

STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR A PROPOSED NEW DWELLING, BASEMENT GARAGE
& SWIMMING POOL**

AT

11 BEATTY STREET, BALGOWLAH HEIGHTS

FOR

DAN & RENAE GALLEN



**Prepared
November 2021**

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1.0 Introduction

This Statement of Environmental Effects accompanies architectural details prepared Lawton Hurley Architects, Drawings No's. DA01 – DA06, AR01 – AR02 & SH01 – SH03, Issue A, dated November 2021, to detail the proposed construction of a new dwelling at **11 Beatty Street, Balgowlah Heights**.

A recent Development Consent - 253/2017 for alterations and additions to the existing dwelling was issued under Notice of Determination dated 29 March 2018 and as subsequent modified by Mod2019/0296 determined 23 September 2019 & Mod2020/0329 determined 21 August 2020.

The approved alterations and additions to the existing dwelling were physically commenced under Construction Certificate C210016-01.

This proposal intends to replace the existing dwelling on the site, with the construction of a new dwelling including a basement garage and associated facilities and a swimming pool.

This Statement reviews the proposed development by assessing the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, (as amended) including:

- *State Environmental Planning Policy (Coastal Management) 2018*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *State Environmental Planning Policy No 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Manly Local Environmental Plan 2013*
- *Manly Development Control Plan 2013*

2.0 Property Description

The subject allotment is described as **11 Beatty Street, Balgowlah Heights**, being Lot A, within Deposited Plan 373783 and is zoned R2 Low Density Residential under the Manly Local Environmental Plan 2013.

The site is identified as being within the Coastal Environment Area and Coastal Use Area under the provisions of SEPP (Coastal Management) 2018. In addition, the site is identified as being within the Foreshores and Waterways Area under the provisions of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. These matters will be discussed further within this submission.

The dwelling is not listed as a heritage item within Schedule 5 of the Manly Local Environmental Plan 2013, nor is it noted as being within a conservation area.

The land is identified as being within Council's Foreshore Scenic Protection Area. This will be discussed further within this submission.

The site is identified on Council's DCP Landslip Hazard Map as being within Area G2 & G4. A Geotechnical site Investigation has been prepared by Crozier Geotechnical Consultants under

Report Reference Project No.: 2021-091 dated November 2021. This will be discussed further within this submission.

The site is identified as being Bushfire Prone Land and accordingly a Bushfire Risk Assessment Report & Certificate has been prepared by Sydney Bushfire Consultants, Reference No. 79BA-2198, dated 19 November 2021.

In addition, the site is identified as Low Risk Flood Prone Land. An Overland Flood Letter has been prepared by Diversi Creative Engineering Solutions, dated 17 November 2021.

3.0 Site Description

The site is located on the south-western side of Beatty Street with a general fall to the front, north-eastern boundary.

The site has a street frontage to Beatty Street of 17.765m, a depth of 39.625m and 39.625m and a rear boundary measuring 17.805. The total area of the site is 684.8m².

Stormwater from the roofed areas is directed to the street gutter in Beatty Street.

Vehicular access is currently available from Beatty Street via an existing concrete and paved driveway, with car parking available in an existing garage and carport.

The details of the site are included on the Survey Plan prepared by CMS Surveyors Pty Ltd, Reference No. 9474detail, dated 22 April 2020, which accompanies the DA submission.

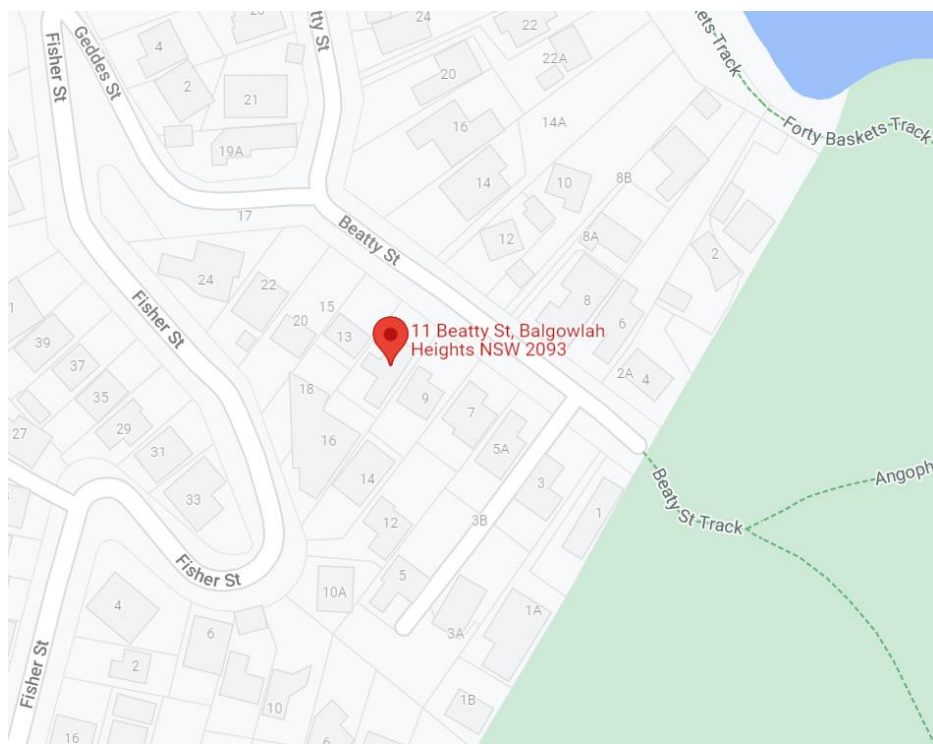


Fig 1: Location sketch
(Source: Google Maps)



Fig 2: View of subject site and current access driveway, looking south-west from Beatty Street and towards the neighbouring dwelling to the south at No 9 Beatty Street



Fig 3: View of the neighbouring development to the north-west of the subject site and towards the neighbouring dwelling at No 13 Beatty Street

4.0 Surrounding Environment

The area surrounding the site is predominantly represented by a mix of development comprising dwellings of varying sizes.

The dwellings in the vicinity have been designed with living areas and associated open space that are oriented to take advantage of the district views available to the site.

The site and surrounding properties enjoy views to the north-east towards North Harbour.

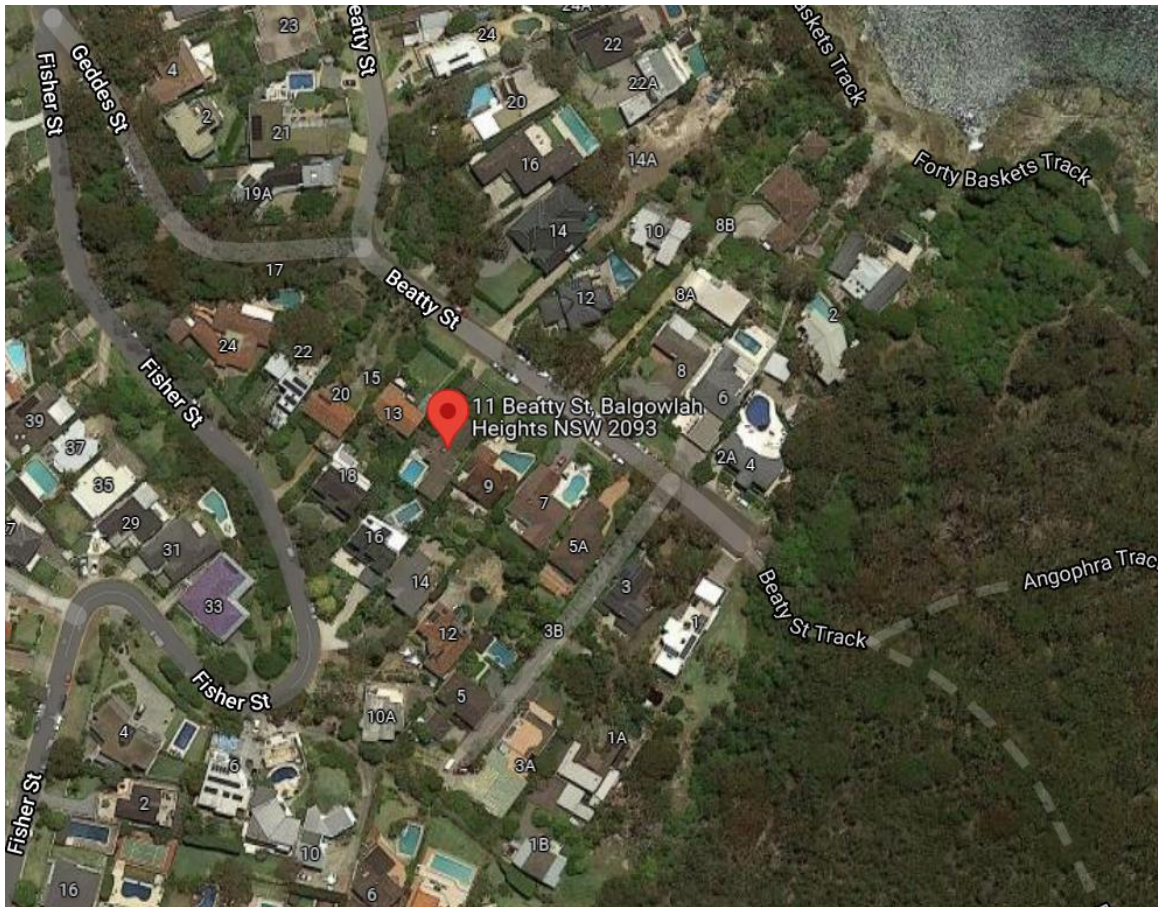


Fig 4: Aerial view of subject site
(Source: Google Maps)

5.0 Proposed Development

As detailed within the accompanying plans prepared by Lawton Hurley Architects, the proposal seeks consent for the proposed construction of a new dwelling, which incorporates a basement garage and storage facilities, swimming pool and the managed replanting of the site in accordance with the landscape schedule.

The new works comprise the following works:

Basement	Proposed new basement level to provide for double garage, bin storage, store, pool equipment and hydraulic services room and internal access stairs to upper level
Ground Floor	Proposed new ground floor level to provide for entry, porch, open plan living/dining/kitchen and pantry, bedroom with ensuite, family room, powder, laundry, courtyard and balcony
First Floor	Proposed first floor level to provide for master suite with ensuite and dressing, two bedrooms, study, bathroom and balcony
External Works	New driveway, front fence, swimming pool, decking and associated landscaping

The proposed design presents a contemporary flat roof form, with stepped floor levels to follow the sloping terrain of the site.

The architectural submission includes a comparison of the approved footprint and height and bulk of the previously approved scheme under DA 253/2017, which confirms that the subject proposal is generally comparable to the height of the previously approved development which is to be replaced with this proposal.

The proposed external finishes comprise a mix of formed concrete, painted render and stone and timber cladding. A Schedule of Materials and colours is provided within the DA submission.

The proposal does not seek the removal of any significant vegetation, and a generous soft landscaped area is maintained. New plantings will be provided throughout the site which assist with softening and screening the built form of the new works, which are detailed within the Landscape Plans prepared by Site Design Studios, Drawing No 1385 dated 18 November 2021.

The site is burdened by a drainage easement along the western boundary of the site and is noted as being subject to Low Risk Flooding. Accordingly, an assessment of the potential impacts resulting from Overland Flow through the site has been prepared by Diversi Consulting, dated 17 November 2021. The Overland Flow Letter concludes that the site is not affected by a Overland flooding and storm events up to the 1% Annual Exceedance Probability.

The site is noted as being subject to potential bushfire provisions and a Bushfire Risk Assessment Report & Certificate has been prepared by Sydney Bushfire Consultants dated 19 November 2021 which confirms that the development can achieve the requirements of Planning for Bushfire Protection 2019 with a BAL Rating of 12.5 recommended for the construction.

The development indices for the site are:

Site Area	684.8m ²
Permissible FSR	0.4:1 or 273.9m ²
Proposed FSR	0.4:1 or 273.9m ²
Required Open Space/Landscape	60% open space – 410.8m ² / 40% landscaped area – 137.3m ²
Proposed Open Space	50% or 343.3m ² (See DCP discussion)
Proposed Landscape	41% or 142.3m ²

6.0 Zoning and Development Controls

6.1 State Environmental Planning Policy (Coastal Management) 2018

The subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is applicable to the proposed development.

The stated Aim of the Policy under Clause 3 is to:

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.*

The Coastal Management Act 2016 states within **Clause 3**:

The **objects** set out in **Clause 3** of the Coastal Management Act 2016 are:

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*

- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) to support the objects of the Marine Estate Management Act 2016.*

It is submitted that the assessment detailed under the Statement of Environmental Effects suggests that the proposed development is consistent with the objects of the SEPP (Coastal Management) 2018, as set out in Clause 3 of the Coastal Management Act 2016.

Whilst the site is within the Coastal Environment Area and Coastal Use Area, Clause 13 and 14 do not apply to development as it is within the State Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005.

The matters for consideration under Division 5 of SEPP (Coastal Management) 2018 are:

15 Development in coastal zone generally—development not to increase risk of coastal hazards

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

The proposal provides for the construction of a new dwelling. The proposed new works are largely contained within the proximity of the existing building and whilst further excavation site will be carried, the site works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

The assessment has concluded that the proposed development is consistent with the matters for consideration under the SEPP (Coastal Management) 2018.

6.2 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is located such that this proposal requires consideration against the provisions of State Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005 (SREP 2005).

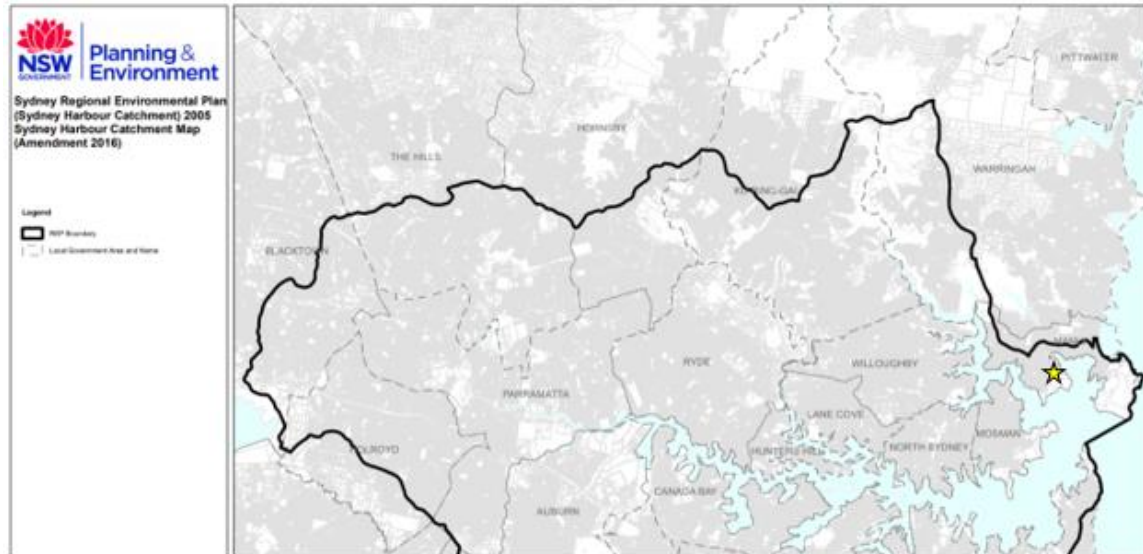


Fig 5: Extract from SH SREP

The proposed works are assessed against the requirements of this Policy as follows.

The subject site is located within the Sydney Harbour Catchment, and is identified as being within the Foreshores and Waterways Area.

The site does not adjoin any “Strategic Foreshore Sites”.

Clause 13 provides the planning principles for land within the Sydney Harbour Catchment and these are noted as:

- (a) *development is to protect and, where practicable, improve the hydrological, ecological and geomorphological processes on which the health of the catchment depends,*
- (b) *the natural assets of the catchment are to be maintained and, where feasible, restored for their scenic and cultural values and their biodiversity and geodiversity,*
- (c) *decisions with respect to the development of land are to take account of the cumulative environmental impact of development within the catchment,*
- (d) *action is to be taken to achieve the targets set out in Water Quality and River Flow Interim Environmental Objectives: Guidelines for Water Management: Sydney Harbour and Parramatta River Catchment (published in October 1999 by the Environment Protection Authority), such action to be consistent with the guidelines set out in Australian Water Quality Guidelines for Fresh and Marine Waters (published in November 2000 by the Australian and New Zealand Environment and Conservation Council),*
- (e) *development in the Sydney Harbour Catchment is to protect the functioning of natural drainage systems on floodplains and comply with the guidelines set out in the document*

- titled Floodplain Development Manual 2005 (published in April 2005 by the Department),*
- (f) development that is visible from the waterways or foreshores is to maintain, protect and enhance the unique visual qualities of Sydney Harbour,*
 - (g) the number of publicly accessible vantage points for viewing Sydney Harbour should be increased,*
 - (h) development is to improve the water quality of urban run-off, reduce the quantity and frequency of urban run-off, prevent the risk of increased flooding and conserve water,*
 - (i) action is to be taken to achieve the objectives and targets set out in the Sydney Harbour Catchment Blueprint, as published in February 2003 by the then Department of Land and Water Conservation,*
 - (j) development is to protect and, if practicable, rehabilitate watercourses, wetlands, riparian corridors, remnant native vegetation and ecological connectivity within the catchment,*
 - (k) development is to protect and, if practicable, rehabilitate land from current and future urban salinity processes, and prevent or restore land degradation and reduced water quality resulting from urban salinity,*
 - (l) development is to avoid or minimise disturbance of acid sulfate soils in accordance with the Acid Sulfate Soil Manual, as published in 1988 by the Acid Sulfate Soils Management Advisory Committee.*

The proposal provides for the construction of a new dwelling, with a compatible two storey scale which is in keeping with the extent of existing surrounding development.

The stormwater arrangements will be provided in accordance with the Stormwater Concept Plan prepared by Harris Page & Associates, Project No. 6827, dated November 2021. Stormwater from the site will be suitably managed, with no substantially increased stormwater loading to the public foreshore or waterway.

The works will be carried out in accordance with the recommendations of the consulting Structural and Geotechnical Engineers and therefore satisfy the provisions of this clause.

Clause 14 provides the planning principles for land within the Foreshores and Waterways area. The relevant principles are discussed below:

- (a) development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores*

Comment: Given the reasonable separation from the foreshore area, it is not considered that there will be any significant impact on the natural assets or unique environmental qualities of Sydney Harbour and foreshores.

- (b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation*

Comment: The proposed works are wholly within private property and do not result in the removal or detrimental impact on any natural assets of the catchment. The extent of existing public access to the foreshore will not be unreasonably diminished as a result of the proposed works.

- (c) *access to and from the waterways should be increased, maintained and improved for public recreational purposes (such as swimming, fishing and boating), while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation.*

Comment: As discussed, the proposed works are wholly on private property and do not result in the removal or detrimental impact on any natural assets of the catchment. The extent of existing public access to the foreshore will not be unreasonably diminished as a result of the proposed works.

- (d) *development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores*

Comment: The proposed works will see the construction of a new dwelling which will complement existing neighbouring dwellings by being at a similar height and scale to the surrounding development along Beatty Street, and will not detract from the natural assets of the harbour locality.

The proposal will respect and complement the bulk and scale of existing surrounding development in the locality.

- (e) *adequate provision should be made for the retention of foreshore land to meet existing and future demand for working harbour uses*

Comment: As discussed, the proposed works are wholly on private property and do not result in the removal or detrimental impact on any natural assets of the catchment. The proposal will not impact on the working function of the Harbour waters.

- (f) *public access along foreshore land should be provided on land used for industrial or commercial maritime purposes where such access does not interfere with the use of the land for those purposes*

Comment: N/A to the proposed residential use.

- (g) *the use of foreshore land adjacent to land used for industrial or commercial maritime purposes should be compatible with those purposes*

Comment: N/A to the proposed residential use.

- (h) *water-based public transport (such as ferries) should be encouraged to link with land-based public transport (such as buses and trains) at appropriate public spaces along the waterfront*

Comment: N/A to the proposed residential use.

- (i) *the provision and use of public boating facilities along the waterfront should be encouraged.*

Comment: N/A to the proposed residential use.

Part 3, Division 2 details the *Matters for Consideration* to be considered by the consent authority in the assessment of a proposal within the land subject to SREP 2005. As the works seek consent for construction of a new dwelling, which is well removed from the waterfront, the following Clauses of Division 2 are considered to be relevant to the proposal.

Clause 20 - General requires that Council take into consideration the Division prior to granting consent.

Clause 21 - Biodiversity, ecology and environment protection

The matters to be taken into consideration in relation to biodiversity, ecology and environment protection are as follows:

- (a) development should have a neutral or beneficial effect on the quality of water entering the waterways,*
- (b) development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),*
- (c) development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),*
- (d) development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access,*
- (e) development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation,*
- (f) development should retain, rehabilitate and restore riparian land,*
- (g) development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetative buffer to protect the wetlands,*
- (h) the cumulative environmental impact of development,*
- (i) whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance.*

As the works will not have any physical impact on the waterway or the land adjoining the waterfront, the proposal is considered to be reasonable. No significant vegetation is to be removed to facilitate the construction.

The proposal is considered to have a neutral effect on the waterway.

22 Public access to, and use of, foreshores and waterways

The proposed works will not have any direct effect on the public use of the waterfront and will not diminish the public's ability to have access to and utilise the waterway.

23 Maintenance of a working harbour

The proposal will not have any impact on the harbour and will not affect the principles encouraging the maintenance of the harbour as a functional, working harbour.

24 Interrelationship of waterway and foreshore uses

The proposed works will not impact on the relationship between the public land and the waterway. The proposal is not inconsistent with the identified principles within Clause 24.

25 Foreshore and waterways scenic quality

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways are as follows:

- (a) the scale, form, design and siting of any building should be based on an analysis of:
 - (i) the land on which it is to be erected, and*
 - (ii) the adjoining land, and*
 - (iii) the likely future character of the locality,**
- (b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,*
- (c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.*

The bulk and scale of the proposed works is compatible with the surrounding development along Beatty Street and due to the modest form will not have any detrimental impact on the visual qualities of the harbour and the foreshore area. The continued residential use of the land is a characteristic of the area and the anticipated future character of this locality.

26 Maintenance, protection and enhancement of views

By observing the objectives of Council's maximum height controls and allowing for views to and from the public spaces, the proposal will not have any detrimental effects on views to and from Sydney Harbour or the waterway.

27 Boat storage facilities

The proposed works are within private land and will not have any impact on boat storage facilities in the locality.

There are no other provisions of SREP (Sydney Harbour Catchment) 2005 that applies to the proposed development. It is considered that the proposal complies with SREP (Sydney Harbour Catchment) 2005.

6.2.1 Sydney Harbour Foreshores Area Development Control Plan

The Plan applies to all development proposals within the Foreshores and Waterways Area identified in SREP (Sydney Harbour Catchment) 2005 (refer to the Foreshores and Waterways Area map). It principally relates to the waterway and adjoining land identified on the maps accompanying this plan. The subject site is located within a foreshore area identified on the map and therefore the DCP applies to the proposed development.

As noted below in the extract of Map 15, the site is within the area defined as “Urban Development with Scattered Trees.”



Fig 6: Extract of Map 15 – Ecological Communities & Landscape Characters

Given that the works are not immediately adjacent to the waterway and are wholly within the private land, it is considered that the proposal achieves the performance criteria of the DCP for the following reasons:

- The proposal does not result in the removal of any significant vegetation.
- The proposal does not alter the natural features (e.g rock outcrops) of the existing waterway.
- The proposal will not introduce exotic plant species.
- The proposal does not result in any removal of the existing foreshore vegetation.
- The proposal will not alter the landscaped character of the foreshore area.

Part 3 Landscape Assessment

The site is within the unmapped area and adjoins the Landscape Character 6 locality. It is considered that the proposal achieves the stated Performance Criteria for the Landscape Character 6 Category for the following reasons:

- The proposal does not result in any removal of the existing foreshore vegetation.
- The proposal will not alter the landscaped character of the foreshore area, as the garden areas are unchanged, with the existing perimeter screening surrounding the lower portion of the site.
- The proposed development is provided with a substantial setback from the waterway and will be substantially screened from any view from the waterway.

Part 4 Water Based and Land/Water Interface Developments

The proposed development is not defined as Water Based or Land/Water Interface Development and as such this part does not apply to the proposed development.

Part 5 Land Based Development

This part provides design guidelines for land based development. The proposed development is considered to be defined as Land Based Development. The following clauses of this Part apply to the proposed development:

Clause 5.4 Built Form

This clause requires that buildings and other structures should generally be of a sympathetic design to their surroundings. It is considered that this has been achieved for the following reasons:

- The proposed development is not prominently viewed from the waterway and is similar in scale and form to the surrounding development.
- The proposal maintains the development's setback to the foreshore.

There are no other provisions of the DCP that apply to the proposed development.

6.3 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 – Remediation of Land and in particular Clause 7(1)(a) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

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

The proposal has been designed to respect the water, thermal and energy standards required by BASIX. A BASIX certificate has been submitted with the development application.

6.5 Manly Local Environmental Plan 2013

The land is zoned R2 Low Density Residential under the provisions of the MLEP 2013.



Fig 7: Extract of Manly Local Environmental Plan 2013 Zoning Map

The development of and use of the land for residential purposes is consistent with the objectives of the R2 Low Density Residential, which are noted over as:

- *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.*

It is considered that the proposed dwelling will achieve the zone objectives and are consistent with the established character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing detached style housing within the locality.
- The proposed development respects the scale and form of other dwellings in the vicinity and therefore complements the locality.
- The setbacks are compatible with the existing surrounding development.
- The site is utilised as housing and will continue to maintain the residential use.
- The works will provide for the construction of a new dwelling which will maintain the residential scale and character of the locality.

- The proposal will maintain an appropriate level of amenity to the adjoining properties.
- The proposal does not unreasonably obstruct any significant views from private property or the public domain.
- As detailed in this report the proposal maintains appropriate solar access to the surrounding properties.

Clause 4.3 – Height of buildings

The dictionary supplement to the LEP notes building height to be:

***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.*

The building height limit for development in this portion of Balgowlah Heights is 8.5m. The proposed new works provide a height of up to 8.2m which readily comply with this control.

Clause 4.4 – Floor space ratio

A maximum floor space ratio control of 0.4:1 is required for development in this locality. The proposal provides a floor space ratio of 0.4:1, which complies with this provision.

Clause 5.21 – Flood planning

The site is identified as Low Risk Flood Prone Land and adjoins Council's stormwater drainage infrastructure. An Overland Flood Letter has been prepared by Diversi Creative Engineering Solutions, dated 17 November 2021, and concludes the following:

Review of Councils flood hazard mapping and Development Control Plan has identified that no flood controls are imposed as the proposed development includes a Residential Use dwelling, is within a Low Flood Risk Precinct and the site is not affected by overland flooding in storm events up to the 1% Annual Exceedance Probability.

We trust that this information is sufficient to support the Development Application (DA) approval for 11 Beatty Street, Balgowlah Heights.

The proposal therefore satisfies the provisions of this clause.

Clause 6.2 – Earthworks

The proposal will require excavation to accommodate the new basement level and swimming pool. A Report on Geotechnical Site Investigation has been prepared by Crozier Geotechnical Consultants under Report Reference Project No.: 2021-091 dated November 2021.

The Report concludes:

The risks associated with the proposed development can be maintained within 'Acceptable' levels with negligible impact to neighbouring properties or structures provided the recommendations of this report and any future geotechnical directive are implemented. As such the site is considered

suitable for the proposed construction works provided that the recommendations outlined in this report are followed.

Subject to compliance with the recommendations contained within the Geotechnical Assessment, the proposal will satisfy the provisions of this clause.

All works will be carried out under the supervision and direction of a Structural Engineer and will be managed to ensure that the amenity and safety of the subject and neighbouring dwellings will be protected.

Clause 6.4 – Stormwater management

The proposal meets the objectives of the clause as stated below in that:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

The stormwater arrangements will be provided in accordance with the Stormwater Concept Plan prepared by Harris Page & Associates, Project No. 6827, dated November 2021, which will satisfy Council's requirements.

Clause 6.8 – Landslide risk

The site is identified on Council's DCP mapping as being within Area G2 & G4 on the Landslip Hazard Map.

A Report on Geotechnical Site Investigation has been prepared by Crozier Geotechnical Consultants under Report Reference Project No.: 2021-091 dated November 2021.

Subject to compliance with the recommendations contained within the Geotechnical Assessment, the proposal will satisfy the provisions of this clause.

All works will be carried out under the supervision and direction of a Structural Engineer and will be managed to ensure that the amenity and safety of the subject and neighbouring dwellings will be protected.

Clause 6.9 – Foreshore scenic protection area

Clause 6.9 relates to development within the Foreshore Scenic Protection Area and notes within (3):

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

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) measures to protect and improve scenic qualities of the coastline,*
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

In this regard, it is considered that the proposal is suitable in the Foreshore Scenic Protection area, as the works will respect the height, scale and form of the surrounding residential development and the existing development on the site.

There are no other clauses of the MLEP 2013 that are considered to be relevant to the proposed development.

It is considered that the proposal achieves the requirements of the MLEP.

6.6 Manly Development Control Plan 2013

Council's DCP Development Control Plan 2013 – Amendment 14 provides the primary control for development within the area.

The DA submission will address the Council's submission requirements outlined in Part 2 – Process.

The primary areas which are applicable to the proposed works are detailed within Part 3 – General Principles of Development & Part 4 – Development Controls and Development Types.

Clause 3.1.1 Streetscape (Residential Areas)

It is suggested that the proposed new dwelling will enhance the street view of the site present a significant architectural contribution to the quality of the built form in the locality .

The intended outcomes are noted as:

- 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*

The proposal will see the construction of a new dwelling. The new works are complementary to the existing locality and the surrounding development. The proposal is in keeping with the character of the Beatty Street streetscape, and is therefore worthy of Council's support.

Clause 3.3 Landscaping

The proposed new works will maintain a suitable area of soft landscaping within the site. The new works will present an appropriate form and footprint, which is appropriately set back from the street, side and rear boundaries.

The proposed new landscaping on site will assist with minimising overlooking to neighbouring properties.

A Landscape Plan has prepared by Site Design Studios dated 18 November 2021 in provides for the managed replanting of the site including an additional three trees with a mature height of between 8-10 m and substantial mid-storey and groundcover plantings to assist in screening the built form.

Clause 3.4 Amenity (Views, Overshadowing, Overlooking/Privacy, Noise)

The objectives of the clause are noted as:

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

It is suggested that the works will achieve these objectives as:

- The proposal will comprise limited window opening, including highlight windows, to the south-eastern elevation which minimises overlooking to the south-eastern neighbour. The dwelling is well separated from the north-western neighbour. The proposed new perimeter plantings and boundary fencing will minimise any potential privacy impacts from the proposed new swimming pool.
- The proposed additions will not see any substantial change to the solar access currently received by the neighbouring properties.

- The proposed new dwelling presents a modest bulk and scale which is in keeping with the extent of existing surrounding development, and is not considered to result in any unreasonable view impacts for surrounding properties.

Clause 3.5 Sustainability

A BASIX Certificate has been prepared to support the new works and confirm that the additions will achieve the appropriate thermal performance criteria.

Clause 3.7 Stormwater Management

The stormwater arrangements will be provided in accordance with the Stormwater Concept Plan prepared by Harris Page & Associates, Project No. 6827, dated November 2021, which will satisfy Council's requirements.

Part 4 – Residential Development Controls

Site Area 684.8m² - Density Sub Zone D9 (1150m² per lot)

Compliance Table

Control	Required	Proposed	Compliance
Clause 4.1.1 Residential Density & Subdivision	Density Area D9 – 1 dwelling per 1150m ²	Site area 684.8m ²	Yes – existing site and dimensions are unchanged
Clause 4.1.2 Height of Buildings	Maximum height – 8.5m	Maximum height of new works – 8.2m	Yes
	Wall height – 7.2m	Max wall height 7m	Yes
	Max two storeys	Max two storeys above existing ground level	Yes
	Roof height – 2.5m above wall height	Flat roof proposed	Yes
Clause 4.1.13 Floor Space Ratio (FSR)	0.4:1	Proposed FSR 0.4:1	Yes

Clause 4.1.4 Setbacks (front, side and rear)	<u>Front</u> a) Relate to neighbouring sites and the prevailing building lines or 6m 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.	Proposed front setback of new development 13.7m and is in keeping with the prevailing front setback.	Yes
Side Boundary setback – 1/3 of wall height	<u>Side</u> Northern side - 1/3 x 5.73m = 1.910m Southern side - 1/3 x 6.8m = 2.267m	The proposed new works will stand 1.95m and 2.4m from the north-western and south-eastern side setbacks respectively.	Yes – on merit
		As a result of the splayed boundary to the southern elevation and the varied wall lines, the proposal presents a minor variation to the setback requirement for the first floor elements to the southern side setback control. For a wall height of up to 6.8m, the minimum setback requirement is 2.267m. The proposal varies from 2.409m and whilst the southern elevation does not meet the setback control, the proposal will not result in any unreasonable or adverse	Yes – on merit

Rear setback – 8m		impacts for neighbouring properties in terms of solar access, privacy, views or general amenity. The proposed side setbacks are therefore deemed worthy of support. Proposed rear building line at the ground and first floor levels is 2.85m and 5.44m respectively and therefore does not comply with the rear setback control. The existing dwelling, to be demolished, is similarly sited to the rear of the lot and the new proposal will see an increase in the rear setback relative to the current building. The site has been excavated at the rear, with the surrounding properties at the rear substantially elevated relative to the proposed building location. Given that the development is below ground level at the rear, the reduction in the rear setback is considered to be reasonable in this instance. The proposed rear setback is not considered to result in any unreasonable adverse impacts to neighbouring properties, and is considered worthy of support on merit. A suitable area of soft landscaping will be maintained.	
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Clause 4.1.5 Open space and Landscaping	Area OS 4 Open space: Min 60% site area Landscaping: 40% of open space	Proposed open space – 50% or 343.3m² Proposed soft open space – 41% or 142.3m² The objectives of this control are as follows: • <i>To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.</i> • <i>To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.</i> • <i>To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.</i> • <i>To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.</i> • <i>To minimise the spread of weeds and the degradation of private and public open space.</i> • <i>To maximise wildlife habitat and the potential for wildlife corridors.</i> Whilst the site does not comply with the open space area control, the proposal will maintain a suitable area of soft landscaping.	Yes – on merit Yes
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		The proposed new landscape plantings soften the built form of the development, and the landscaped area is considered appropriate in this instance.	
Clause 4.1.6 Parking	Min 2 spaces	Parking for two cars will be proposed in the proposed garage.	Yes
Clause 4.1.6.4 Vehicular Access	a) All vehicles should enter and leave the site in a forward direction. b) Vehicular access and parking for buildings with more than 1 dwelling is to be consolidated within one location, unless an alternative layout/design would better reflect the streetscape or the building form. c) Vision of vehicles entering and leaving the site must not be impaired by structures or landscaping. d) Particular attention should be given to separating pedestrian entries and vehicular	The proposal will provide a new driveway which will provide suitable access to the proposed garage. The existing driveway does not allow for entering and leaving the site in a forward direction, which is similar to the neighbouring properties. Given the quite nature of the street, the maintaining of the existing site conditions to allow for reversal movements to the street when required is considered to be acceptable.	Yes

	crossings for safety.		
Clause 4.1.6.6 Tandem, Stacked and Mechanical Parking Areas	The design location and management of parking facilities involving tandem, stacked and mechanical parking (including car stackers, turntables, car lifts or other automated parking systems) must consider the equitable access and distribution of parking spaces to all occupants and visitors to the building. In this regard: a) all parking spaces in any tandem or stacked arrangement are to be allocated to the same dwelling/strata unit and must not be used as visitors parking; and b) where the proposed development involves a tandem, stacked and mechanical parking arrangement which necessitates more than one parking space	New basement garage provided for off street secure parking	N/A

	being attributed to a single dwelling unit under paragraph i) above; Council must be satisfied that sufficient parking spaces are reasonably allocated to all other dwelling units within the development.		
Clause 4.1.7 First Floor and Roof 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. b) The dwelling and the form of alterations and additions must retain the existing scale and character of the	New dwelling proposed.	N/A

	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.		
Clause 4.1.8 Development on Sloping Sites	Subject site is within Area G2 & G4. <i>Area G2</i> The applicant should complete Council's Checklist for Preliminary Assessment of Site Conditions (Landslip) at Schedule 11 of this plan to determine whether a Site Stability Report is required. <i>Area G4</i> Geotechnical assessment may be required depending on location and nature of development and man-made cut and fill.	The proposal will require excavation to accommodate the new basement level. A Report on Geotechnical Site Investigation has been prepared by Crozier Geotechnical Consultants under Report Reference Project No.: 2021-091 dated November 2021. Subject to compliance with the recommendations contained within the Geotechnical Assessment, the proposal will satisfy the provisions of this clause. All works will be carried out under the supervision and direction of a Structural Engineer and will be managed to ensure that the amenity and safety of the subject and neighbouring dwellings will be protected.	Yes

Clause 4.1.9 Swimming pools, spas and Water features	Height above ground not more than 1m Setback of outer edge of pool concourse from side and rear boundaries must be at least 1m with water line being at least 1.5m from the boundary Pool not to exceed 30% of total open space	Proposed pool is level with the new terrace. The proposed pool (water line) will stand 2.7m from the north-western side boundary, and is well separated from the remaining boundaries. The pool comprises less than 30% of the open space area.	N/A
Clause 4.1.10 Fencing	Freestanding walls and fences between the front street boundary and the building are to be no more than 1m high above ground level at any point. Transparent fences permitted up to 1.5m in height.	A new front fence will be provided through the cross for the land, the front fence height varies from 800mm-1500mm. New 1800mm high boundary fence aside rear boundaries except where the existing masonry fence is retained along the western and northern boundaries.	Yes – on merit

7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979

7.1 The provisions of any environmental planning instrument

The proposal is subject to the provisions of the Manly Local Environmental Plan 2013 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

There are no other environmental planning instruments applying to the site.

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

There are no draft instruments applying to the land.

7.3 Any development control plan

The development has been designed to comply with the requirements of Council's Manly Development Control Plan 2013.

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on:-

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.15(3A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

We request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular we consider that the variation to the side and rear setback controls is a reasonable alternative solution to compliance where the site conditions result in a challenge to designing for new development which fully respects the criteria.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.

7.4 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

No matters of relevance are raised in regard to the proposed development.

7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),

No matters of relevance are raised in regard to the proposed development.

7.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

It is considered that the proposal, which seeks consent for proposed construction of a new dwelling, will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area. It is considered that the resultant development is compatible with and will complement the residential character of the area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's MLEP 2013 and Council's Codes and Policies, in particular the Manly DCP 2013.

7.7 The suitability of the site for the development

The subject land is currently zoned R2 Low Density Residential under the Manly Local Environmental Plan 2013 and is considered suitable for the proposed development.

7.8 Any submissions made in accordance with this Act or the regulations

This is a matter for Council in the consideration of this proposal.

7.9 The public interest

The proposal will not impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

8.0 Conclusion

The principal objective of this development is to provide for the proposed construction of a new dwelling with basement garage and a swimming pool, which respects and complements the site's location.

It is considered that the proposed works satisfy the stated objectives of Council's Development Controls. By maintaining our neighbours amenity and by complementing the existing style and character of the surrounding locality, the stated objectives have been satisfied.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

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