from the natural surroundings; and

iv) retaining significant trees.

RESPONSE

I note that the proposed development continues the stepped nature of the existing dwelling in order to reduce the potential visual impact and softening the bulk and scale of the development.



3. SECTION 4.15 ASSESSMENT

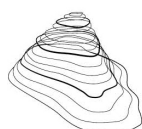
Assessment of the current DA requires consideration under the provisions of Section 4.15 of the Environmental Planning and Assessment Act in terms of the merits of the proposal.

Previous sections of this SEE have addressed relevant matters to be considered under Section 4.15, in particular the relevant environmental Planning Instruments and Development Control Plan.

The following additional comments are provided for assessment: -

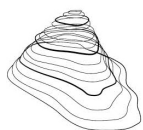
Table 3.1: Section 4.15 Summary

Impact on the Natural Environment	
Matter	Potential Impact?
Acid Sulfate Soils	The subject site is not identified as containing acid sulfate soils.
Flooding	The site is not subject to flooding.
Bushfire	The site is mapped as bushfire prone land and a Bushfire report accompanies this DA
Drainage	This matter has been addressed within the SEE.
Flora & Fauna	This matter has been addressed within the SEE.
Impact on the Built Environment	
Matter	Potential Impact?
Aboriginal Cultural Heritage	A search of the AHIMS concludes that there are no known records of Aboriginal sites or places within the immediate vicinity of the subject site. Based on the disturbed nature of the site, and having regard to the considerations in the Code, it is considered that the presence of artefacts and or sites of Aboriginal heritage value would be highly unlikely.
Environmental Heritage	The site does not contain any known items of environmental heritage.
Traffic	Traffic generation will not be increased and will be easily accommodated within the existing road network.
Scenic qualities	The proposed development is consistent with the current and future character of the locality as expressed within the provisions of LEP 2013 and DCP 2013.



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	For the reasons outlined in this SEE, I consider that the proposed development will not have an adverse impact on the scenic qualities of the area.
Compatibility with adjacent land uses	The proposed alterations and additions are compatible with adjoining residential dwellings.
Height, Bulk and Scale	The proposed height, bulk and scale are eminently reasonable for the reasons outlined in this SEE.
Overshadowing	Please refer to previous comments in relation to Overshadowing Impact.
Overlooking	Please refer to previous comments in relation to Overlooking Impact.
Acoustic	Please refer to previous comments in relation to Acoustic Impact.
Views and vistas	For the reasons outlined in this SEE, the proposed development will not have an adverse impact on views and vistas from private properties or the public domain.
Site design	The site design has been configured to ensure that no unreasonable impacts will result.
Public domain	As previously noted, there will be no adverse impact on the public domain.



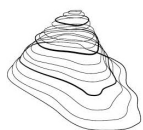
4. SUITABILITY OF THE SITE & THE PUBLIC INTEREST

The proposed development will enhance the use of the residential dwelling without unreasonable amenity impacts on adjoining lands or without representing an overdevelopment of the site.

The proposal will not result in any negative social or economic impacts.

The site is suitable to accommodate the proposed development.

Approval of the development does not raise any issues contrary to the public interest.



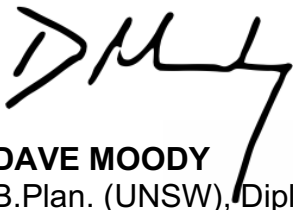
5. CONCLUSION

The proposed development involves alterations and additions to an existing residential dwelling.

The proposal is consistent with the relevant objectives of the R2 Zone and is compliant with the relevant provisions of the *Local Environmental Plan*. Furthermore, the proposal complies with the relevant Objectives and is consistent with appropriate controls contained within the *Development Control Plan*.

The proposed development will not result in unacceptable ecological impacts or amenity impacts to adjoining properties.

As stipulated previously in this report, the matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* have been satisfactorily addressed demonstrating the proposed development is compatible with the surrounding environment.



DAVE MOODY

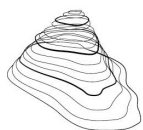
B.Plan. (UNSW), Dipl. Build. & Const. (MIBT), MPIA.

0401 450 989

dave@nda.live

www.nda.live

Suite 11, 303 Barrenjoey Road, Newport NSW 2106



**Northern
Development
Assessment**