

# STATEMENT OF ENVIRONMENTAL EFFECTS

Proposed New  
Dwelling House with  
Swimming Pool

2A Edgecliffe  
Esplanade, Seaforth

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# Statement of Environmental Effects

## Proposed New Dwelling House with Swimming Pool

2A Edgecliffe Esplanade, Seaforth



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December 2024

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**Attachment 1** Clause 4.6 variation request – Height of buildings

**Attachment 2** Clause 4.6 variation request – FSR

## 1 Introduction

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

The architect has responded to the client brief to design a dwelling that is of high amenity that takes advantage of the site's superior locational attributes. Particular attention has been given to ensuring that the proposed works maintain appropriate privacy, solar access and view sharing outcomes to both immediately adjoining dwellings. The outcome is a building form which will reinforce the scenic and environmental qualities of the Seaforth coastal areas whilst maintaining appropriate residential amenity, view sharing, foreshore scenic protection and streetscape outcomes. The proposal is permissible and consistent with the development standards and built form controls contained within the applicable statutory planning regime as they are reasonably applied. In addition to the Statement of Environmental Effects, the following also accompanies the application:

- Boundary survey
- Architectural Plans
- Stormwater Management Plans
- Landscape Plans
- Geotechnical Report
- Arborist report
- Quantity Surveyor Report
- BASIX Certificate

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

- Environmental Planning and Assessment Act, 1979
- Manly Local Environmental Plan 2013
- Manly Development Control Plan 2013
- State Environment Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022

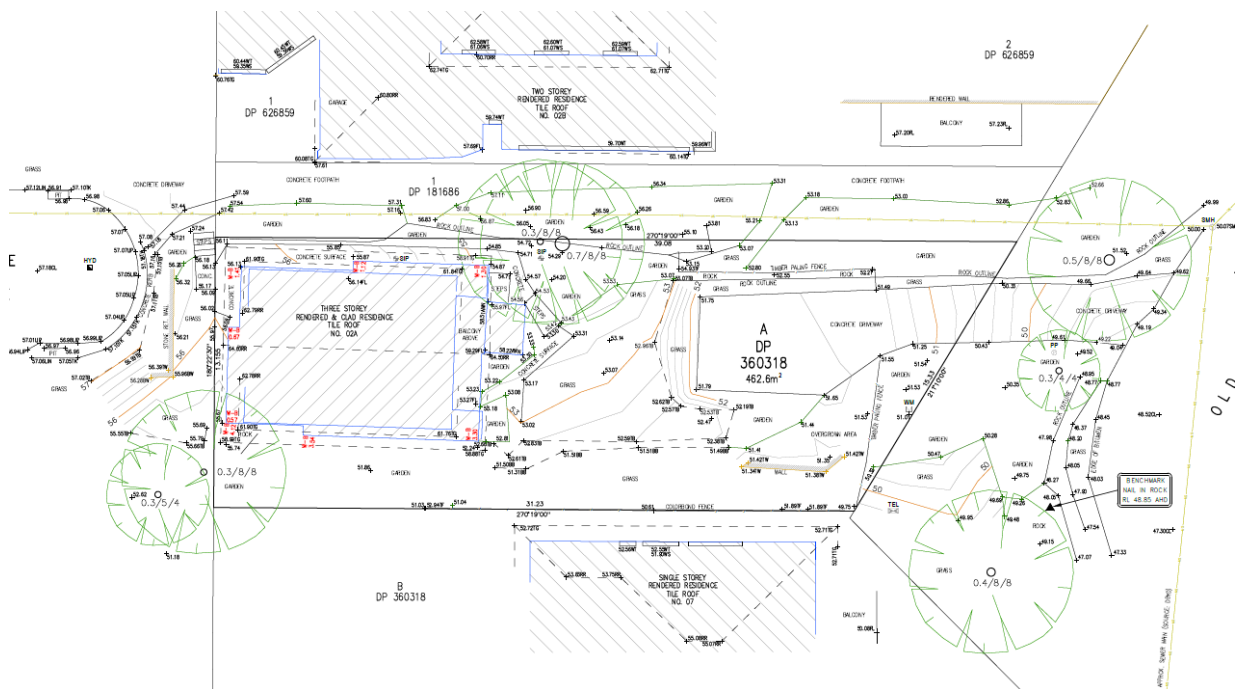
The variations to the clause 4.3 height of buildings and clause 4.4 FSR standards contained within Manly Local Environmental Plan 2013 (MLEP) have been acknowledged and found to succeed on merit when assessed against the clause 4.6 variation provisions. Such variation requests are well founded.

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

## 2 Site Analysis

### 2.1 Site Description and Location

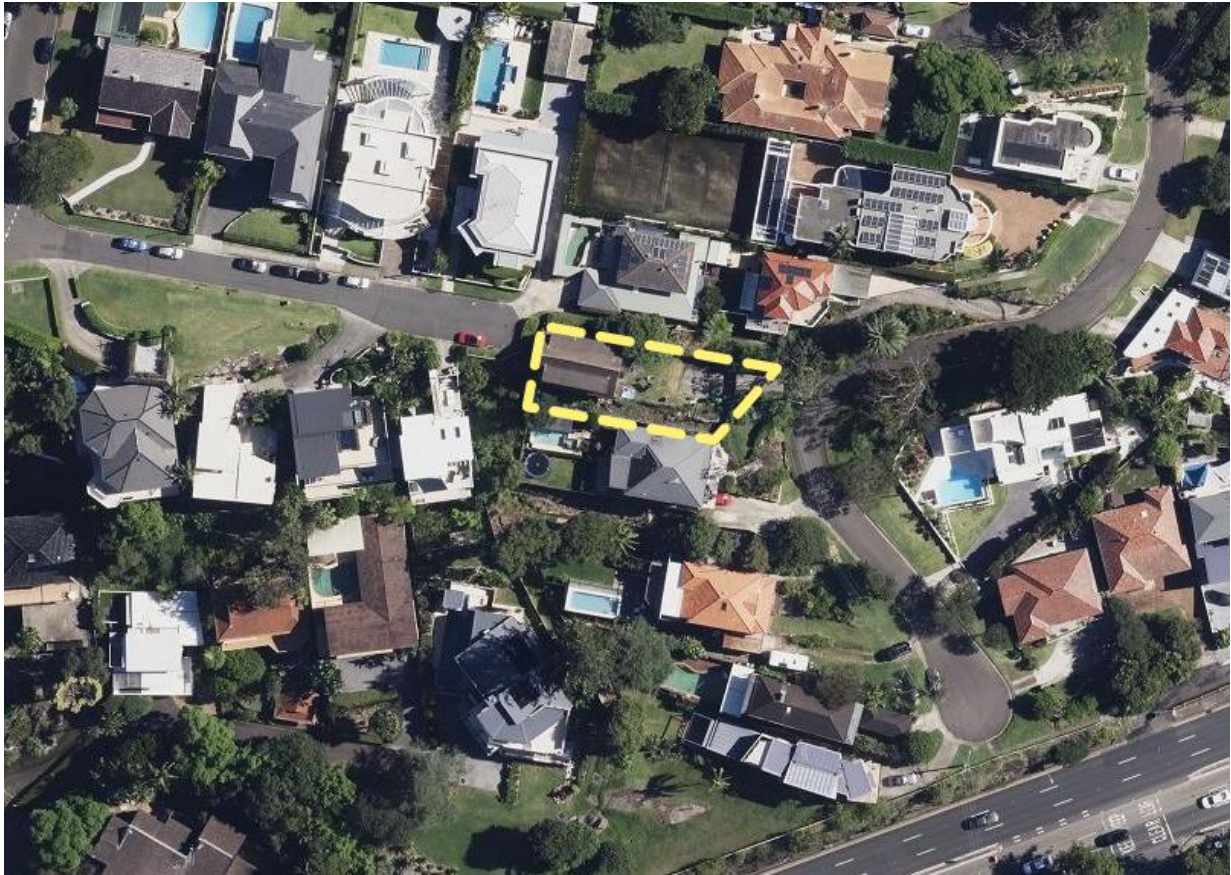
The site is identified as being Lot A in DP360318. The site has an area of 462.6m<sup>2</sup> and is an irregular shaped allotment with primary frontage and address to Edgecliffe Esplanade of 13.155 meters, secondary splayed street frontage to Old Sydney Road of 15.33 metres and variable depth of between 31.23 metres and 39.08 metres. A public footpath adjoins the northern boundary of the allotment. A survey extract is provided below showing the irregular nature of the boundaries of the site and the sites relationship to surrounding development.



**Figure 1: Survey Extract**

The topography of the site is sloping and falls approximately 6.5 metres across its surface in a south-easterly direction. The site contains a number of trees as identified within the accompanying arborist report prepared by Koala Arbor Consulting Arborists.





**Figure 2: Aerial Location**

The site is currently occupied by a 3 storey rendered in clad residence with pitched and tiled roof with a concrete driveway from the Old Sydney Road frontage providing access to a concrete parking platform. Development in the area include residential dwellings that range between 2 and 3 storeys stepping down the sites in response to topography. The subject property and surrounding development are depicted in the following images.



**Figure 3:** Subject property as viewed from Edgecliffe Esplanade with the public walkway located to the left of the dwelling house



**Figure 4:** View looking east down Edgecliffe Esplanade towards the subject property with the triangulated roof form at the end of the street





**Figure 5:** Adjoining property located on the low side of Edgecliffe Esplanade



**Figure 6:** View of subject property as viewed from Old Sydney Road

## 3 Description of Development

### 3.1 Details of the Proposed Development

The development application proposed demolition of the existing site structures and construction of a new dwelling and swimming pool as depicted on the accompanying plans prepared by BJB Architects. Specifically, the works proposed are as follows:

#### Ground Floor Plan

- Garage accommodation accessed via a new driveway from Old Sydney Road
- Laundry
- Drying courtyard
- Internal stair access to the levels above

#### First Floor Plan

- Formal entry from the Edgecliffe Esplanade frontage
- Powder room
- Open plan kitchen living and dining area opening onto a terrace area with swimming pool
- bin storage adjacent to the pedestrian entrance
- The living areas open onto south and west facing terraces with the southern terrace containing a swimming pool
- Internal stair access to the levels above and below

#### Second Floor Plan

- Four (4) bedrooms, two (2) with ensuites
- Bedrooms 1, 2 and 3 open onto a narrow south facing terrace
- A separate bathroom

The application is supported by an integrated site landscape regime incorporating both deep soil and on slab planting treatments as depicted on plans prepared by Conzept Landscape Architects.

The suitability of the proposed excavation and stormwater drainage regimes from a geotechnical perspective are addressed in the accompanying geotechnical report prepared by GCA Geotechnical Consultants with such report detailing the acceptability of the proposal subject to adoption of appropriate excavation and construction methodology during construction. All stormwater will be gravity drained to the street drainage system as indicated on the stormwater management plans paired by Loka Consulting Engineers.

## 4 Statutory Planning Framework

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

### 4.1 Manly Local Environmental Plan 2013

#### 4.1.1 Zoning and Permissibility

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

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

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

#### 4.1.2 Floor Space Ratio

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

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

Based on a site area of 462.6 m<sup>2</sup> the amount of gross floor area permissible for this site is calculated at 185.04m<sup>2</sup>. The proposal provides for 203.6m<sup>2</sup> of GFA which equates to an FSR of 0.44:1 representing a variation of 18.56m<sup>2</sup> or 10%.

We note that clause 4.1.3 of Manly Development Control Plan 2013 contains FSR exemption provisions applicable to land where the site area is less than the minimum Lot size required on the LEP Lot size map provided the relevant LEP objectives and the provisions of the DCP are satisfied.

The Lot size map identifies the subject site as being in sub zone "R" in which a minimum Lot area of 750m<sup>2</sup> is required. The site having an area of only 462.6m<sup>2</sup> is below the minimum Lot area provision and accordingly the clause 4.1.3 Manly DCP FSR variation provisions apply.

Clause 4.1.3.1 states that the extent of any exception to the LEP FSR development standard pursuant to clause 4.6 of the LEP is to be no greater than the achievable gross floor area for the lot indicated in Figure 30 of the DCP. We confirm that pursuant to Figure 30 the calculation of FSR is to be based on a site area of 750m<sup>2</sup> with an achievable gross floor area of 300m<sup>2</sup>.

In this regard, the 203.6m<sup>2</sup> of gross floor area proposed, representing an FSR of 0.27:1 (based on 750m<sup>2</sup>), is compliant with the maximum prescribed gross floor area of 300m<sup>2</sup> and as such complies with the DCP variation provision. We note that such provision contains the following note:

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

- Objective 1) To ensure the scale of development does not obscure important landscape features.*
- Objective 2) To minimise disruption to views to adjacent and nearby development.*
- Objective 3) To allow adequate sunlight to penetrate both the private open spaces within the development site and private open spaces and windows to the living spaces of adjacent residential development.*

As the proposed GFA/ FSR complies with clause 4.1.3.1 MDCP numerical provision it is also "deemed to comply" with the associated objectives as outlined which, if complied with, demonstrate the maintenance of an *appropriate visual relationships between new development and the existing character and landscape of an area.*

That said, a development standard contained within an LEP can only be varied by way of a clause 4.6 variation request notwithstanding any variation provision within the DCP.

Clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied and to that extent a clause 4.6 variation request has been prepared and is at Attachment 2. Such request demonstrates that the development is consistent the objectives of the FSR standard and as such strict compliance is both unreasonable and unnecessary. Further, sufficient environmental planning grounds exist to justify the variation sought. The clause 4.6 variation request is well founded.



### 4.1.3 Height of Buildings

Pursuant to clause 4.3 in the LEP the max building height shall not exceed 8.5 metres. The objectives of the control are as follows:

- a) *to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future Streetscape character in the locality,*
- b) *to control the bulk and scale of buildings,*
- c) *to minimise disruption to the following:*
  - i. *views to nearby residential development from public spaces (including the harbour and foreshores),*
  - ii. *views from nearby residential development to public spaces (including the harbour and foreshores),*
  - iii. *views between public spaces (including the harbour and foreshores),*
- d) *to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*
- e) *to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

Building height is defined as follows:

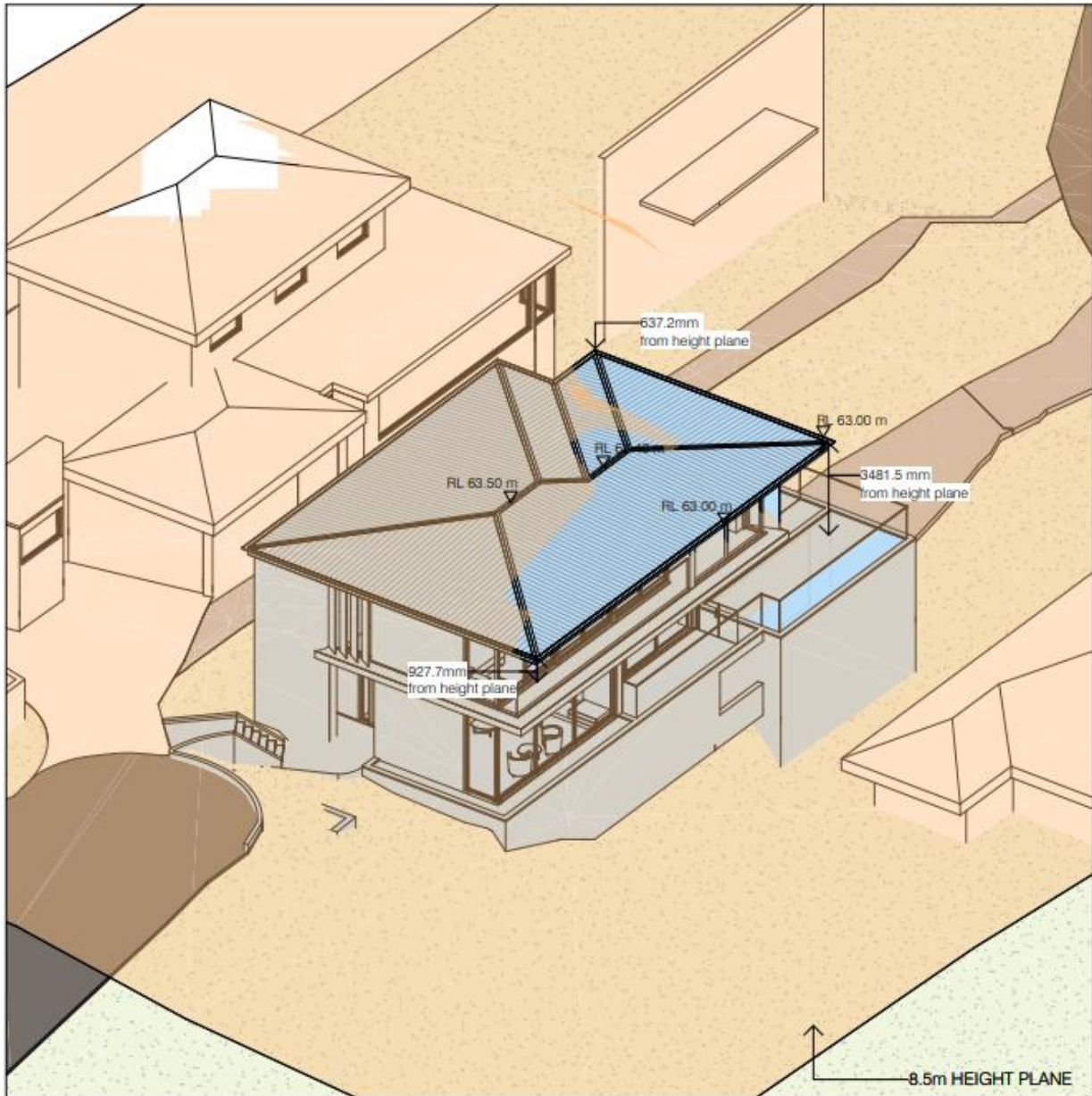
***building height (or height of building)*** means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

Ground level existing is defined as follows:

***ground level (existing)*** means the existing level of a site at any point.

It has been determined that southern and eastern portions of the upper level of the dwelling breaches the 8.5 metre height standard by 927mm (10.8%) in the south western corner of the upper level roof form, 3.481 metres (40.9%) at the south eastern corner of the upper level roof form reducing to a 637mm (7.4%) breach at the north-eastern corner of the upper level roof form as depicted in the height blanket diagram over page. The balance of the development sits comfortably below the prescribed height standard.

Again, clause 4.6 of MLEP 2013 provides a mechanism by which a development standard can be varied and to that extent a clause 4.6 variation request has been prepared and is at Attachment 1. Such request demonstrates that the development is consistent with the objectives of the building height standard and as such strict compliance is both unreasonable and unnecessary. Further, sufficient environmental planning grounds exist to justify the variation sought. The 4.6 variation request is well founded.



**Figure 7** - Plan extract depicting the building height breaching portion of the development located above the 8.5 m height standard.

#### 4.1.4 Earthworks

The subject property is highly disturbed and occupied by an existing dwelling house. The extent of proposed excavation is not significant and to that extent the consent authority can be satisfied that the excavation proposed to accommodate the new dwelling will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, consistent with the provisions of clause 6.2 of the LEP. The extent of the excavation is detailed in the geotechnical report provided.

#### 4.1.5 Stormwater Management

Pursuant to clause 6.4 of the LEP, stormwater management plans have been prepared and accompany this application. All stormwater will be gravity drained to the street drainage system as indicated on the stormwater management plans paired by Loka Consulting Engineers consistent with Council water management policy.

#### 4.1.6 Landslide Risk

The suitability of the proposed excavation and stormwater drainage regimes from a geotechnical perspective are addressed in the accompanying geotechnical report prepared by GCA Geotechnical Consultants with such report detailing the acceptability of the proposal subject to adoption of appropriate excavation and construction methodology during construction.

#### 4.1.7 Scenic Protection Area

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

It is considered that the proposed development is consistent with the bulk and scale of development along this section of Edgecliffe Esplanade which is characterised by multi storey residential dwellings that step down the sloping topography. The dwelling will integrate with the existing development along the escarpment and will not result in an unreasonable visual impact when views from the public domain or the Harbour and its foreshores.

## 4.2 Manly Development Control Plan 2013

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

Control	Requirement	Proposed	Compliance
<p><b>Streetscape (Residential Areas)</b></p> <p><b>3.1</b></p>	<p>Streetscape is defined and represents the inter-relationship between buildings, landscape and open spaces in the street scene. Local amenity and identity are closely linked to streetscape character. Development should recognise predominant streetscape qualities, such as building form, scale, patterns, materials and colours and vegetation which contributes to the character of the local area.</p>	<p>The proposed dwelling is consistent within the streetscape and comparable with other dwellings and development along Edgecliffe Esplanade. The proposed structure generally aligns and is compatible with the setbacks and height of existing development along the street including the pre-existing dwelling house on the land.</p> <p>No predominant architectural style dominates the area with a mix of older and newer styles of development present in the streetscape.</p> <p>The dwelling utilised a range of materials and finishes which are identified on the architectural drawings. A landscape plan has been provided which will see an enhancement of the site. On structure landscaping treatments will further soften and screen the development.</p>	<p>Yes</p>
<p><b>Garages, Carports and Hardstand Areas</b></p> <p><b>3.1.1.4</b></p>	<p>a) Garages, carports and hardstand areas must be designed and sited in a manner that does not to dominate the street frontage by:</p>	<p>The proposal will have garage accommodation for 1 vehicle with a secondary car parking space on the adjacent driveway.</p>	<p>Yes</p>



Control	Requirement	Proposed	Compliance
	<p>i) its roof form, material choice and detailing by being subservient to the associated dwelling; and</p> <p>ii) being compatible with the streetscape and the location in relation to front setback criteria.</p> <p>b) Exceptions to setback criteria referred to in this paragraph may be considered where parking structures are a positive element of the streetscape.</p>		
<p><b>Landscape Design</b></p> <p><b>3.3.1</b></p>	<p>To encourage appropriate tree planting and maintenance of existing vegetation.</p> <p>To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.</p>	<p>A landscape plan has been prepared and accompanies this application.</p> <p>A range of trees, plants and shrubs are proposed which complement the dwelling and will provide increased amenity to the outdoor areas.</p> <p>Landscaping features across the site and on structure will ensure the dwelling is softened and screened when viewed from the street and complement the streetscape.</p> <p>The trees, shrubs and plants proposed will increase the landscape value of the site and is a significant enhancement above the existing landscape circumstance.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
<p><b>Preservation of Trees</b> 3.3.2</p>	<p>To protect and enhance the urban forest of the Northern Beaches.</p> <p>To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.</p>	<p>The proposal does not require the removal of any significant trees or landscape features as detailed within the accompanying arborist report prepared by Koala Arbor Consulting Arborists.</p>	<p>Yes</p>
<p><b>Sunlight Access and Overshadowing</b> 3.4.1</p>	<p>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)</p> <p>For adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 2 hours from 9am to 3pm on the winter solstice (21 June)</p>	<p>Shadow diagrams have been prepared and are included within the architectural drawings.</p> <p>The shadow diagrams demonstrate that compliant levels of solar access will be maintained to adjoining development between 9am and 3pm on 21<sup>st</sup> June.</p>	<p>Yes</p>
<p><b>Privacy and Security</b> 3.4.2</p>	<p>To minimise loss of privacy to adjacent and nearby development by:</p> <ul style="list-style-type: none"> <li>appropriate design for privacy (both acoustical and</li> </ul>	<p>The proposed dwelling will maintain reasonable levels of privacy to adjoining dwellings noting that all dwellings within immediate proximity of the site are orientated to the south take advantage of available</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>visual) including screening between closely spaced buildings;</p> <ul style="list-style-type: none"> <li>mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.</li> </ul> <p>To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.</p> <p>To encourage awareness of neighbourhood security.</p>	<p>views resulting in a mutual degree of overlooking. No unreasonable privacy impacts are anticipated as consequence of the development.</p> <p>Casual surveillance of the street is achieved with regard to security.</p>	
<p><b>Maintenance of Views</b></p> <p><b>3.4.3</b></p>	<p>To provide for view sharing for both existing and proposed development and existing and future Manly residents.</p> <p>To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places</p>	<p>The siting of the new dwelling is considered to be consistent with the principal of view sharing pursuant to the planning principal known as <i>Tenacity vs Warringah Council</i>.</p> <p>The dwelling at 2B Edgecliffe Esplanade currently obtains views across the eastern portion of the site with the proposal carefully designed to maintain this view corridor towards The Spit and Clontarf.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>(including roads and footpaths).</p> <p>To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.</p>	<p>This represents skilful design and achieves a view sharing outcome in accordance with the control.</p>	
<p><b>Stormwater Management</b></p> <p><b>3.7</b></p>	<p>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.</p> <p>To manage construction sites to prevent environmental impacts from stormwater and protect downstream properties from flooding and stormwater inundation.</p>	<p>All stormwater will be gravity drained to the street drainage system as indicated on the stormwater management plans paired by Loka Consulting Engineers.</p>	<p>Yes</p>
<p><b>Waste Management</b></p> <p><b>3.8</b></p>	<p>To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development (ESD).</p> <p>Encourage environmentally protective waste management practices on</p>	<p>The waste generated from the demolition will be sorted and disposed of appropriately. Materials will be recycled or reused where appropriate.</p> <p>Integrated bin storage is provided adjacent to the Edgecliff Esplanade frontage.</p>	<p>Yes</p>



Control	Requirement	Proposed	Compliance
	<p>construction and demolition sites which include:</p> <ul style="list-style-type: none"> <li>• sorting of waste into appropriate receptors (source separation, reuse and recycling) and ensure appropriate storage and collection of waste and to promote quality design of waste facilities;</li> <li>• adoption of design standards that complement waste collection and management services offered by Council and private service providers;</li> <li>• building designs and demolition and construction management techniques which maximises avoidance, reuse and recycling of building materials and which will minimise disposal of waste to landfill; and</li> <li>• appropriately designed waste and recycling receptors are located so as to avoid impact upon surrounding and adjoining neighbours and</li> </ul>	<p>A waste management plan is provided.</p>	

Control	Requirement	Proposed	Compliance
	<p>enclosed in a screened off area.</p> <p>Encourage the ongoing minimisation and management of waste handling in the future use of premises.</p> <p>To ensure waste storage and collection facilities complement waste collection and management services, offered by Council and the private service providers and support on-going control for such standards and services.</p>		
<p><b>Safety and Security</b></p> <p><b>3.10</b></p>	<p>To ensure all development are safe and secure for all residents, occupants and visitors of various ages and abilities.</p> <p>To ensure that the design process for all development integrate principles of 'Safety in Design' to eliminate or minimise risk to safety and security.</p> <p>To contribute to the safety and security of the public domain.</p>	<p>The new dwelling will provide appropriate levels of safety and security to the future occupants.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
<p><b>Wall Height</b> 4.1.2.1</p>	<p>8m based on the slope of the land.</p>	<p>Due to the irregular topography of the site elements of the development do not comply with the wall height control. Strict compliance is considered to be unreasonable and unnecessary for the reasons put forward in support of the building height variation. That is, the objectives of the height standard are achieved notwithstanding the non-compliant wall heights proposed. The building wall height non-compliant elements do not give rise to inappropriate or jarring streetscape or residential amenity impacts.</p>	<p>No Acceptable on merit</p>
<p><b>Number of Storeys</b> 4.1.2.2</p>	<p>2 Storeys</p>	<p>The proposal is part 1, 2 and 3 storey as defined with the distribution of storeys and overall building height across the site providing for a contextually appropriate built form outcome including the maintenance of a view sharing scenario with the eastern adjoining property.</p> <p>Strict compliance is unreasonable and unnecessary under the circumstances.</p>	<p>No Acceptable on merit</p>
<p><b>Roof Height</b> 4.1.2.3</p>	<p>Max 2.5m</p>	<p>Achieved</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
<p><b>Front Setback</b> <b>4.1.4.1</b></p>	<p>Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.</p>	<p>The existing dwelling is built within immediate proximity of the Edgecliffe Esplanade frontage with such alignment providing for the views currently obtained across the eastern portion of the site from 2B Edgecliffe Esplanade.</p> <p>In this regard, the proposal adopts the general footprint and setback alignment to both street frontages established by the existing dwelling house although a 1.5 m minimum front setback has been adopted to Edgecliff Esplanade representing an increase on the setback currently existing on-site. Strict compliance with the front setback control to Edgecliffe Esplanade would see a significant portion of the proposed dwelling located directly within the view corridor available from 2B Edgecliffe Esplanade.</p> <p>In this regard, the dwelling house generally maintains the setbacks established by the existing dwelling relative to both street frontages with such approach not only maintaining the established streetscape character but preserving a view corridor across the eastern portion of the site from 2B Edgecliffe Esplanade.</p>	<p>No Acceptable on merit</p>

Control	Requirement	Proposed	Compliance
		<p>Given the setbacks established by other properties located within the sites visual catchment the front setbacks will not be perceived as inappropriate or jarring and to that extent are consistent with the objectives of the control.</p>	
<p><b>Side Setbacks</b> <b>4.1.4.2</b></p>	<p>1/3 of wall height</p> <p>All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries;</p>	<p>The subject property is constrained by its size, geometry and topography with double street frontage and a tertiary interface to the public pathway located adjacent to the northern boundary. The proposed setbacks do not comply with the one third wall height control however they are considered to be contextually appropriate given the spatial relationship of the proposal with adjoining development and the spatial separation afforded to the properties to the north of the site by the intervening public pathway.</p> <p>The setbacks do not give rise to any inappropriate or jarring streetscape or residential amenity impacts in terms of views, privacy or overshadowing and to that extent strict compliance is considered to be unreasonable and unnecessary under the circumstances.</p>	<p>No</p> <p>Acceptable on merit</p>



Control	Requirement	Proposed	Compliance
<b>Rear Setback</b> 4.1.4.4	8m	The 8 metre rear setback has been applied to the Old Sydney Road frontage. Compliance is achieved.	Yes
<b>Open Space and Landscaping</b>	60% Open Space (277.6m <sup>2</sup> ) 40% Soft Landscaping (116m <sup>2</sup> )	278.9m <sup>2</sup> or 60% 214.8m <sup>2</sup> or 76% of required total open space	Yes Yes
<b>Parking Design</b> 4.1.6.1	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.	The development provides for an integrated garage.  1 car space is provided within the garage and a second car space on the adjacent driveway.	Yes
<b>Development on Sloping Sites</b> 4.1.8	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	A geotechnical report has been provided with this application. The proposed dwelling is considered to respond to the steep topography appropriately and limits any additional excavation required.	Yes

Control	Requirement	Proposed	Compliance
	<p>minimise supporting undercroft structures by integrating the building into the slope whether to the foreshore or a street.</p>		
<p><b>Swimming Pool</b> <b>4.1.9</b></p>	<p>The setback of the outer edge of the pool/spa concourse from the side and rear boundaries must be at least 1m, with the water line being at least 1.5m from the boundary.</p> <p>Swimming pools and spas must be built on or in the ground and not elevated more than 1m above natural ground level. Consideration of any exception to exceed the height above ground must demonstrate that any swimming pools and/or spa and their curtilage and/or concourse more than 1m above natural ground level:</p>	<p>The swimming pool complies with the setback requirements of the control however given the topography of the site is located more than 1 m above ground level. The swimming pool has been designed and sited to ensure that appropriate visual and acoustic privacy is maintained noting the extent of mutual overlooking which currently occurs given the design and orientation of surrounding development towards the view.</p> <p>In this regard, a variation to the 1 m above natural ground level control is considered appropriate and able to be supported on merit.</p>	<p>Yes</p>

**4.3 State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The site has been used for residential purposes for an extended period of time with no known prior land uses. In this regard, the potential for contamination is considered to be extremely unlikely.

The site is not identified as a contaminated site on the NSW EPA's list of notified sites, nor is it in the vicinity of any listed sites. The consent authority can be satisfied that the subject site is suitable for the proposed development.

As such, the proposed development is consistent with the provisions of Chapter 4 of this policy.

#### **4.4 State Environmental Planning Policy (Sustainable Buildings) 2022**

State Environmental Planning Policy (Sustainable Buildings) 2022 applies to the residential component of the development and aims to encourage sustainable residential development.

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

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

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

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

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

The variations to the clause 4.3 height of buildings and clause 4.4 FSR standards contained within Manly Local Environmental Plan 2013 (MLEP) have been acknowledged and found to succeed on merit when assessed against the clause 4.6 variation provisions. Such variation requests are well founded.

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

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

N/A

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

Manly DCP applies.

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

N/A

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

N/A

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

N/A

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

*Context and Setting*

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

*The scenic qualities and features of the landscape*

*The character and amenity of the locality and streetscape*

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

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

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

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

*Relationship and compatibility of adjacent land uses?*

*sunlight access (overshadowing)*

*visual and acoustic privacy*

*views and vistas*

*edge conditions such as boundary treatments and fencing*

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

*Access, transport and traffic:*

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

*Travel Demand*

*dependency on motor vehicles*

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

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

*conflicts within and between transport modes*

*Traffic management schemes*

*Vehicular parking spaces*

3 parking spaces provided.

*Public Domain*

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

*Utilities*

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

*Flora and Fauna*

A landscape plan is provided with this application.

*Waste Collection*

Normal domestic waste collection applies to the existing dwelling house.

*Natural hazards*

Geotechnical and Bushfire reports provided.

*Economic Impact in the locality*

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

*Site Design and Internal Design*

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



*size, shape and design of allotments*

*The proportion of site covered by buildings*

*the position of buildings*

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

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

*Landscaping*

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

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

*lighting, ventilation and insulation*

*building fire risk – prevention and suppression*

*building materials and finishes*

*a common wall structure and design*

*access and facilities for the disabled*

*likely compliance with the Building Code of Australia*

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

*Construction*

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

*The environmental planning issues listed above*

*Site safety*

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

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

*Does the proposal fit in the locality*

*Are the constraints posed by adjacent development prohibitive*

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

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

*Are the site attributes conducive to development*

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

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

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

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

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

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

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

## 5 Conclusion

The architect has responded to the client brief to design a dwelling that is of high amenity that takes advantage of the site's superior locational attributes. Particular attention has been given to ensuring that the proposed works maintain appropriate privacy, solar access and view sharing outcomes to both immediately adjoining dwellings. The outcome is a building form which will reinforce the scenic and environmental qualities of the Seaforth coastal areas whilst maintaining appropriate residential amenity, view sharing, foreshore scenic protection and streetscape outcomes. The proposal is permissible and consistent with the development standards and built form controls contained within the applicable statutory planning regime as they are reasonably applied.

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

- The application has considered and satisfies the various relevant planning controls applicable to the proposed use and associated works have regard to the objectives of the standards/ controls and the applicable variation provisions/ considerations.
- The site is assessed as suitable for the proposal, having regard to the relevant land use and planning requirements.
- The proposal will not give rise to any unacceptable streetscape or residential amenity impacts.
- The variation to the wall height, front setback, side boundary setback and height of swimming pool provisions contained within Manly Development Control Plan have been acknowledged and appropriately justified having regard to the objectives of the controls. Strict compliance has been found to be both unreasonable and unnecessary given the consistency of the proposal with the objectives of the applicable controls.
- The variations to the clause 4.3 height of buildings and clause 4.4 FSR standards contained within Manly Local Environmental Plan 2013 (MLEP) have been acknowledged and found to succeed on merit when assessed against the clause 4.6 variation provisions. Such variations requests are well founded.

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

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

Greg Boston  
Director  
BBF Town Planners

**Attachment 1**

Clause 4.6 variation request – Height of buildings

Circulated separately

**Attachment 2**

Clause 4.6 variation request – FSR

Circulated separately