

## **STATEMENT OF ENVIRONMENTAL EFFECTS**

Alterations and  
additions to an existing  
dwelling and proposed  
swimming pool

57 Cutler Road,  
Clontarf

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# Statement of Environmental Effects

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**57 Cutler Road, Clontarf**



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## ATTACHMENT 1      **CLAUSE 4.6 VARIATION REQUESTS – HEIGHT OF BUILDINGS AND FSR**

## 1 Introduction

This statement has been prepared as part of the supporting documentation for a Development Application proposing alterations and additions to the existing dwelling house and the construction of a new swimming pool at the rear of the subject allotment.

The project Architect has responded to the client brief to enhance the amenity and design quality of the development through the reconfiguration and augmentation of floor space, the adoption of contemporary materials and finishes and the introduction of a swimming pool at the rear of the property. The outcome is a contemporary building of exceptional design quality which takes advantage of its superior location attributes whilst maintaining appropriate residential amenity to surrounding properties. The final design provides for a dwelling house which will sit comfortably within the Cutler Road streetscape whilst respecting the amenity of the adjoining properties. In addition to this Statement of Environmental Effects the following also accompanies the application:

- Boundary Identification Survey prepared by Stutchbury Jaques Pty Limited
- Architectural Plans by Gartner Trovato Architects
- Geotechnical Report by White Geotechnical Group
- Bushfire report prepared by BPAD
- Waste Management Plan prepared by Gartner Trovato Architects
- Cost summary report
- BASIX certificate

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

- Environmental Planning and Assessment Act, 1979,
- Manly Local Environmental Plan 2013, and
- Manly Development Control Plan 2013

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

- The application has considered and satisfies the various relevant planning controls applicable to the proposed use and associated works have regard to the objectives of the standards/ controls and the applicable variation provisions/ considerations.
- The site is assessed as suitable for the proposal, having regard to the relevant land use and planning requirements.

- The proposal will not give rise to any unacceptable streetscape or residential amenity impacts.
- The variation to the wall height and rear boundary setback provisions contained within Manly Development Control Plan have been acknowledged and appropriately justified having regard to the objectives of the controls. Strict compliance has been found to be both unreasonable and unnecessary given that the application represents legitimate alterations and additions to an existing dwelling house and the consistency of the proposal with the objectives of the applicable controls.
- The variations to the clause 4.3 height of buildings and clause 4.4 FSR standards contained within Manly Local Environmental Plan 2013 (MLEP) have been acknowledged and found to succeed on merit when assessed against the clause 4.6 variation provisions. Such variations requests are well founded.



## 2 Site Analysis

### 2.1 Site Description and Location

The subject property is legally described as Lot 30, DP 25654, No. 57 Cutler Road, Clontarf. The site is irregular in shape having splayed frontage and address to Cutler Road of 16.925 metres, variable depth of between 32.935 and 37.88 metres, a rear boundary width of 16.155 metres and an area of 576.5m<sup>2</sup>. The subject property is irregular in topography falling approximately 3 metres across its surface in a westerly direction. The property contains a number of trees as identified on the accompanying survey. An aerial photograph of the site is at Figure 1 below.



**Figure 1:** Site Location Map (Source: SIX Maps)

The existing development on the site consists of a 1 and 2 storey rendered brick dwelling house with pitched metal roof and integrated garage accommodation accessed from Cutler Road. A low masonry wall delineates the front boundary of the property. The subject property as viewed from Cutler Road is depicted in Figure 2 over page. Development in the immediate vicinity generally consists 1, 2 and 3 storey detached dwelling houses within landscape settings.



**Figure 2** – Subject property as viewed from Cutler Road

Development in the immediate vicinity generally consists of 1, 2 and 3 storey detached dwelling houses within landscape settings. The properties to the rear of the site are located at a lower elevation and have frontage and address to Castle Rock Crescent. All properties are orientated to the south to take advantage of available harbour views.

### 3 Description of Development

#### 3.1 Details of the Proposed Development

The application proposes alterations and additions to the existing dwelling house and the construction of a new swimming pool at the rear of the subject allotment as depicted on the following plans prepared by Gartner Trovato Architects:

DWG No:	DESCRIPTION
A.00	COVER SHEET
A.01	SITE PLAN + SITE ANALYSIS
A.02	LOWER GROUND
A.03	GROUND FLOOR
A.04	FIRST FLOOR
A.05	NORTH + EAST ELEVATION
A.06	SOUTH + WEST ELEVATION
A.07	SECTIONS
A.08	SITE CALCULATIONS
A.09	FSR CALCULATIONS
A.10	SHADOW DIAGRAMS

The proposed works can be summarised as follows:

##### Lower Ground Floor

- This reconfigured floor plate contains garage accommodation for 2 vehicles, a plant room, a guestroom/rumpus room with wet bar, laundry facilities and a passenger lift. The guestroom/rumpus room opens onto the rear yard with internal stair access provided to the level above.

##### Ground Floor

- This reconfigured and extended floor plate incorporates the formal entry, open plan kitchen and meals area, living and dining room, bathroom, WC and 3 bedrooms the main with ensuite.
- An entrance colonnade creates an Architectural entry statement whilst supporting the proposed additional floor plate above.
- The living areas open onto south facing terrace and balcony areas and a swimming pool located adjacent to the rear boundary of the property. Bedrooms 2 and 3 open onto north facing balconies.
- Internal stair and lift access is provided to the levels above and below.

##### First floor

- This new floor plate incorporates 2 bedrooms, the main with ensuite and robe, and shared office facilities. The bedrooms and circulation space open onto a terrace areas.



The acceptability of the proposed excavation is detailed within the accompanying geotechnical report prepared by White Geotechnical with stormwater disposed of to the existing stormwater disposal system which gravity drains to Cutler Road.

This application is also accompanied by a bushfire report prepared by BPAD which contains a number of recommendations which need to be implemented to ensure the development is safe from bushfire hazard. No objection is raised to a suitably worded condition requiring compliance with the recommendations contained therein.

## 4 Statutory Planning Framework

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

### 4.1 Manly Local Environmental Plan 2013

#### 4.1.1 Zoning and Permissibility

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

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

Dwelling houses are permissible with consent in the R2 Low Density Residential zone and the works relate to alterations and additions to an existing dwelling house. As such, the works are permissible with consent and consistent with the zone objectives by providing for the housing needs of the community within a low density residential environment.

#### 4.1.2 Floor Space Ratio

Pursuant to Clause 4.4 MLEP 2013 the maximum FSR for development on the site is 0.4:1 representing a gross floor area of 230.6 square metres. The stated objectives of this clause are:

- to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
- to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*
- to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*
- to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*
- 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.*

It has been determined that the proposal result in a total gross floor area on the site of 299.46 square metres. This represents a floor space ratio of 0.52:1 and therefore non-compliant with the FSR standard by 68.86 square metres or 29.8%.

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

The Lot size map identifies the subject site as being in sub zone "R" in which a minimum Lot area of 750m<sup>2</sup> is required. The site having an area of only 576.5m<sup>2</sup> is well below the minimum Lot area provision and accordingly the clause 4.1.3 Manly DCP FSR variation provisions apply.

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

In this regard, the 299.46m<sup>2</sup> of gross floor area proposed, representing an FSR of 0.39:1 (based on 750m<sup>2</sup>), is below the maximum prescribed gross floor area of 300m<sup>2</sup> and as such complies with the DCP variation provision. We note that such provision contains the following note:

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

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

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

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

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

#### 4.1.3 Height of Buildings

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

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

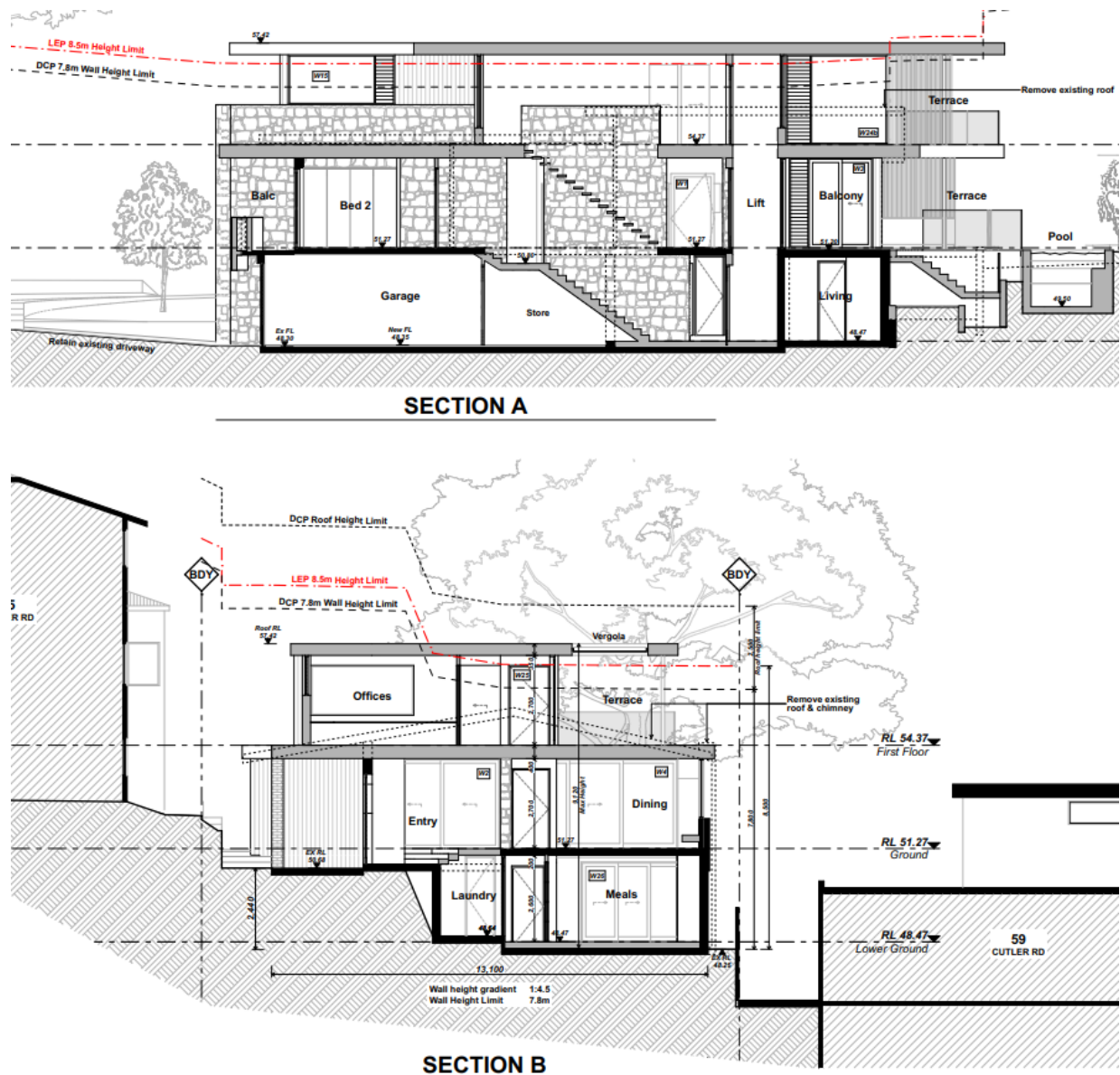
Building height is defined as follows:

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

Ground level existing is defined as follows:

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

It has been determined that western edge of the proposed upper-level addition breaches the height standard by approximately 700mm representing a non-compliance of 8.2% as depicted in Figure 3 over page. The balance of the development sits comfortably below the prescribed height standard.



**Figure 3** - Plan extract depicting the building height breaching portion of the development located above the 8.5 m height standard.

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



#### 4.1.4 Acid Sulfate Soils

Pursuant to clause 6.1 of the LEP the objective is to ensure that development does not disturb expose or drain acid sulfate soils and cause environmental damage. The subject site is mapped as being within class 5 acid sulfate soils. We confirm that the works are not 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 and to that extent no further acid sulfate soil investigation is required.

#### 4.1.5 Earthworks

Pursuant to clause 6.2(3) of MLEP, 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.*

The application is accompanied by a geotechnical report prepared by White Geotechnical which at Section 9 contains the following geotechnical summary:

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

In relation to the applicable considerations, we note the following:

- (a) the development is unlikely to disrupt, or detrimental effect, drainage patterns and soil stability in the locality of the development,*
- (b) the development is unlikely any unacceptable impact on the future use or redevelopment of land,*
- (c) the fill or the soil to be excavated, or both, from the land is unlikely to be contaminated given its long-established residential use,*

- (d) the proposed earthworks will not give rise to adverse impacts on the amenity of adjoining properties in terms of stability or vibration provided the recommendations within the accompanying geotechnical report are followed,
- (e) no fill material will be imported onto the site,
- (f) the excavation works are unlikely to disturbing relics however this could be dealt with by an appropriately worded condition of consent,
- (g) the excavation is not located within proximity of any waterway, drinking water catchment or environmentally sensitive area and to that extent is unlikely to give rise to any adverse impacts, and
- (h) no objection is raised to an appropriately worded condition requiring compliance with the recommendations contained within the accompanying geotechnical report.

On the basis of the above analysis the consent authority can be satisfied that these provisions are achieved.

#### **4.1.6 Landslip Risk**

Pursuant to clause 6.8 of Manly LEP the subject property is not identified on the landslip risk map however the application is accompanied by a geotechnical report by prepared by White Geotechnical as previously outlined.

#### **4.1.7 Foreshore Scenic Protection Area**

Pursuant to clause 6.9 the subject site is located within a foreshore scenic protection area. The proposed dwelling will not result in any adverse impact to the scenic quality of the area or impact on the visual amenity of the Harbour foreshore. The proposed works will not be readily discernible from the foreshore area and in any event will not be perceived as inappropriate or jarring have regard to the built form characteristics established within the site's visual catchment. These provisions are satisfied.

## 4.2 Manly Development Control Plan 2013

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

Control	Requirement	Proposed	Compliance
<b>Streetscapes and Townscapes</b>  <b>3.1</b>	<p>To minimise any negative visual impact of walls, fences and carparking on the street frontage.</p> <p>To ensure development generally viewed from the street complements the identified streetscape.</p> <p>To encourage soft landscape alternatives when front fences and walls may not be appropriate.</p> <p>To ensure that all parking provision is designed and sited to respond to and respect the prevailing townscape.</p> <p>To assist in maintaining the character of the locality.</p> <p>To recognise the importance of pedestrian movements and townscape design in the strengthening and promotion of retail centres.</p> <p>To minimise negative visual impact, in</p>	<p>The works are considered to be consistent with the existing streetscape character of the local area which is eclectic in nature.</p> <p>The proposal does not result in the loss of any significant landscape features with a compliant quantum of landscaped area maintained.</p> <p>The retained car parking has been integrated into the built form and will not give rise to any adverse streetscape consequences.</p> <p>The proposal introduces a building of exceptional design quality into the existing streetscape where it will contribute to the streetscape quality of the area generally and reflect the desired future character of development in the area.</p>	Yes

Control	Requirement	Proposed	Compliance
	particular at the arterial road entry points into the Council area and the former Manly Council area, so as to promote townscape qualities.		
<b>Landscaping Design</b> <b>3.3.1</b>	<p>To encourage appropriate tree planting and maintenance of existing vegetation.</p> <p>To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.</p>	The proposal does not result in the loss of any significant landscape features with a compliant quantum of landscaped area maintained.	Yes
<b>Preservation of Trees</b> <b>3.3.2</b> <b>Footpath Tree Planting</b> <b>3.3.3</b>	<p>To protect and enhance the urban forest of the Northern Beaches.</p> <p>To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.</p>	The proposal does not result in the loss of any significant landscape features with a compliant quantum of landscaped area maintained.	Yes
<b>Sunlight Access and Overshadowing</b> <b>3.4.1</b>	New development (including alterations and additions) must not eliminate more than one third of the existing sunlight	Shadow diagrams have been prepared and provided within the architectural set.	Yes  Variation for open space

Control	Requirement	Proposed	Compliance
	<p>accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June) ; or</p> <p>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.</p> <p>Given the orientation of the site at least 2 hours of solar access is to be maintained to the windows or glazed doors to living rooms of adjacent properties between 9am and 3pm on 21<sup>st</sup> of June</p>	<p>The shadow diagrams demonstrate that the development will not cast any shadow onto the existing north facing living room and open space areas of the adjoining residential properties with compliant levels of solar access maintained.</p>	
<b>Privacy and Security</b>  <b>3.4.2</b>	<p>To minimise loss of privacy to adjacent and nearby development by:</p> <ul style="list-style-type: none"> <li>• appropriate design for privacy (both acoustical and visual) including screening between</li> </ul>	<p>The proposal has appropriately considered the amenity of neighbours with regard to privacy.</p> <p>Surrounding development has primary orientation to the south to take advantage of available views with a degree of mutual overlooking occurring as development steps down the landform in a</p>	Yes



Control	Requirement	Proposed	Compliance
	<p>closely spaced buildings;</p> <ul style="list-style-type: none"> <li>mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.</li> </ul> <p>To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.</p> <p>To encourage awareness of neighbourhood security.</p>	<p>south/ south westerly direction.</p> <p>In this regard, whilst some overlooking opportunities will exist particularly from the proposed south and west facing upper level terrace, direct sightlines are obscured to a significant extent by the setting back of the balustrade from the building edge and the juxtaposition of the living areas and private open spaces on the adjoining property at No. 59 Cutler Road.</p> <p>The proposal responds appropriately to the juxtaposition of surrounding development in relation to the maintenance of appropriate privacy and amenity.</p>	
<p><b>Stormwater Management</b></p> <p><b>3.7</b></p>	<p>To manage urban stormwater within its natural catchments and within the development site without degrading water quality of the catchments or cause erosion and sedimentation.</p> <p>To manage construction sites to prevent environmental impacts from stormwater and protect downstream properties</p>	<p>All stormwater will be connected into the existing stormwater disposal system which gravity drained to Cutler Road.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	from flooding and stormwater inundation.		
<b>Waste Management</b> <b>3.8</b>	All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.	All demolition and construction materials will be disposed of appropriately or reused/recycled where possible as detailed within the accompanying waste management plan.	Yes
<b>Number of Storeys</b> <b>4.1.2.2</b>	2 storeys	<p>The proposal results in a 2 and 3 storey stepped building form which steps down the site in response to topography.</p> <p>Although the resultant building is in part 3 storeys as defined such outcome is reasonably anticipated given the topography of the land and the built form characteristics established by surrounding development.</p>	<p>No</p> <p>Part 2 and part 3 storey acceptable on merit</p>
<b>Wall Height</b> <b>4.1.2.1</b>	7.8m	The wall heights along both side boundary facing facades vary with the western edge of the upper level exceeding the 7.8 m wall height control as depicted on plan A.06(A).	<p>No</p> <p>Minor breaching elements acceptable on merit</p>

Control	Requirement	Proposed	Compliance
		<p>The wall height variations can be directly attributed to the topography of the land with compliant wall heights maintained on the uphill side of the proposed development given the stepped building typology adopted. For the same reasons put forward in support of the 8.5 m building height breaching elements as detailed within the accompanying clause 4.6 variation request strict compliance has been found to be both unreasonable and unnecessary given the developments ability to satisfy the underlying objectives. The proposal represents skilful contextually appropriate design with the wall height breaching elements not giving rise to any unacceptable residential amenity or streetscape impacts. We rely on the detailed analysis contained within the accompanying clause 4.6 variation request in this regard.</p>	
<b>FSR</b> <b>4.1.3</b>	0.4:1	0.39:1 based on undersized allotment provisions.	Yes
<b>Front Setback</b> <b>4.1.4.1</b>	Front setbacks must relate to the front building line of neighbouring	<p>TO HERE</p> <p>The proposal has a variable front setback of between</p>	Yes

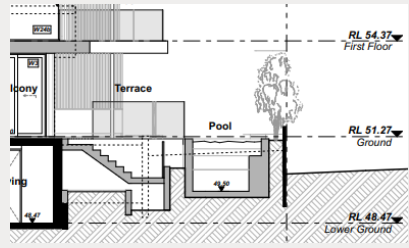
Control	Requirement	Proposed	Compliance
	properties and the prevailing building lines in the immediate vicinity.	3.66m, 4.28m and 6m with such setbacks considered to be consistent with the prevailing street setback where numerous dwellings exhibit similar front setbacks. The stepping back of the ground floor to 6.0m provides a good level of visual articulation to the street and a balance to the proposed setback of the building generally.	
<b>Side Setbacks</b> <b>4.1.4.2</b>	1/3 of wall height	<p>The side setbacks are varying at each level with the ground and first floor levels providing generous setbacks with a high level of articulation.</p> <p><b>Lower ground floor:</b></p> <p>No change to existing setbacks</p> <p><b>Ground Floor:</b></p> <p>Existing setbacks maintained with the exception of the bedroom 2 and ensuite western setback which is reduced to 2.1 metres and the setback to the entrance colonnade support columns having a setback of 2.776 metres to the eastern boundary.</p> <p>We confirm that these setbacks comply with the 1/3<sup>rd</sup> wall height setback control.</p>	No Minor variations acceptable on merit

Control	Requirement	Proposed	Compliance
		<p><b>First Floor:</b></p> <p>The proposed first floor wall elements maintain a variable setback of between 5.445 and 6.93 metres to the western boundary and a variable setback of between 2.776 and 3 metres from the eastern boundary of the property.</p> <p>We confirm that these setbacks comply with the 1/3<sup>rd</sup> wall height setback control.</p>	
<p><b>Rear Setbacks</b></p> <p><b>4.1.4.4</b></p>	<p>Rear boundary setbacks shall not be less than 8 metres. Rear setbacks must relate to prevailing pattern of setbacks in the immediate vicinity.</p>	<p>The proposed upper level master suite maintains a setback to the rear boundary of 7.352 m with the adjacent terrace extending to within 3.85 metres of the rear boundary.</p> <p>We note that the southern façade of the upper level master bedroom maintains the rear boundary setback established by the level below.</p> <p>We also note that the rear boundary setbacks to both the building façade and upper level terrace are significantly greater than the rear boundary setbacks established by the 2 immediately adjoining properties and No's 55 and 59 Cutler Road with the proposed setbacks clearly relating to the prevailing rear boundary setbacks established by</p>	<p>No</p> <p>Acceptable on merit</p>



Control	Requirement	Proposed	Compliance
		<p>adjoining development within immediate vicinity of the site.</p> <p>Given the juxtaposition of principal living areas and private open spaces within surrounding development which are orientated to the south to take advantage of available views, and which provide for a degree of mutual overlooking, the resultant level of privacy maintained is considered to be contextually acceptable.</p> <p>Strict compliance has been found to be both unreasonable and unnecessary given that the application represents legitimate alterations and additions to an existing dwelling house and the consistency of the proposal with the objectives of the applicable controls.</p>	
<b>Open Space and Landscaping</b>	<p>60% Open Space</p> <p>40% Soft Landscaping</p>	<p>The works will see total open space calculated at 60 of the site. The landscape area as a percentage of required total open space is calculated at 52.84%.</p> <p>The proposal is compliant with the total open space and landscaped area provisions of the DCP.</p>	Yes

Control	Requirement	Proposed	Compliance
<b>Parking, Vehicular Access and Loading</b>  <b>4.1.6</b>	<p>The design and location of all garages, carports or hardstand areas must minimise their visual impact on the streetscape and neighbouring properties and maintain the desired character of the locality.</p> <p>the maximum width of any garage, carport or hardstand area is not to exceed a width equal to 50 percent of the frontage, up to a maximum width of 6.2m.</p>	<p>The proposal retains 2 off-street carparking spaces within integrated garage accommodation in strict accordance with the control.</p>	<p>Yes</p>
<b>Development on Sloping Sites</b>  <b>4.1.8</b>	<p>To ensure that Council and the community are aware of, and appropriately respond to all identified potential landslip &amp; subsidence hazards.</p> <p>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</p>	<p>A geotechnical report prepared by White Geotechnical has been provided with regard to the excavation proposed to accommodate the development.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>which may be subject to slope instability.</p> <p>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.</p>		
<p><b>Swimming pools</b></p> <p><b>4.1.9</b></p>	<p>The setback of the outer edge of the pool/spa concourse from the side and rear boundaries must be at least 1m, with the water line being at least 1.5m from the boundary.</p>	<p>The swimming pool has compliant side boundary setbacks with a minor non-compliance to the rear boundary with a setback of only 850mm to the waterline.</p> <p>Such setback is considered acceptable given the orientation of the immediately adjoining properties at No's 3 and 4 Castle Rock Crescent to the south to take advantage of views, the ability to provide landscaping immediately adjacent to the boundary and the design of the swimming pool which prevents direct and immediate overlooking opportunities into the adjoining property as depicted in the plan extract below.</p> 	Yes

Control	Requirement	Proposed	Compliance
		<p>The proposal responds appropriately to the juxtaposition of surrounding development in relation to the maintenance of appropriate privacy and amenity.</p> <p>Strict compliance has been found to be both unreasonable and unnecessary given the overall design quality of the development and the consistency of the proposal with the objectives of the applicable controls.</p>	

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

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

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

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

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

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

N/A

**(iii) Any development control plan**

Manly DCP applies.

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

N/A

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

N/A

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

N/A

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

*Context and Setting*

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

*The scenic qualities and features of the landscape*

*The character and amenity of the locality and Streetscape*

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

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

The proposed additions result in an overall building form which is entirely commensurate with that established by adjoining development and development generally within the sites visual catchment 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*

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*

The existing off-street carparking arrangement is maintained.

*Public Domain*

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

*Utilities*

Existing utility services will continue to service the dwelling house.

*Flora and Fauna*

Landscaping proposed will improve the biodiversity of the site and provide additional habitat for local fauna.

*Waste Collection*

Normal domestic waste collection applies to the existing dwelling house.

### *Natural hazards*

The acceptability of the proposed excavation is detailed within the accompanying geotechnical report prepared by White Geotechnical. This application is also accompanied by a bushfire report prepared by BPAD which contains a number of recommendations which need to be implemented to ensure the development is safe from bushfire hazard. No objection is raised to a suitably worded condition requiring compliance with the requirements contained within these reports.

### *Economic Impact in the locality*

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

### *Site Design and Internal Design*

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

*size, shape and design of allotments*

*The proportion of site covered by buildings*

*the position of buildings*

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

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

### *Landscaping*

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

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

*lighting, ventilation and insulation*

*building fire risk – prevention and suppression*

*building materials and finishes*

*a common wall structure and design*

*access and facilities for the disabled*

*likely compliance with the Building Code of Australia*



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

#### *Construction*

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

*The environmental planning issues listed above*

#### *Site safety*

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

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

*Does the proposal fit in the locality*

*Are the constraints posed by adjacent development prohibitive*

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

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

*Are the site attributes conducive to development*

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

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

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

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

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

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

## 5 Conclusion

The project Architect has responded to the client brief to enhance the amenity and design quality of the development through the reconfiguration and augmentation of floor space, the adoption of contemporary materials and finishes and the introduction of a swimming pool at the rear of the property. The outcome is a contemporary building of exceptional design quality which takes advantage of its superior location attributes whilst maintaining appropriate residential amenity to surrounding properties. The final design provides for a dwelling house which will sit comfortably within the Cutler Road streetscape whilst respecting the amenity of the adjoining properties.

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

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

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

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