



STATEMENT OF ENVIRONMENTAL EFFECTS

ALTERATIONS AND ADDITIONS TO EXISTING DWELLING HOUSE

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

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Report prepared for:

Danny and Nicole Carter

May 2020

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1. Introduction and Background Information

1.1 Introduction

This report has been prepared as supporting documentation for a Development Application for alterations and additions to an existing dwelling house at 122 Pittwater Road, Manly, being Lot 1 in DP88475.

This report has been prepared following instructions from the clients, Danny and Nicole Carter. In preparing this application consideration has been given to the following:

- *Environmental Planning and Assessment Act, 1979* (as amended) (EP&A Act);
- Environmental Planning and Assessment Regulation 2000;
- Relevant State Environmental Planning Policies;
- Manly Local Environmental Plan 2013 (MLEP 2013);
- Manly Development Control Plan (MDCP);
- Architectural Plans prepared by Action Plans;
- BASIX Certificate prepared by Action Plans.

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

The conclusions of the Statement of Environmental Effects are that the proposed development, being alterations and additions to an existing dwelling house is permissible with development consent and is consistent with the relevant statutory planning instruments including the Manly Local Environmental Plan 2013 and planning policies of the Manly Development Control Plan 2013.

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

1.2 Background Information

The site is not the subject of any recent Development Applications to Northern Beaches Council. The proposal has not been the subject of a pre-lodgement meeting with Northern Beaches Council. General enquiries have been held between the clients and Councils Heritage team, with Council providing general advice (without seeing the project) that a Heritage Impact Statement is not required due to no changes to the front elevation and the fact that the site is not listed as a heritage item.

2. Site Profile

2.1 Property Description

The subject allotment is described as 122 Pittwater Road, Manly, legally known as Lot 1 within Deposited Plan 88475. The site is zoned R3 Medium Density Residential under the Manly Local Environmental Plan 2013.

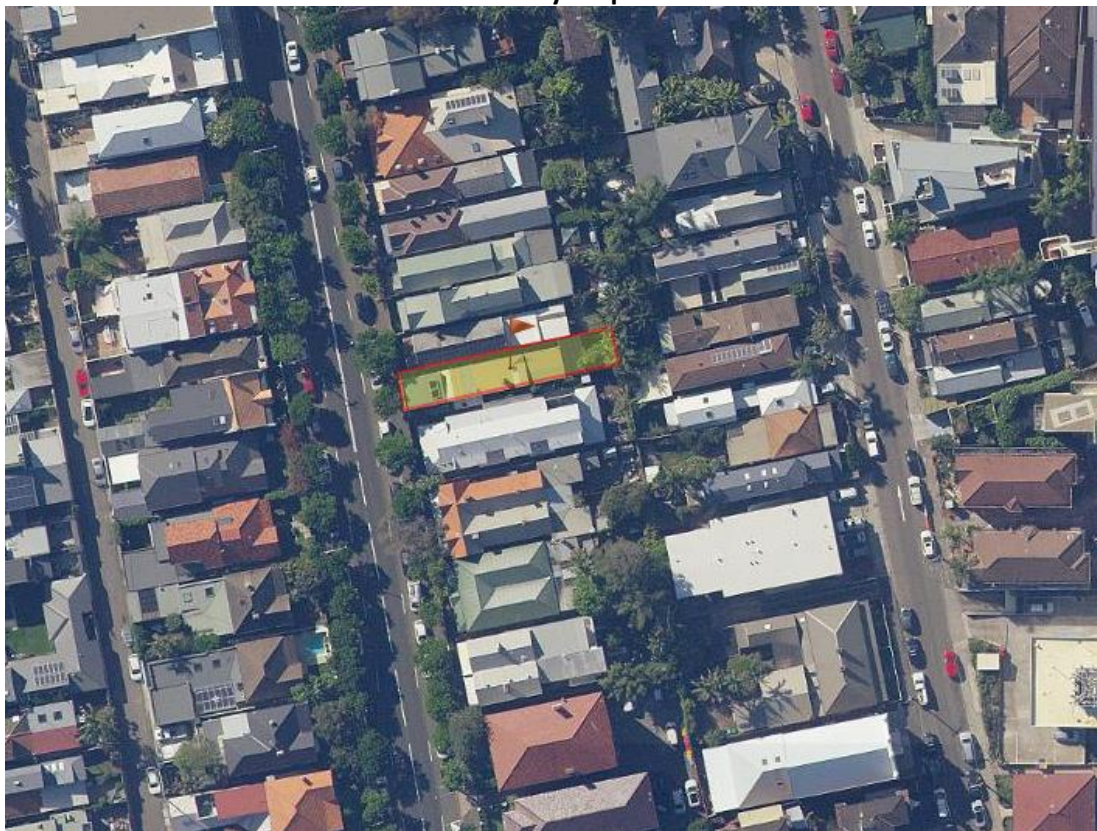
The site is not listed as a heritage item, however it is located within the Pittwater Road Heritage Conservation Area, as noted in Schedule 5 of the Manly Local Environmental Plan 2013.

2.2 Site and Locality Description

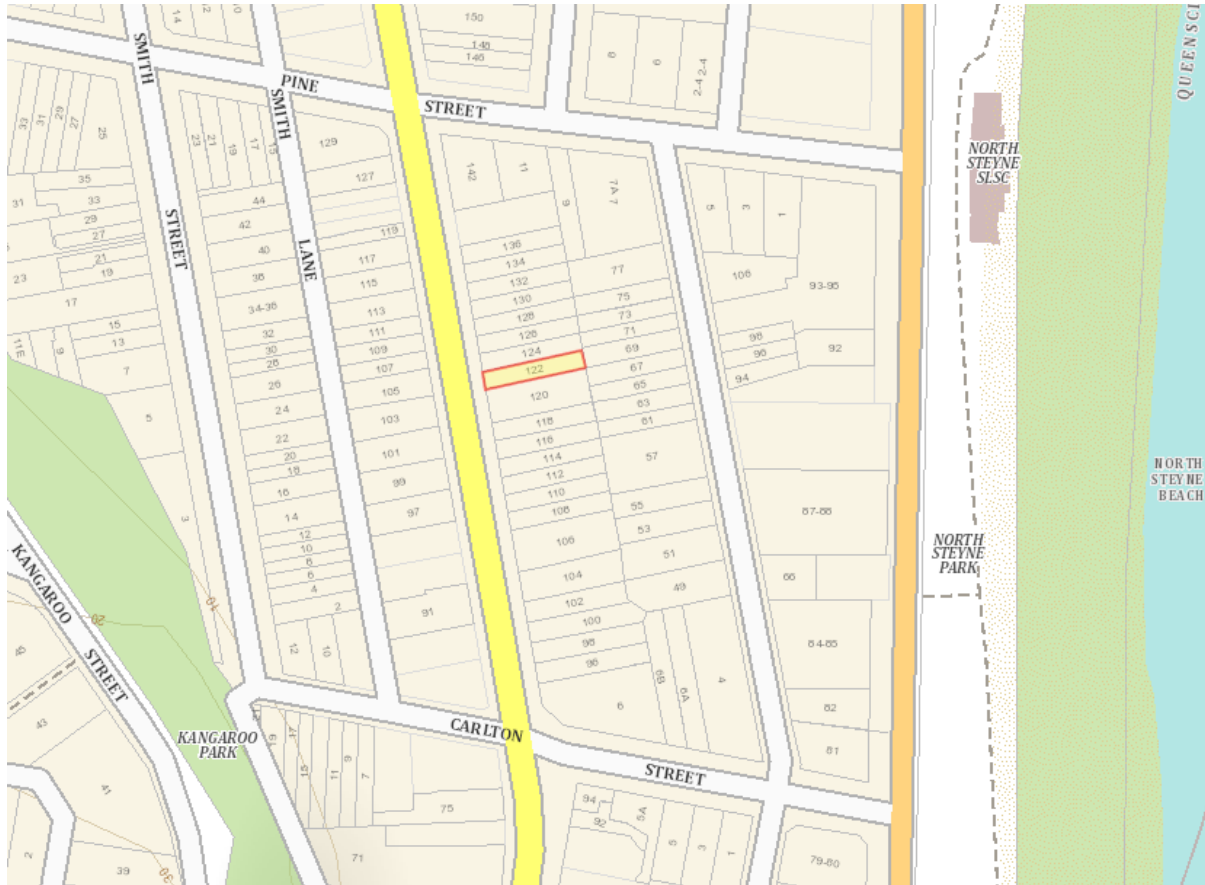
The site is located on the eastern side of Pittwater Road and is to the south of the intersection with Pine Street. The site is generally rectangular in shape with frontage to Pittwater Road and a width of 6.16m and a depth of 35.285m. The total site area is 215.3m². The site does not have vehicular access to Pittwater Road. The site is generally flat with existing stormwater connected to the street gutter.

The site is currently occupied by a part two storey brick rendered residence with a metal roof. The site has no vehicular access. The site has no landscape features such as rock outcrops. The site also has no views of value. The locality maps below show the location and area of the site:

Locality Maps



Source: NSW Land and Property Information 2020



Source: NSW Land and Property Information 2020

The locality has a variety of property types and sizes. The existing surrounding development comprises a mix of single detached dwellings, semi-detached dwellings and residential flat buildings comprising of one, two and three storeys. The site is serviced by local shops to the north and is located on a major public transport network with links to Manly Town Centre and Warringah Mall. The site is in close proximity to North Steyne Beach which is located approximately 250 metres to the east.

A streetscape review of the bulkier and larger developments along the eastern side of Pittwater Road include:

- 104 Pittwater Road – three storey residential flat building
- 106 Pittwater Road – three storey residential flat building
- 108 Pittwater Road – two storey semi-detached dwelling
- 110 Pittwater Road – two storey semi-detached dwelling
- 120 Pittwater Road – two storey boarding house development
- 126 Pittwater Road – appearance of two storey dwelling house
- 128 Pittwater Road – two storey dwelling house
- 138 Pittwater Road – two storey residential flat building

The proposal is not out of context and will fit in with the existing streetscape of the precinct. Relevant photos are provided on the following pages highlighting the site and streetscape of the area.



Photograph of the subject site – 122 Pittwater Road, Manly – the front façade is unique and different to other dwellings along the street.



Photograph of the subject site – 122 Pittwater Road, Manly – the photo shows that the existing house is built on the southern boundary with no side setback.



Photograph of the subject site – 122 Pittwater Road, Manly – the photo shows the existing southern boundary in relation to the neighbouring property 120 Pittwater Road.



Photograph of the subject site – 122 Pittwater Road, Manly – the photo shows the existing southern boundary in relation to the neighbouring property 120 Pittwater Road.



Photograph of properties to the north of the site on the eastern side of Pittwater Road.



Photograph of properties to the south of the site on the eastern side of Pittwater Road.

3. Proposal

The proposed development is for alterations and additions to the existing dwelling house at 122 Pittwater Road, Manly. The proposal remains consistent with the streetscape of Pittwater Road and the locality. The proposal is consistent with Council controls, ensures privacy and solar access are maintained for surrounding properties and the site.

The proposed alterations and additions to the existing dwelling house include the following:

Ground Floor

- Demolition works as depicted on the plans
- New entry area with stairs to first floor and storage area
- New bathroom
- Bedroom 1 to remain
- Living Area to remain
- Minor changes to kitchen and dining area
- Alterations to laundry
- Alterations to sunroom

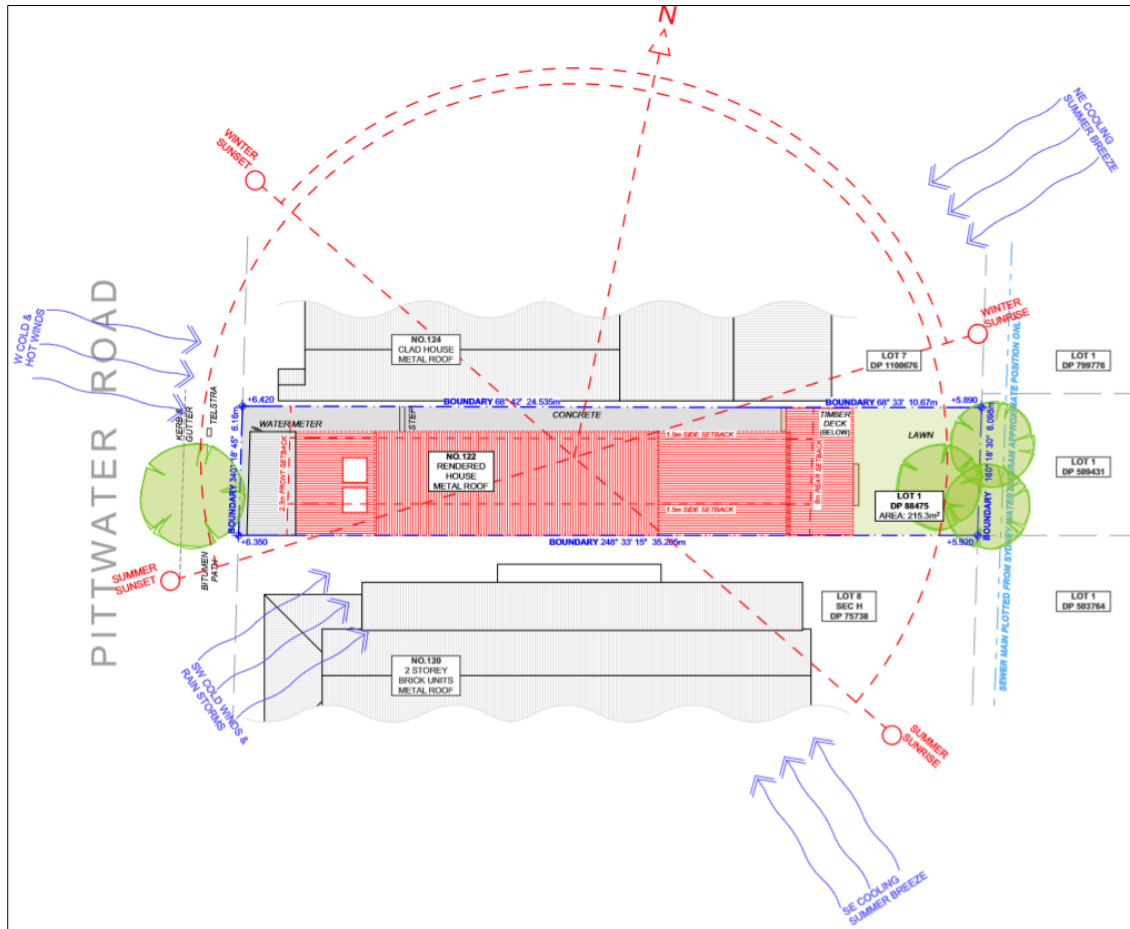
First Floor

- Demolition works as depicted on the plans
- Extension of existing first floor
- New stairs
- New bedroom 2 with wardrobe
- New bedroom 3 with wardrobe
- New bathroom
- New bedroom 4 with wardrobe/storage area

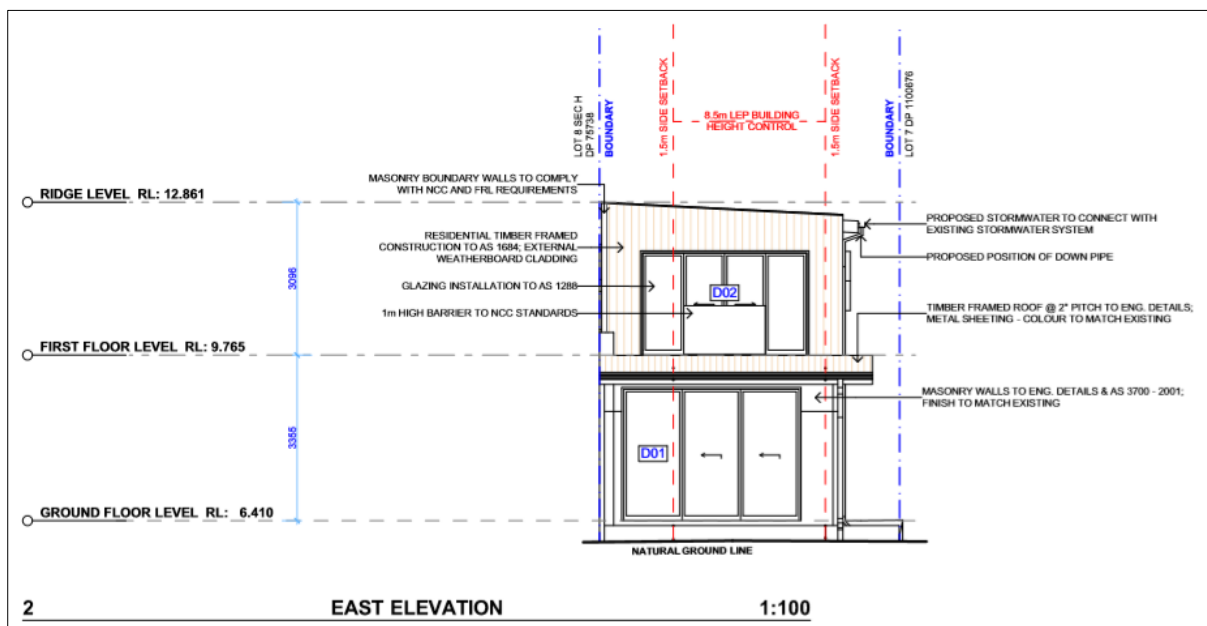
External Alterations/Additions

- No change to existing landscaping
- Skylights to new stair area
- Skylight to new bathroom on first floor
- Four new windows on first floor on northern elevation
- New window/bifold to first floor eastern elevation
- Extension of southern boundary wall for the first-floor additions
- Alterations to ground floor windows on north elevation including filling in two windows and a door
- Stormwater to connect to existing site provisions

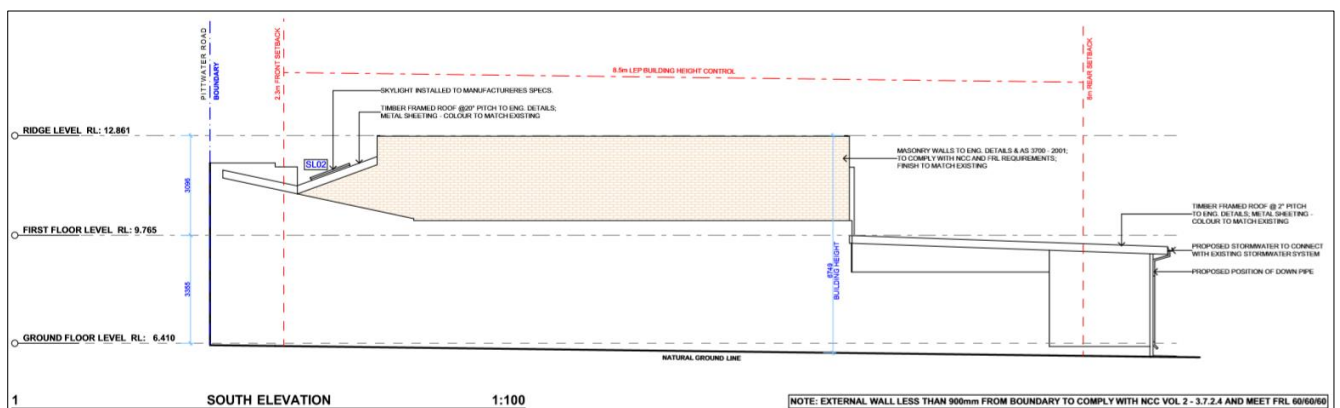
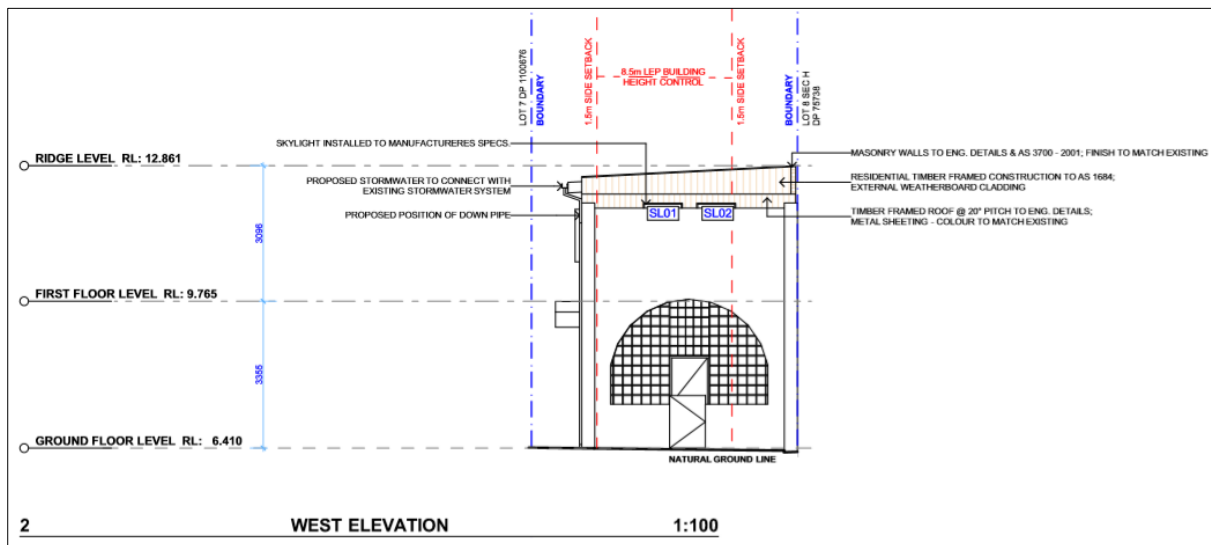
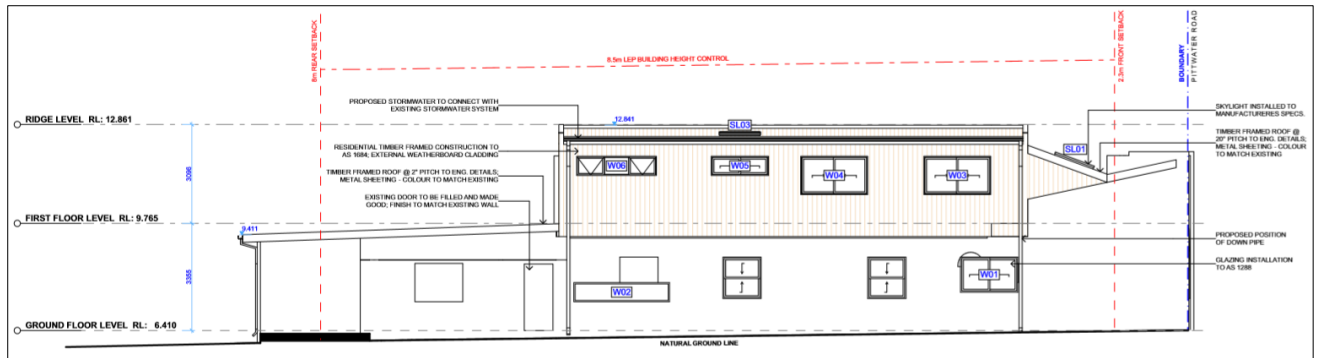
Refer to architectural plans prepared by Action Plans for a full description of all works.



Site Analysis Plan – this plan shows existing dwelling and proposed works in relation to the entire site



East Elevation Plan – this plan shows the proposed works to the rear of the dwelling.



4. Statutory Planning Controls

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

- *Environmental Planning and Assessment Act 1979*, and Environmental Planning and Assessment Regulation 2000;
- State Environmental Planning Policies;
- Manly Local Environmental Plan 2013; and
- Manly Development Control Plan 2013.

4.1 *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)

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

The proposal is not Designated Development under Section 4.10 of the EP&A Act 1979 or Schedule 3 of the EPA Assessment Regulation 2000, therefore Northern Beaches Council is the Consent Authority. In addition, the proposal does not constitute an Integrated Development under the EP&A Act 1979, Section 4.46 with no further approvals from other Government agencies required.

4.2 State Environmental Planning Policies (SEPPs)

SEPP (Infrastructure) 2007

It is submitted that the proposal does not fall under the provisions of SEPP (Infrastructure) 2007 and therefore no assessment is required.

BASIX and Energy Efficiency (SEPP Building Sustainability Index: BASIX) 2004

The proposal has been assessed in accordance with the relevant provisions of the BASIX and Energy Efficiency (SEPP Building Sustainability Index: BASIX) 2004. The proposal is supported by a BASIX Certificate prepared by Action Plans which confirms compliance with the relevant requirements for Water and Energy.

SEPP No. 55 Remediation of Land

Clause 7 of SEPP No. 55 Remediation of Land requires the consent authority to consider whether land is contaminated prior to granting of consent to the carrying out of any development on that land.

It is submitted that the site has been used for the purpose of residential accommodation for decades. It is envisaged that land contamination should not be on the site and no further reports are required. Notwithstanding the above, builder/contractors should take all measures to ensure if contamination is found during construction that relevant procedures are followed to report and remove contaminated materials.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 replaces the repealed provisions of clause 5.9 of the standard instrument LEP relating to the preservation of trees and vegetation.

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

The development remains consistent with the provisions of the SEPP as it does not propose the removal of any significant vegetation.

SEPP (Coastal Management) 2018

A review has been undertaken of SEPP (Coastal Management) 2018 and the land falls within the classification of Division 4 – Coastal Use area as per the map below:



 Coastal Use Area Map

http://webmap.environment.nsw.gov.au/PlanningHtml5Viewer/?viewer=SEPP_CoastalManagement

Division 4 Coastal use area

14 Development on land within the coastal use area

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

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

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

(b) is satisfied that—

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

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

(2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of [Sydney Regional Environmental Plan \(Sydney Harbour Catchment\) 2005](#).

Comments:

A review of section 1(a) is below:

- The proposal will not result in any adverse impacts to the existing safe access provided to North Steyne Beach foreshore and any headland or rock platform in this immediate locality where members of the public have access to.
- The proposal does not result in overshadowing, wind funnelling or the loss of any views from a public place to the foreshores.
- The visual amenity and scenic qualities of the coastline in this immediate locality are not impacted in any way by the proposed development.
- The proposal does not result in any impacts upon Aboriginal cultural heritage, practices or places.
- The cultural and built environment heritage in this locality are not impacted by the proposed development.

A review of section 1(b):

- The proposal has been designed and sited to avoid any adverse impacts referred to in Section (a) above. The building footprint remains as is and does not increase.
- The development does not have any adverse impacts that need to be minimised to be compliant with section 1(a) above.

A review of section 1(c):

- The development has been designed considering the surrounding coastal and built environment and the bulk, size and scale of the development. The proposal is appropriate for the site and considered to be compatible with the existing and future character of the neighbourhood and surrounding environment. The site retains the existing building footprint and is compatible in terms of height and landscaping for the locality.

A review of section 2:

- The site is not located within the Foreshores and Waterways Area within the meaning of [Sydney Regional Environmental Plan \(Sydney Harbour Catchment\) 2005](#), therefore this clause applies to the site.

4.3 Manly Local Environmental Plan 2013 (MLEP2013)

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

Part 4: Principal Development Standards			
Standard	Permitted	Proposed	Comments
4.1 Minimum subdivision lot size	250sqm	N/A	No change to existing lot size 215.3sqm
4.2 Rural subdivision	N/A	N/A	N/A
4.3 Height of buildings	8.5m	6.75m	Complies
4.3A Special height provisions	N/A	N/A	N/A
4.4 Floor space ratio	0.6:1	0.77:1	Minor non-compliance. Refer to review under Clause 4.4 Floor Space Ratio heading and Clause 4.6 Variation to Development Standard report.
4.5 Calculation of floor space ratio and site area	Noted	N/A	Noted
4.6 Exceptions to development standards	Noted	N/A	Clause 4.6 used to justify minor non-compliance to Clause 4.4 Floor Space Ratio

Part 5: Miscellaneous Provisions	
Provisions	Comments
5.1 Relevant acquisition authority	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissible uses	N/A
5.5 (Repealed)	N/A
5.6 Architectural roof features	N/A
5.7 Development below mean high water mark	N/A
5.8 Conversion of fire alarms	N/A
5.9, 5.9AA (Repealed)	N/A
5.10 Heritage conservation	The site is located within a heritage conservation area and adjacent to a heritage item. Refer to review under Clause 5.10 Heritage conservation
5.11 Bush fire hazard reduction	N/A
5.12 Infrastructure development and use of existing buildings of the Crown	N/A
5.13 Eco-tourist facilities	N/A
5.14 Siding Spring Observatory – maintaining dark sky	N/A

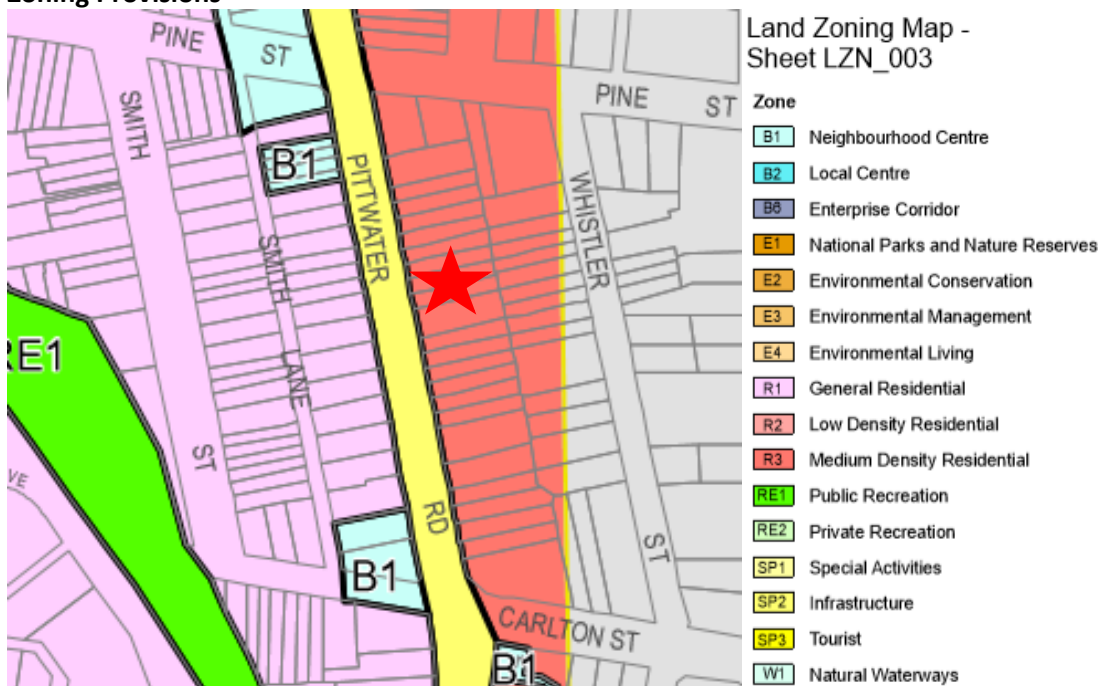
5.15 Defence communications facility	N/A
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones	N/A
5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	N/A
5.18 Intensive livestock agriculture	N/A
5.19 Pond-based, tank-based and oyster aquaculture	N/A

Part 6: Relevant Additional Local Provisions	
Provisions	Comments
6.1 Acid sulfate soils	The site is identified as a Class 4 acid sulfate soils site.
6.2 Earthworks	Not applicable – no earthworks proposed with this application.
6.3 Flood Planning	The small portion at the rear of the site is identified as a medium risk flood planning site.
6.4 Stormwater management	The proposal will utilise existing stormwater provisions on the site.
6.5 Terrestrial biodiversity	N/A
6.6 Riparian land and watercourses	N/A
6.7 Wetlands	N/A
6.8 Landslip risk	N/A
6.9 Foreshore scenic protection area	The site is identified on the foreshore scenic protection area map. Refer to review under Clause 6.9.
6.10 Limited development on foreshore area	N/A
6.11 Active street frontages	N/A
6.12 Essential services	
6.13 Design excellence	N/A
6.14 Requirement for development control plans	N/A
6.15 Tourist and visitor accommodation	N/A
6.16 Gross floor area in Zone B2	N/A
6.17 Health consulting rooms in Zones E3 and E4	N/A
6.18 (Repealed)	N/A
6.19 Development in St Patrick's Estate	N/A
6.20 Location of sex service premises	N/A
6.21 Noise impacts – licensed premises	N/A
6.22 Development for the purposes of secondary dwellings in certain	N/A

residential and environmental protection zones	
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Relevant Schedules	
Schedule	Comments
Schedule 1 – Additional permitted uses	N/A
Schedule 2 – Exempt development	N/A
Schedule 3 – Complying development	N/A
Schedule 4 – Classification and reclassification of public land	N/A
Schedule 5 – Environmental heritage	The site is identified as being within heritage conservation area C1 – Pittwater Road. The site is also adjacent to heritage item I2 – all stone kerbs.
Schedule 6 – Pond-based and tank-based aquaculture	N/A

Zoning Provisions



Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.
- To encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination.

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Attached dwellings; Boarding houses; Boat sheds; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Flood mitigation works; Group homes; Home businesses; Home industries; Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Recreation areas; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Restaurants or cafes; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Service stations; Shop top housing; Signage; Take away food and drink premises; Tank-based aquaculture; Tourist and visitor accommodation; Water recycling facilities; Water supply systems

4 Prohibited

Advertising structures; Farm stay accommodation; Pond-based aquaculture Water treatment facilities; Any other development not specified in item 2 or 3

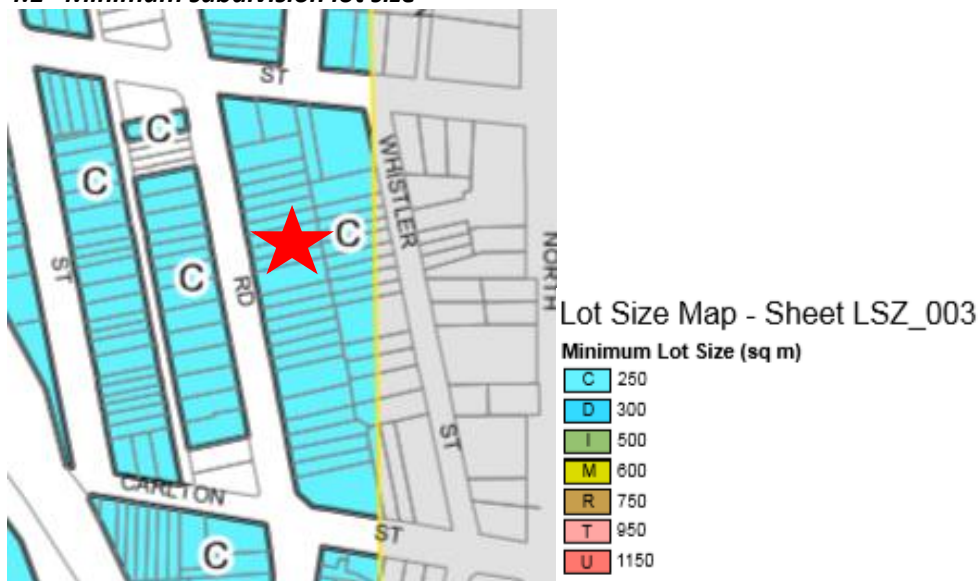
Comment:

The site is zoned R3 Medium Density Residential. A dwelling house is a permissible land use, therefore any alterations and additions are permissible with Council's consent. The proposed alterations and additions are consistent with the objectives of the zone, as supported below:

- The proposal retains the dwelling house which in turn provides for the housing needs of the community with the R3 Medium Density Residential zone.
- The proposal retains the dwelling house which provides a variety of housing types in the immediate precinct.
- The proposal encourages the revitalisation and rehabilitation of the existing site which is run down and in need of new facilities to bring it in line with the needs of the residential area – i.e. a four-bedroom house.

Part 4 Principal development standards

4.1 Minimum subdivision lot size



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

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

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

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

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

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

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

Comment:

The site has a minimum lot size of 250sqm. The proposal is for alterations and additions to an existing dwelling house and does not change the lot size of the property. Clause 4.1 is not applicable to this assessment.

4.3 Height of buildings



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

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

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

Comment:

The site has a maximum building height provision of 8.5m. The proposed alterations and additions have been strategically designed to a maximum height of 6.75m. The proposal complies with the maximum building height controls and is consistent with the relevant objectives of Clause 4.3:

- The proposal is consistent with the building heights and roof forms of the area, noting that a streetscape review noted developments ranging from one to three storeys in height.
- The proposal is consistent with the existing bulk and scale of the area.
- The proposal has no impacts to views or view corridors.
- The proposal does not adversely impact existing solar access to private and public places.

4.4 Floor space ratio



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

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

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

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

Comment:

The site is identified 'F' with a maximum FSR control of 0.6:1. The proposal is for alterations and additions to an existing dwelling house with no increase to the prevailing building footprint. The existing dwelling is 115.44sqm with a proposed increase to 166.06sqm which provides an FSR of 0.77:1, therefore not complying with the numerical standards of Clause 4.4. Notwithstanding, the proposal is consistent with the objectives of Clause 4.4 and therefore the minor non-compliance should be supported by Council as justified below and within the Clause 4.6 Variation to Development Standard Report. The following is noted which supports the breach to Clause 4.4 and that the objectives are achieved:

- The proposal is consistent with the existing and desired streetscape character. As previously noted, the immediate area has a variety of property types ranging in scale from one storey to three storeys.
- The proposal is retained behind the front building line which is already two storeys in scale, therefore no impact to important landscape or townscape features.
- As per above, the prevailing façade is two storeys in scale, therefore no impacts to the visual relationship between new developments and the existing streetscape of the area.
- The proposal has been strategically located within the existing building footprint, with no increase impacts on the user enjoyment of adjoining land and the public domain. The proposal retains and enhances the existing landscaping and functionality of the site.
- The proposal has been strategically designed by the project architects who have worked with relevant consultants and the clients to achieve a design which meets the needs of the project while maintaining the streetscape, heritage conservation values and the privacy and solar values for adjoining neighbours.
- The site falls under MDCP control 4.1.3.1 Variation to FSR for undersized lots.
- The proposal has also been designed with regards to the development consent granted for 128 Pittwater Road, Manly, which also had a variation to the FSR control.

4.6 Exceptions to development standards

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

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

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

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

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

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

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

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

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,

(c) clause 5.4,

(ca) clause 6.15,

(cb) a development standard on land to which clause 6.19 applies.

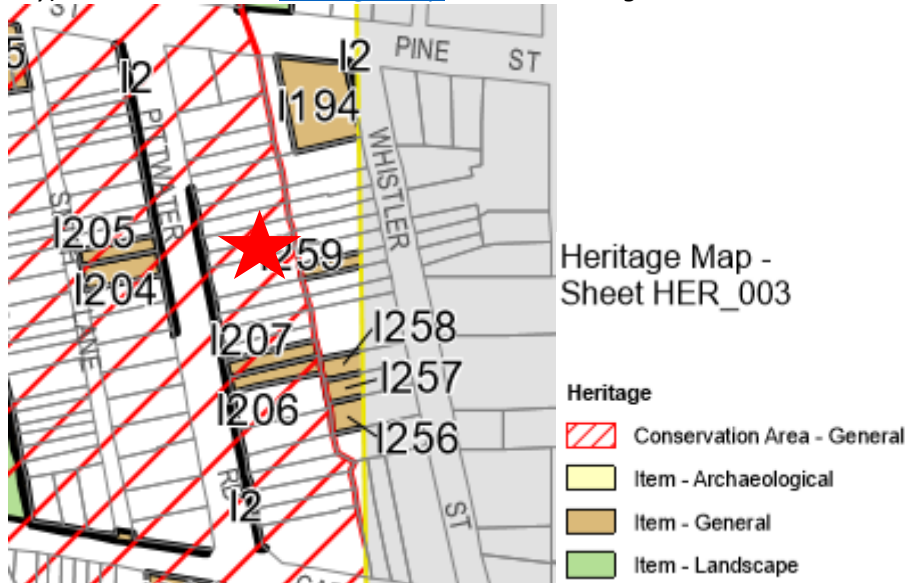
Comment:

Clause 4.6 is utilised to justify the breach to Clause 4.4 Floor Space Ratio. Refer to Clause 4.6 Variation to Development Standards Report.

Part 5 Miscellaneous provisions

5.10 Heritage conservation

Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the [Heritage Map](#) as well as being described in Schedule 5.



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

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

(2) **Requirement for consent** Development consent is required for any of the following—

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land—
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land—
 - (i) on which a heritage item is located or that is within a heritage conservation area, or

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) **When consent not required** However, development consent under this clause is not required if—
(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—

(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and

(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or

(b) the development is in a cemetery or burial ground and the proposed development—

(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and

(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or

(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

(4) **Effect of proposed development on heritage significance** The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) **Heritage assessment** The consent authority may, before granting consent to any development—

(a) on land on which a heritage item is located, or

(b) on land that is within a heritage conservation area, or

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) **Heritage conservation management plans** The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) **Archaeological sites** The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies)—

(a) notify the Heritage Council of its intention to grant consent, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) **Aboriginal places of heritage significance** The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—

(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and

(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of nominated State heritage items The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

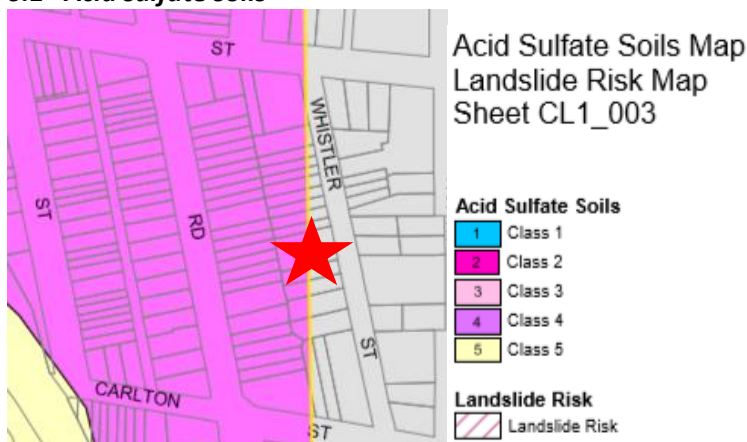
Comment:

The site is located within the heritage conservation area C1 – Pittwater Road. The site is also adjacent to heritage item I2 - all stone kerbs. The existing dwelling on 122 Pittwater Road is unique and does not contribute to the conservation values of the area. It is built to the front boundary and is two storeys in height at the front façade. We assume that the site has been included within the heritage conservation area due to other dwellings which are similar in nature at the street. The proposed alterations and additions have been strategically located a minimum 5.2m from the front boundary to ensure there is no adverse impacts to the heritage values of the area. The alterations and additions comply with the building height provisions and are considered to be sympathetic to the heritage values of the area.

Accordingly, given that the site is not heritage listed, the site does not contribute to the heritage conservation values of the streetscape and that the proposed works comply with building height and are setback 5.2m from the front boundary, it is our planning opinion that a Heritage Impact Statement is not required, and that support from Council is granted.

Part 6 Additional local provisions

6.1 Acid sulfate soils



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

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

- (3) *Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.*
- (4) *Despite subclause (2), development consent is not required under this clause for the carrying out of works if—*
- (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and*
 - (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.*
- (5) *Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—*
- (a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,*
 - (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),*
 - (c) minor work, being work that costs less than \$20,000 (other than drainage work).*
- (6) *Despite subclause (2), development consent is not required under this clause to carry out any works if—*
- (a) the works involve the disturbance of less than 1 tonne of soil, and*
 - (b) the works are not likely to lower the watertable.*

Comment:

The site is identified as Class 4 Acid Sulfate Soils. The proposal is for alterations and additions to an existing dwelling house with no proposed excavations.

6.2 Earthworks

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

- (a) to ensure that earthworks and associated groundwater dewatering for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring a separate development consent.*

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

- (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
- (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*

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

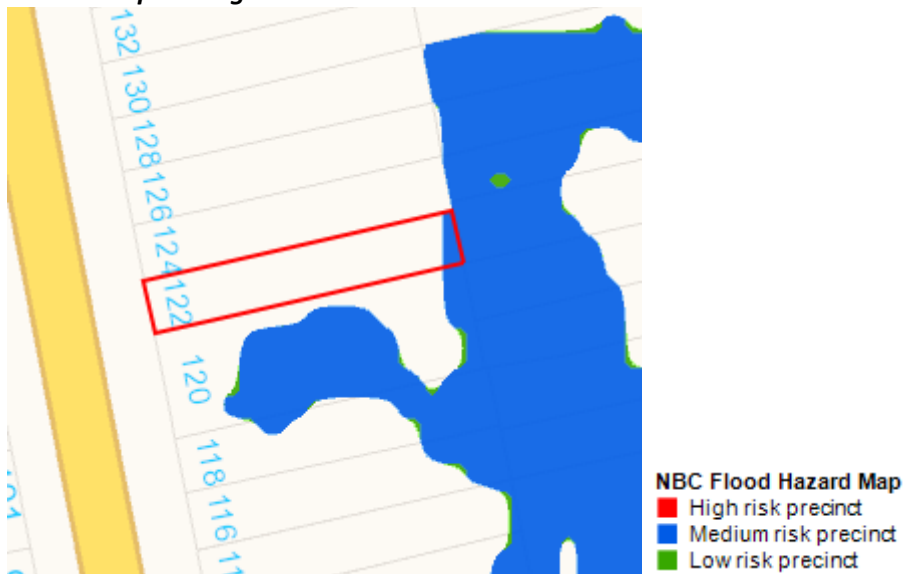
- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

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

Comment:

The proposal is for alterations and additions to an existing dwelling house with no proposed excavations.

6.3 Flood planning



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

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) to avoid significant adverse impacts on flood behaviour and the environment.*

(2) This clause applies to land at or below the flood planning level.

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

- (a) is compatible with the flood hazard of the land, and*
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

(4) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.

(5) In this clause—

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

Comment:

The site is identified on Northern Beaches Councils Flood Hazard map. It is noted that the flood hazard to the site relates to a small portion of the rear yard which is not the subject of this application. There are no works proposed for that area of the hazard, therefore no requirement to review or provide a Flood Impact Assessment.

6.4 Stormwater management

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

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

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

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

Comment:

The site has existing stormwater provisions. As the proposal does not increase the building footprint existing, the proposal will retain the existing stormwater provisions with no upgrades required.

6.9 Foreshore scenic protection area



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

(2) This clause applies to land that is shown as “Foreshore Scenic Protection Area” on the [Foreshore Scenic Protection Area Map](#).

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

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

Comment:

The site is identified on the Foreshore Scenic Protection Area map. The site complies with the requirements of Clause 6.9 and will not have an impact on the foreshore scenic values of the precinct. As per Clause 6.9 (3) the following matters are reviewed:

- (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,

The site is on flat land with no potential impacts to the visual amenity of the harbour or coastal foreshore. The proposal is also consistent with the relevant building heights of the area and will not result in any view loss from a public place to the foreshore.

- (b) measures to protect and improve scenic qualities of the coastline,

The proposal is consistent with the building bulk and scale of the precinct. The proposal protects the existing scenic qualities of the area.

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

The proposal is for alterations and additions to an existing dwelling house which is consistent with the building bulk and scale of the precinct. The site is in excess of 100m from the foreshore on a relatively flat portion of the locality. The proposal is a suitable development for the site.

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

The proposal does not result in any potential conflict between land-based and water-based coastal activities.

6.12 Essential services

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

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

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

Comment:

The proposal is for alterations and additions to an existing dwelling house. The site has access to the relevant essential services.

4.4 Manly Development Control Plan (MDCP)

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

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

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

Part 3: General Principles of Development

3.1 Streetscapes and Townscapes

3.1 Streetscapes and Townscapes

Relevant DCP objectives to be met include the following:

Streetscape

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

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

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

Townscape

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

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

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

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

Comment:

The site is located within an established residential precinct and involves alterations and additions to an existing dwelling house. The existing streetscape consists of a mixture of one to three storey scaled buildings all of which varies in terms of building configuration, front, rear and side setbacks and building heights. The proposal implements a contemporary approach to the building and will positively contribute to the quality of the existing streetscape, noting the conservation values of the Pittwater Road area. The proposal complies with Clause 3.1: Streetscape and Townscape within the Manly Development Control Plan 2013.

3.1.1 Streetscape (Residential areas)

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

3.1.1.1 Complementary Design and Visual Improvement

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

Setback Principles in Higher Density Areas

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

Comment:

As previously noted, the existing streetscape consists of a mixture of one to three storey scaled buildings all of which varies in terms of building configuration, front, rear and side setbacks and building heights. The proposal implements a contemporary approach to the building, with the project architects skillfully designing the first floor addition 5.2m behind the existing two storey façade. The proposal has been designed with regards to adjoining properties while integrating the unique constraints of the site, including the existing dwelling being built on the southern boundary. The proposal is compatible with the precinct in terms of bulk and scale and will have no adverse impacts to the visual quality of the area.

3.1.1.2 Front Fences and Gates

Comment:

Not applicable – the proposal does not change the existing front fence and gate.

3.1.1.3 Roofs and Dormer Windows

- a) Roof forms should complement, but not necessarily replicate the predominant form in the locality and in particular those of adjacent buildings.
- b) Roofs should be designed to avoid or minimise view loss and reflectivity.

- c) *Dormer windows and windows in the roof must be designed and placed to compliment the roof structure and reflect the character of the building. In particular, such windows are not permitted on the street [frontage](#) of the building where there is no precedent in the streetscape, especially on adjoining dwellings.*

Comment:

The proposal includes a new skillion roof sloping 3 degrees from south to north to allow for stormwater provisions on the northern elevation. The reason for this is due to the southern elevation being built on boundary. The skillion roof and small degree of slope allows for the site to minimise any potential overshadowing or privacy issues to the southern neighbour.

3.1.1.4 Garages, Carports and Hardstand Areas

Comment:

Not applicable – the site does not have any parking arrangements.

3.2 Heritage Considerations

Relevant DCP objectives in relation to heritage in this plan include the following:

Objective 1) To retain and conserve environmental heritage and cultural significance of Manly including:

- *significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- *the foreshore, including its setting and associated views; and*
- *potential archaeological sites, places of Aboriginal significance and places of natural significance.*

Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.

Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/ or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.

Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.

Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.

Comment:

The site is located with heritage conservation area C1 – Pittwater Road. The site is also adjacent to heritage item I2 - all stone kerbs. The existing dwelling on 122 Pittwater Road is unique and does not contribute to the conservation values of the area. It is built to the front boundary and is two storeys in height at the front façade. We assume that the site has been included within the heritage conservation area due to other dwellings which are similar in nature at the street. The proposed alterations and additions have been strategically located a minimum 5.2m from the front boundary to ensure there is no adverse impacts to the heritage values of the area. The alterations and additions comply with the building height provisions and are considered to be sympathetic to the heritage values of the area.

3.2.1.1 Development in the vicinity of heritage items, or conservation areas

- a) *In addition to LEP listings of Environmental Heritage (LEP Schedule 5), this DCP requires consideration of the effect on heritage significance for any other development in the vicinity of a heritage item or conservation area.*
- b) *Proposed development in the vicinity of a heritage item or conservation area must ensure that:*
 - i) *it does not detract or significantly alter the heritage significance of any heritage items, conservation area or place;*
 - ii) *the heritage values or character of the locality are retained or enhanced; and*
 - iii) *any contemporary response may not necessarily seek to replicate heritage details or character of heritage buildings in the vicinity, but must preserve heritage significance and integrity with complementary and respectful building form, proportions, scale, style, materials, colours and finishes and building/street alignments.*
- c) *The impact on the setting of a heritage item or conservation area is to be minimised by:*
 - i) *providing an adequate area around the building to allow interpretation of the heritage item;*
 - ii) *retaining original or significant landscaping (including plantings with direct links or association with the heritage item);*
 - iii) *protecting (where possible) and allowing the interpretation of any archaeological features; and*
 - iv) *retaining and respecting significant views to and from the heritage item.*

Comment:

The proposal does not detract from any adjacent heritage items such as the stone kerbs along Pittwater Road. The proposal retains the existing façade with the proposed alterations and additions internal, or setback back a minimum 5.2m from the front boundary.

3.2.1.2 Potential Heritage Significance

If the property is assessed as having merit as a potential heritage item, the heritage controls and considerations in this plan will apply.

Comment:

It is our interpretation that the site does not have potential heritage significance.

3.2.2 Alterations or Additions to Heritage Items or Conservation Areas

See also paragraph 4.1.7 First Floor and Roof Additions (Residential Development Controls)

3.2.2.1 Complementary Form and Scale that Distinguishes Heritage Significance

- a) *Alterations or additions to heritage items or buildings within a conservation area will not necessarily seek to replicate, overwhelm, dominate or challenge heritage details or character of the building or structure of heritage significant buildings. However, a contemporary response which complements and respects the form and scale of the original buildings may be considered if the heritage significance is retained.*

- b) *Consideration should be given to whether making a house bigger will ruin its appearance. Additions to small houses can easily overwhelm them and use up garden space needed for private open space and impact the setting and pattern of development in the locality. Modest additions work best and can be organised as wings or pavilions to the existing house. All additions must be at the back of the house, not the front.*

Comment:

As discussed elsewhere in the report, the site does not have any heritage values, although the façade is unique in regard to the streetscape of Pittwater Road. The proposal is for alterations and additions which will retain the existing two storey façade. Any proposed works will be contemporary and do not try to replicate heritage items or contributory properties in the area.

3.2.2.2 Retaining Significant Features and Landscape Setting.

Note: *Significant features in relation to this paragraph include roofs, detailing, brickwork, colours and original windows (size, proportion and type).*

Alterations or additions to heritage items or buildings within a conservation area must:

- a) *retain original and traditional roof form, roof pitch with any alterations to the roofs to be sympathetic to the style of the heritage item or building within a conservation area;*
- b) *retain original architectural detailing such as barge board, finial trim, window awnings and front verandas. New detailing must be complementary to the character of the item or place;*
- c) *retain original wall treatments and original cladding (including slate). Modifications to face brick dwellings must use the original style of bricks, window heads, mortar joints and other building details;*
- d) *not render or paint original face brickwork. In particular face brickwork where already so treated should be restored, where practical, to its original un-painted state;*
- e) *where surfaces are not originally face brickwork:*
 - i) *any appropriate use of cement render is complementary to and consistent with the heritage architectural style and colour schemes and repainting must be articulated in the same manner as the original colour rendering of the building;*
 - ii) *external colour schemes are to be in keeping with the original character of the heritage building based where possible on physical or documentary evidence in keeping with the architectural style and period of the building;*
 - iii) *contemporary colours are not discouraged, but should be combined in a complementary way; and*
 - iv) *single colour solutions are not permitted;*
- f) *avoid removal of original fabric in order to retain the integrity of the heritage item or conservation area;*

Comment:

The site does not have any heritage values, although the façade is unique in regard to the streetscape of Pittwater Road. The proposal is for alterations and additions which will retain the existing two storey façade. Any proposed works will be contemporary and do not try to replicate heritage items or contributory properties in the area.

3.3 Landscaping

3.3.1 Landscape Design

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

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

3.3.2 Preservation of Trees or Bushland Vegetation

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

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

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

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

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

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

Comment:

Not applicable – the proposal is for alterations and additions within the existing building footprint. No proposed changes to the landscaping on the site.

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

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

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

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

Designing for Amenity

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

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

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

Comment:

The proposal has been skilfully designed and assessed to ensure that all relevant measures have been undertaken to provide a quality residential product as per the client's requirements, while also protecting the amenity of existing and future residents. The proposal has been changed multiple

times to maximise solar access and to ensure no amenity impacts to adjoining neighbours. The architects have had to carefully design the additions with regards to the uniqueness of the site, being the small width of the site and the southern elevation built to boundary.

3.4.1 Sunlight Access and Overshadowing

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

Objective 2) To allow adequate sunlight to penetrate:

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

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

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

Comment:

As demonstrated in the shadow diagrams prepared by Action Plans, the proposal will not result in any adverse overshadowing impacts to the adjoining neighbours. The shadowing impacts to the neighbours are consistent with the existing impacts, in particular to the south, and are acceptable for the following reasons:

- The dwelling house complies with the maximum building height requirements as prescribed under Clause 4.3 of the Manly Local Environmental Plan 2013;
- The neighbouring dwellings will retain the minimum number of hours of direct solar access to the rear private open spaces.
- It is also noted that the southern neighbours ground floor northern elevation windows are blocked by vegetation and the first floor enclosed balconies.

It is important for Council to note the existing southern elevation built on boundary. Any potential impacts will be minor and do not adversely impact to rear (eastern) part of the southern neighbour and private open space.

3.4.1.1 Overshadowing Adjoining Open Space

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

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

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

Comment:

As noted above, the proposal does not eliminate more than one third of the existing sunlight accessing the private open space in the rear yard of 120 Pittwater Road, Manly.

3.4.2 Privacy and Security

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

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

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

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

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

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed alterations and additions have been designed to ensure no impacts to privacy or security of adjoining properties.

Northern Elevation:

The proposed first floor addition includes four windows along the northern elevation. The windows are considered to be 'low use' windows with three windows for bedrooms and one window for the bathroom. Windows 05 and 06 have been designed as high sill windows to ensure no overlooking or privacy issues to the northern neighbour 124 Pittwater Road, Manly.

Eastern Elevation:

The proposed first floor addition includes one window on the eastern elevation. The window will be 'low use' for a bedroom and is approx. 15.2m setback from the rear boundary. Therefore, it is considered that the window will have no impacts to the eastern neighbours.

Western Elevation:

No proposed changes to the western (front) elevation.

Southern Elevation:

The proposed first floor addition does not include any windows on the southern elevation, therefore no privacy impacts to the southern neighbour 120 Pittwater Road, Manly.

3.4.2.1 Window Design and Orientation

- a) Use narrow, translucent or obscured glass windows to maximise privacy where necessary.*
- b) When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy.*

Comment:

The proposed window openings will not result in any adverse visual privacy impacts to the immediate neighbouring dwellings. The proposed window configurations will not contribute to any adverse privacy impacts to the neighbouring properties and will maintain a reasonable level of amenity to the adjoining premises. Refer to descriptions above under 3.4.2 which outline each elevation.

3.4.2.2 Balconies and Terraces

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

Comment:

Not applicable - no proposed balconies or terraces.

3.4.2.3 Acoustical Privacy (Noise Nuisance)

a) Consideration must be given to the protection of acoustical privacy in the design and management of development.

b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.

c) Council may require a report to be prepared by a Noise Consultant that would assess likely noise and vibration impacts and may include noise and vibration mitigation strategies and measures. See particular requirements for noise control reports for licenced premises below at paragraph g) below.

Comment:

Any noise generated from the proposed development will be associated with a 'dwelling house' and is an acceptable form of development within the R3: Medium Density Residential Zoning of the site.

3.4.3 Maintenance of Views

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

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

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

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

a) The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.

b) Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.

c) Templates may be required to indicate the height, bulk and positioning of the proposed development and to assist Council in determining that view sharing is maximised and loss of views is minimised. The templates are to remain in place until the application is determined. A registered surveyor will certify the height and positioning of the templates.

Comment:

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

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

Relevant objectives in relation to this part include the following:

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

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

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

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

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

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

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

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

See also Council's Administrative Guidelines

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

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

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

Comment:

The Development Application has been supported by a BASIX Certificate which ensures the development will comply with the relevant BASIX commitments under the State Environmental Planning Policy (Building Sustainability Index 2004). The proposal will comply with the objectives and controls for Sustainability under the Manly Development Control Plan 2013.

3.6 Accessibility

Comment: Not applicable.

3.7 Stormwater Management

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

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

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

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

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

Comment:

The proposal is for alterations and additions to an existing dwelling house. The proposal retains the existing building footprint and does not increase the existing stormwater catchment. The proposed first floor additions will be connected to the existing stormwater network.

3.8 Waste Management

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

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

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

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

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

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

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

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

Objective 7) To discourage illegal dumping.

Comment:

The proposal for alterations and additions includes the demolition of some existing structures and proposed new works will be completed as per the requirements of Councils Waste Management policies. A Waste Management Plan has been submitted to the Northern Beaches Council with respect to the construction waste that is associated with the proposed works. All waste generated during the construction of the building will be reuse, recycle and dispose of waste in an environmentally friendly and sustainable manner.

In accordance with Northern Beaches Council's waste minimisation plan/policy, where appropriate and achievable, materials will be recycled and reused to ensure that waste avoidance is incorporated into the development.

3.9 Mechanical Plant Equipment

Comment: Not applicable.

3.10 Safety and Security

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

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

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

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

Comment:

The development has been designed with due regard to safety and security for both the occupants of the dwelling and adjoining neighbours.

Part 4: Development Controls and Development Types

4.1 Residential Development Controls

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

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

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

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

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

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

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

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

Comment:

The proposed development is consistent with the objectives for residential development in that the alterations and additions to the existing dwelling house will continue to maintain the existing residential character of the immediate locality; is compatible with the building height plane of the locality; and will accommodate an increased population growth through additional housing (additional bedrooms) without compromising the amenity of the neighbouring properties. The development is deemed to be consistent with the desired future character of the area, will not compromise the amenity of the surrounding properties or the aesthetic qualities of the foreshore scenic protection area or the Manly Local Government Area.

4.1.1 Dwelling Density, Dwelling Size and Subdivision

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

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

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

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

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

Objective 5) To maximise the use of existing infrastructure.

Comment:

The proposal does not change the lot size. The site is identified as under density map D3 250sqm. The site is 215.3sqm and is unique in size. The proposed alterations help create a functional design with a greater level of internal amenity.

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

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

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

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

b) Exceptions to Height

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

See also paragraph 4.1.7.2 Habitable Rooms in the Roof Structure.

Comment:

The proposed alterations and additions have a maximum building height of 6.75m. Refer to Clause 4.3 under Manly Local Environmental Plan 2013 for further details.

4.1.2.1 Wall Height

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

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

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

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

Comment:

In accordance with the table above, the maximum wall height permissible for each elevation is 6.5m. The wall height as measured from the ground level (existing) to the underside of the roof eave for each proposed elevation is as follows:

Southern Elevation – approx. 6.5m to 6.75m

Northern Elevation – approx. 5.9m to 6.0m

The northern elevation wall height complies with the minimum wall height requirements of MDCP.

The southern elevation has a minor non-compliance. This is due to the requirement to build on the southern elevation which is built to boundary. Further, the requirement for the roof to slope from south to north so that the stormwater provisions can be collected on the northern elevation without encroachment to neighbouring dwellings.

The minor non-compliance in part by 250mm is acceptable, noting that the maximum building height for the proposal is only 6.75m (1.75m under the maximum building height for the area). In addition to this, the development will sit within the maximum height of buildings development standard provision of MLEP2013 and complies with the objectives of the controls.

4.1.2.2 Number of Storeys

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

Comment:

The proposal retains the existing two storey limit which complies with 4.1.2.2.

4.1.2.3 Roof Height

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

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

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

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

Comment:

The proposal includes a new skillion roof. The proposed roof height complies with the controls under 4.1.2.3.

4.1.3 Floor Space Ratio (FSR)

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

- Objective 1) To ensure the scale of development does not obscure important landscape features.*
- Objective 2) To minimise disruption to views to adjacent and nearby development.*

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

4.1.3.1 Exceptions to FSR for Undersized Lots

Note: On existing sites in Residential LEP Zones (including E3 & E4) with a site area less than the minimum lot size required on the LEP Lot Size (LSZ) Map, Council may consider exceptions to the maximum FSR under LEP clause 4.6 when both the relevant LEP objectives and the provisions of this DCP are satisfied. See LEP clause 4.6(4)(a).

The undersized nature of a lot is a matter that Council may consider in determining whether 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' and 'there is sufficient environment planning grounds to justify contravening the development standard' under LEP clause 4.6(3).

a) The extent of any exception to the LEP FSR development standard pursuant to LEP clause 4.6 in this plan is to be no greater than the achievable FSR for the lot size indicated in Figure 30 - Extent of FSR Variation for Undersized Lots.

Figure 30 - Extent of FSR Variation for Undersized Lots

Subzones on the LEP Lot Size (LSZ) Map	Maximum variation to FSR for undersized lots
Area 'C' on the LEP LSZ map	Calculation of FSR based on 250 sqm lot size/ site area
Area 'D' on the LEP LSZ map	Calculation of FSR based on 300 sqm lot size/ site area
Area 'I' on the LEP LSZ map	Calculation of FSR based on 500 sqm lot size/ site area
Area 'M' on the LEP LSZ map	Calculation of FSR based on 600 sqm lot size/ site area
Areas 'R', 'T' & 'U' on the LEP LSZ map	Calculation of FSR based on 750 sqm lot size/ site area

Comment: The site is undersized as per the above table. Council can therefore apply provisions for undersized lots. Technically with the undersized lot variation the site is capable of achieving 150sqm being 0.6:1 of 250sqm. This in terms of the existing site would equate to an FSR of 0.7:1 (150sqm of the site area 215.3sqm). The proposal has a proposed FSR of 166.06sqm (0.77:1). It is considered that the proposal achieves the objectives of FSR and is compatible with the bulk and scale of the locality. Reference is made to the approval granted to 128 Pittwater Road, Manly, which also utilised 4.1.3.1 for undersized lots. Refer to Clause 4.4 Floor Space Ratio and the Clause 4.6 Variation to Development Standard Report.

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

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

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

Objective 2) To ensure and enhance local amenity by:

- providing privacy;*
- providing equitable access to light, sunshine and air movement; and*
- facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*

- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

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

Objective 4) To enhance and maintain natural features by:

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

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

Comment:

The site is unique and constrained by the existing building footprint and the small nature of the site, including the 6.16m width. The proposed alterations and additions have been designed to retain the existing ground floor and first floor, while extending the first floor. The proposal for alterations and additions is to create a more functional and usable house, including the increase in bedrooms. The proposal has reviewed recent approvals and looked to maximise the site while minimising any adverse impacts to neighbours. It is important for Council to acknowledge the small width and the existing structures built on the southern boundary. The proposed setbacks are outlined below. It is important to note the majority of the setbacks below are existing and do not change:

	Side Setback	Rear Setback	Front Setback
Ground Floor	Northern Elevation: 1.152m Southern Elevation: 0m	9m	0m
First Floor	Northern Elevation: 1.152m Southern Elevation: 0m	15.28m	0m

4.1.4.1 Street Front setbacks

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

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

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

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

Comment:

The front setback controls of the Manly Development Control Plan 2013 require a minimum setback that is consistent with the prevailing building line along the neighbouring dwellings within the street. The site is located along Pittwater Road with varying front setbacks. The proposal does not change the existing front façade which has a nil front setback. As the proposal does not change the existing provisions on the site it is considered to meet the provisions of the streetscape character, noting many dwellings have a nil to 1.8m front setback.

4.1.4.2 Side setbacks and secondary street frontages

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

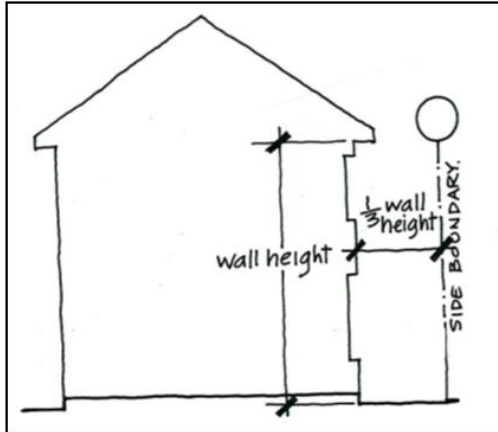


Figure 31 - Side Setback Diagram

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

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

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

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

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

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

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

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

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

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

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

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

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

Comment:

As noted above the existing and proposed side setbacks are:

Northern Elevation: 1.152m

Southern Elevation: 0m

It is noted that the proposal has retained the existing setbacks for the first-floor extension due to structural requirements and also the width of the site which constrains any options to further setback the first-floor extension. The first floor existing is 4.4m in length with a proposed extension of 15.6m. It is noted that the existing southern elevation is built to boundary as a solid rendered brick wall for approx. 26m. The height of the existing wall ranges from approx. 5.5m to 4m in height. The proposal includes the first-floor extension which will provide an addition approx. 2.5m on the wall height of the southern elevation in parts.

It is important for Council to acknowledge the site constraints. The proposal in particular the first floor provides a 15.28m rear setback which provides access to sunlight for the southern neighbour. As provided under privacy and amenity the site retains adequate access to sunlight, privacy and has strategically located windows to have no overlooking impacts to all neighbours.

The site is located within residential density D3 and therefore variations to the side setback can be applied. It is further noted that the majority of the setbacks are existing and have to be retained for structural purposes. The departure from the Council control is acceptable given the existing nature of the side elevations and subsequently will not compromise the visual privacy or access to sunlight of the adjoining neighbours. The variation does not contribute to any excessive visual bulk and scale and will remain compliant with the maximum height provisions as prescribed within Council's controls. The variation from the side setback control is acceptable in considering the merits of the proposal.

4.1.4.4 Rear Setbacks

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

Comment:

The proposal retains the existing ground floor compliant rear setback of 9m with the new first floor setback 15.28m from the rear boundary.

4.1.5 Open Space and Landscaping

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

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

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

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

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

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

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

Comment:

The proposal is for alterations and additions within the existing building footprint only with no proposed changes to the existing open space and landscaping.

4.1.5.1 Minimum Residential Total Open Space Requirements

Numeric Controls

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

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

Minimum dimensions and areas for Total Open Space

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

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

ii) a minimum unbroken area of 12sqm.

iii) A variation to the minimum specifications in i) and ii) above may only be considered for Above Ground Open Space where it can be demonstrated that lesser dimensions or areas will better serve to minimise amenity impacts on neighbours. A lesser areas of above ground open space may be included or calculated under the minimum requirements in the circumstances of the case. In all other cases open space that does not comply with the minimum specification is not included or calculated under the minimum requirements for total open space.

Provisions for Total Open Space Above Ground

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

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

Amenity Considerations

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

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

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

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

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

Comment:

The site is identified as OS3 requiring at least 55% of site are as total open space and at least 35% of open space as landscaped area. As noted above, the proposal is for alterations and additions within the existing building footprint, therefore no changes to the existing open space:

- Total Open Space 57.10sqm (26.5%)
- Landscaped Area 36.69sqm (30.9%)

The site remains unchanged and is consistent with the surrounding neighbours.

4.1.5.2 Landscaped Area

Numeric Controls

a) Landscaped Area must be provided on site in accordance with above Figure 34 - Numeric Requirements for Total Open Space, Landscaped Area and Open Space above Ground Level. The minimum landscaped area requirement is a percentage of the actual total open space onsite.*

**Note: 'Actual' space refers here to proposed (or existing where no change proposed), rather than the minimum requirement for open space in this plan.*

Minimum Dimensions and Areas

b) Minimum dimensions and areas must provide for the following:

- i) soil depth of at least 1m for all landscaped areas either in ground or above ground in raised planter beds; and*
- ii) a minimum horizontal dimension of 0.5m measured from the inner side of the planter bed/ box, wall or any other structure which defines the landscaped area and incorporating an appropriate drainage and irrigation regime.*

c) Minimum Tree Plantings

- i) The minimum tree numbers must be in accordance with Figure 37 - Minimum Number of Native Trees Required.*

- ii) The minimum tree requirement may include either existing established native trees or new native trees planted at a pot/container size to be at least 25 litres capacity and being a species selected in accordance with Schedule 4 Part B - Native Tree Selection.
- iii) The required minimum number of native trees required under this paragraph must be planted in a deep soil zone as defined in this plan's Dictionary.

Figure 37 - Minimum Number of Native Trees Required

Note: to be read in conjunction with the [LEP Lot Size Map](#).

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

Landscaping Driveways

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

Comment:

Not applicable – no change to the existing landscaping and open space on the site. Refer to previous control for justification.

4.1.5.3 Private Open Space

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

Principal Private Open Space

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

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

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

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

Comment:

The proposal retains the existing private open space located off the ground floor which complies with the minimum 18sqm requirements.

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

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

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

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

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

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

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

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

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

Comment:

Not applicable – the site does not have parking or vehicular access off Pittwater Road.

4.1.7 First Floor and Roof Additions

4.1.7.1 First Floor Additions

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

b) The dwelling and the form of alterations and additions must retain the existing scale and character of the street and should not degrade the amenity of surrounding residences or the aesthetic quality of the former Manly Council area. 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.

4.1.7.2 Habitable Rooms in the Roof Structure

Habitable rooms will be permitted in a roof structure subject to compliance with all other controls in this plan and the LEP including height and FSR in the LEP. However alterations and additions to a building which existed prior to 2007 may involve habitable rooms within an existing roof structure that is above the maximum wall and roof height; (see paragraph 4.1.2 of this plan) subject to the rooms not detracting from the character or integrity of the roof structure and not adversely impacting on the amenity of adjacent and nearby properties and the streetscape. Similarly, alterations and additions which exceed the maximum height must not increase the overall height of the building. Consideration may be given in this paragraph to the application of LEP clause 4.6 in considering exceptions to the LEP Building Height standard.

Comment:

The proposal has been designed as per the controls under 4.1.7.1 First Floor Additions. The proposal has been designed with the additions following the existing ground floor and first floor walls.

Adequate documentation has been provided to support that the proposal will not have an adverse impact on overshadowing, view loss or privacy issues to adjoining neighbours.

4.1.8 Development on Sloping Sites

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

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

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

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

Comment:

Not applicable – no significant slopes to assess.

4.1.9 Swimming Pools, Spas and Water Features

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

Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;

Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;

Objective 3) To integrate landscaping; and

Objective 4) To become an emergency water resource in bush fire prone areas.

Comment:

Not applicable – no existing or proposed swimming pool or spa.

4.1.10 Fencing

Comment: Not applicable – no change to existing fences.

Part 4.4 Other Development (all LEP Zones)

4.4.1 Demolition

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

Objective 1)

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

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

a) Meet ecologically sustainable development principles by conserving resources and energy and reducing waste from any demolition process; and

b) Conserve the cultural heritage of the existing building and that of the locality. An appropriate assessment of potential heritage significance must accompany any DA in relation to demolition. If the property has merit as a potential heritage item, the heritage controls and considerations in this plan apply, and

c) Comply with the requirements of the Northern Beaches Waste Management Policy

Comment:

The proposal includes demolition works for the proposed alterations and additions. Where possible the building will retain materials for reuse, otherwise as per the Waste Management Plan they will be reused or recycled off-site.

4.4.2 Alterations and Additions

Manly Council promotes the retention and adaptation of existing buildings rather than their demolition and replacement with new structures.

Extent to which this Plan Applies to Alterations and Additions

a) This paragraph defines alterations and additions in respect of how much of the building is to be demolished. If alterations and additions involve demolition of more than half of the building then the development will be assessed as new work and the controls of this plan will apply to the whole building i.e. to both existing and new development.

b) In paragraph a) above, the extent of demolition is calculated as a proportion of the existing external fabric being demolished including the surface area of the walls, the roof measured in plan form and the area of the lowest habitable floor.

Comment:

The proposal has been designed to retain the original features of the dwelling while providing a more functional and usable dwelling in a medium density residential zone. The proposal does not demolish more than half the building, therefore the provisions of the DCP only apply to the new works. Notwithstanding this, many controls have been retained as per existing to align with structural requirements and due to the constraints of the site including the small width of 6.16m. The proposal is a good urban design example of promoting the retention and adaptation of an existing building, rather than demolishing the entire structure.

Part 5 – Special Character Precincts, Areas and Sites

5.2 Pittwater Road Conservation Area

5.2.1 Statement of Significance

a) The Pittwater Road Conservation Area street pattern is distinctive and underpins the urban character of the area. This street pattern comprises the alignment, detailing and silhouette of the street facades and the overall scale of building in Pittwater Road is important. The streets remain unaltered in their alignment, although the names of Malvern, Pine and North Steyne are now names for what were Whistler, Middle Harbour and East Steyne respectively. In particular, the streetscape along Pittwater Road from Dennison Road to Collingwood Street is a fine example of a remaining vista of the early settlement period in the Municipality specifically its scale and architectural interest and mixed use and for its association with the tram route and the major northern transport route.

b) New development should recognise the linear nature of the buildings in Pittwater Road for their contribution to the visual character of this street. New development should not visually overwhelm the four groups of individual heritage items in that part of the street which is zoned for business purposes in the LEP.

5.2.2 Development fronting Pittwater Road

In relation to development fronting Pittwater Road, Council must be satisfied that DAs will not:

a) adversely affect the amenity of the locality;

b) result in excessive vehicular movements to and from the site or in adjacent residential streets;

c) involve signage or other non-structural change in the appearance of the exterior of the building that is inconsistent with the preservation or restoration of the heritage streetscape in the vicinity;
d) change in the appearance of the exterior of a building without being in keeping with the preservation or restoration of the heritage streetscape.

Comment:

The proposal complies with the relevant criteria for the Pittwater Road Conservation Area. The proposal retains the existing two storey façade and has setback any proposed first floor extensions 5.2m from the front boundary. The proposal:

- Will not adversely impact the amenity of the locality.
- Will not result in excessive vehicular movements to and from the site with the use to remain the same as a dwelling house.
- Does not involve signage.
- Does not change the appearance of the front façade exterior.

5.4 Environmentally Sensitive Lands

5.4.1 Foreshore Scenic Protection Area

LEP clause 6.9 designates land in the Foreshore Scenic Protection Area as shown on the LEP Foreshore Scenic Protection Area Map to protect visual aesthetic amenity and views both to and from Sydney Harbour, the Pacific Ocean and the Manly foreshore. Development in the Foreshore Scenic Protection Area must not detrimentally effect the ‘visual or aesthetic amenity of land in the foreshore scenic area nor must the development similarly effect the views of that land, including ridgelines, tree lines and other natural features viewed from the Harbour or Ocean from any road, park or land in the LEP for any open space purpose or any other public place. Any adverse impacts considered in this paragraph will be mitigated. In accordance with these LEP objectives Council seeks to conserve and preserve tree canopies and street trees, wildlife corridors and habitat and minimise cumulative impacts on escarpment, rock shelves and other natural landscape features.

5.4.1.1 Additional matters for consideration

LEP clause 6.9(3)(a) to (d) lists certain matters to be taken into account in relation to all development within the Foreshore Scenic Protection Area.

a) Further to matters prescribed in the LEP, the development in the Foreshore Scenic Protection Area must also:

- i) minimise the contrast between the built environment and the natural environment;*
- ii) maintain the visual dominance of the natural environment;*
- iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;*
- iv) not cause any change, visually, structurally or otherwise, to the existing natural rocky harbour foreshore areas;*
- v) locate rooflines below the tree canopy;*
- vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and*
- vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality.*

b) Setbacks in the Foreshore Scenic Protection Area should be maximised to enable open space to dominate buildings, especially when viewed to and from Sydney Harbour, the Ocean and the foreshores in Manly.

Comment:

The site is located within MLEP2013 Foreshore Scenic Protection Area map. It is submitted that the proposal complies with the relevant considerations for Foreshore Scenic Protection Area. Refer to Clause 6.9 Foreshore Scenic Protection Area for full review of this clause.

5.4.3 Flood Prone Land

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

Objective 1) Protection of:

- *people;*
- *the natural environment; and*
- *private and public infrastructure and assets.*

Requirements

a) The purpose of this paragraph is to guide development in accordance with the objectives and processes set out in the NSW Government's Flood Prone Land Policy as outlined in the NSW Government, Floodplain Development Manual, 2005.

b) Development to which this paragraph applies must comply with the performance criteria set out in paragraph 5.4.3.1 Performance Criteria.

c) Forms A and A1 (see Attachment A of Northern Beaches Council's Guidelines for preparing a Flood Management Report) are to be completed and submitted to Council.

d) Development that satisfies the prescriptive controls in paragraph 5.4.3.2 Prescriptive Controls is deemed to have satisfied paragraph 5.4.3.1 Performance Criteria.

Comment:

The site is identified under the Northern Beaches Council Flood Hazard map as having a medium risk hazard in the rear portion of the site. It is submitted that the proposal complies with the relevant considerations for Flood Prone Land. Refer to Clause 6.3 Flood Planning for full review of this clause.

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

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

(a) The provisions of:

(i) The provision of any Environmental Planning Instrument

Comment: The proposed alterations and additions are permissible and consistent with the intent of the Manly Local Environmental Plan and Development Control Plan as they are reasonably applied to the proposed works given the constraints imposed by the sites location, environmental and size constraints. The proposal has been supported by a Clause 4.6 Variation to Development Standard report.

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

Comment: Not applicable.

(iii) Any development control plan

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

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

Comment: Not applicable.

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

Comment: Not applicable.

(v) (repealed)

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

Context and Setting:

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

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

Comment: The proposed alterations and additions retain the existing building footprint and are generally consistent with neighbouring developments with no adverse residential amenity impacts in terms of views, privacy or overshadowing.

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

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

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

Access, transport and traffic:

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

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

Comment: The site has no parking facilities.

Public Domain

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

Utilities

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

Flora and Fauna

Comment: The proposal does not change the existing landscaping on the site.

Waste Collection

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

Natural hazards

Comment: The site is identified under the flood planning map and foreshore scenic protection area map. The proposal has adequately justified any hazard requirements throughout this report.

Economic Impact in the locality

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

Site Design and Internal Design

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

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*

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

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

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

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

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

Construction

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

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

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

(c) The suitability of the site for the development

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

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

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

Comment: No submissions are available at this time.

(e) The public interest

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

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

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

6. Summary and Conclusion

The proposal for alterations and additions to an existing dwelling housing is permissible and consistent with the intent of the built form controls as they are reasonably applied to the proposed works. It is considered that the proposal is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The merits of the application have been assessed in accordance with the provisions of the relevant requirements of MLEP 2013 and the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). There is no evidence that the impacts of the development would warrant amendment to the subject proposal or justify refusal. Where a variation is proposed, adequate documentation has been provided to support the application.
- The nature of the development is appropriate having regard to the area of the site, its geographical location, topography, constraints and adjoining land uses.
- The proposal has been designed with a compliant building height, therefore no adverse impacts on the visual amenity of adjoining developments or to public views. The proposal will not have an adverse impact to the scenic qualities to the foreshore area.

Accordingly, the proposal for alterations and additions to an existing dwelling house at 122 Pittwater Road, Manly, is acceptable from environmental, social, heritage and planning perspectives and approval should therefore be granted by Council.