

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0412
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 6 DP 18433, 17 Maretimo Street BALGOWLAH NSW 2093
Proposed Development:	Demolition works and Construction of a dwelling house on proposed Lot 1
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Pasquale Pagliaro
Applicant:	Robert Ursino

Application Lodged:	19/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	28/04/2021 to 12/05/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	\$ 762,300.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for demolition works and construction of a dwelling house with double garage to the rear of the subject site.

The site currently benefits from a consent for a two (2) lot Torrens Title Land Subdivision (DA0219/2016).

AMENDED PLANS

Following a preliminary assessment of the application Council wrote to the applicant on 15 June 2021 outlining concerns that would not allow for Council to support the application in its current form. The concerns related to building height non-compliance, bulk and scale, solar access, privacy and general built form non-compliance. Following receipt of the letter the applicant advised that they intended to

amend the development application. Council agreed to accept amendments to the application.

The applicant subsequently provided amended plans to address the concern raised on 29 June 2021. The proposed amendments will have a reduced environmental impact on the adjoining properties and public open space than the original proposal. The amended plans result in a reduced scale development, which is compliant with both the Height of Buildings and Floor Space Ratio Development Standards. Therefore, re-notification was not required in accordance with Northern Beaches Community Participation Plan.

It is noted that as part of the amended plans the applicant incorporated a pergola structure to the rear terrace. A condition of consent has been imposed as part of this application to delete this aspect of the development.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

SITE DESCRIPTION

Property Description:	Lot 6 DP 18433 , 17 Maretimo Street BALGOWLAH NSW 2093
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western of Maretimo Street.</p> <p>The site is regular in shape with a frontage of 13.11m along</p>

Maretimo Street and a depth of 61.6m. The site has a surveyed area of 804.7m².

The site is located within the R1 General Residential zone and accommodates a two storey dwelling and detached garage.

The site has a relatively flat gradient with a slight fall from south to north.

The site does not contain any significant canopy tree plantings.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached dwelling houses and semi-detached dwellings. The sites to the south are elevated above the subject site with a retaining wall adjoining the boundary.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- 17 December 2004: Development Application no. 491/04 approved for alterations & Additions to Dwelling including front & rear extensions.
- 18 October 2012: Development Application no.112/12 approved. Alterations and additions to an existing dwelling including first floor and ground floor extensions, demolition of garage, new double carport, new driveway, swimming pool, deck and landscaping. Works relating to the deferred commencement consent do not appear to have been undertaken.

- 9 November 2016: Development Application no. 219/2016 approved for demolition of an existing garage, removal of trees, construction of a new driveway, four (4) hardstand car parking spaces, a vehicle turning platform, drainage works and two (2) lot Torrens Title Land Subdivision. **Note:** It is unclear if works relating to this consent have proceeded or if the consent has been activated. Registration of the subdivision approved by this application has not occurred.
- 13 August 2019: Section 4.55 Modification Application no. Mod2018/0646 withdrawn. The application sought to modify Development Consent No. 219/2016, through deletion of the vehicle turntable and changes to the approved drainage plans.
- 25 November 2020: Section 4.55 Modification Application no. Mod2020/0313 approved. The application proposed to modify Development Consent No. 219/2016, through deletion of the vehicle turntable and changes to the approved drainage plans.
- 19 April 2021: Subject Development Application lodged.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to bulk and scale and solar access,</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent</p>

Section 4.15 Matters for Consideration'	Comments
	<p>authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/04/2021 to 12/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Luka Damic Ms Alexandra Margaret Hume	4 Ethel Street BALGOWLAH NSW 2093
Ms Yvette Josephine-Ann Giblin Patrick Meiklejohn	2 Ethel Street BALGOWLAH NSW 2093

The following issues were raised in the submissions and each have been addressed below:

- **Built form non-compliance;**
- **Privacy (Visual and acoustic);**
- **Solar access;**
- **Impact on trees;**
- **Traffic;**
- **Functional private open space.**

The matters raised within the submissions are addressed as follows:

- **Built form non-compliance**
Comment:
Concern is raised in regards to the proposed rear and side setback and wall height non-compliance and the resulting undesirable presentation to the streetscape as well as amenity impacts to adjoining properties. A detailed assessment of the non-compliance under clause 4.1.4 Setbacks (front, side and rear) of the Manly DCP is in this report and clause 4.1.2 (height of buildings). In summary, the proposed variation to the built form controls are considered acceptable on merit.
- **Privacy (Visual and acoustic)**
Comment:
Concern was raised about privacy impacts (acoustic and visual) from the dwelling house particularly to outdoor living areas. The proposal has been assessed against the privacy provisions under Clause 3.4.2 of the Manly DCP in this report. In summary, the proposal complies with the relevant provisions and underlying objectives under Clause 3.4.2 of the Manly DCP, subject to conditions.
- **Solar access**
Comment:
Concerns have been raised in relation to the potential overshadowing created by the proposed development. The proposed development is multi storey and the site has a east-west

orientation. The revised shadow diagrams, detail the shadowing impacts upon No. 2 and 4 Ethel Street. A detailed assessment has been undertaken against the solar access provisions within this report. In summary, the development does not unreasonably overshadow adjoining properties living room windows and private open space of adjoining properties. The proposed solar access to adjoining properties is deemed equitable.

- **Impact on trees**

Comment:

Concern is raised in regards to the impact of the proposed development on the tree located in the backyard of No. 4 Ethel Street, Balgowlah. Council's landscape officer has reviewed the proposal having regard to existing trees on neighbouring properties. The officer notes that the encroachment on adjoining tree is minor and there would be no unreasonable impact on this tree subject to conditions of consent. The recommended conditions of consent imposed by the landscape officer have been included as part of the final recommendation.

- **Traffic**

Comment:

Concern is raised in regards to traffic, safety and loss of on-street parking as a result of the proposed development. The development proposes compliant off-street parking for the dwelling house, being two (2) off-street parking spaces. The driveway proposed is to be utilised for both lots for the off-street parking, and is not considered to be onerous or unreasonable. In regards to access, the application has been reviewed by Councils Development Engineers who are supportive of the development subject to recommended conditions of consent, which have been included as part of this recommendation.

- **Functional private open space**

Comment:

Concern is raised in regards to the functionality of the proposed private open space for the subject dwelling. The proposed development includes two separate private open space areas for the subject dwelling including the outdoor terrace to the rear of the dwelling and the deck area to the side, rear and front of the dwelling at ground floor level. The proposed private open space area is adequate and meets the minimum 18sqm requirement for private open space.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>This application is for the construction of a new residential dwelling located in on a recently approved subdivided lot. This proposal is for the front allotment and includes a two-storey residential dwelling with associated landscape works.</p> <p>Councils Landscape Referral section has considered the application against the Manly Local Environment Plan, and following Manly DCP 2013 controls:</p> <ul style="list-style-type: none"> • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation • 4.1.5 Open Space and Landscaping <p>A Landscape Plan is provided with the application and proposed</p>

Internal Referral Body	Comments
	<p>works include the in-ground planting of shrubs, and on-slab planting low-lying perennials.</p> <p>The Statement of Environmental Effects provided with the application notes that no trees are proposed to be removed as result of the development. This statement is supported by the Architectural and Landscape Plans as no existing trees are noted as removed. It is worth noting that upon review of the site and the Site Survey provided, no existing trees are located within the lot. It is noted that an existing significant tree is located within the adjoining property at 4 Ethel Street, with works encroaching into the Tree Protection Zone (TPZ) of this tree. This encroachment appears to be relatively minor, and with suitable tree protection measures, no negative impacts on this tree are expected. The retention of this tree, as well as others located within close proximity to the works, is vital to comply with control 3.3.2, as key objectives of this control include "to protect and enhance the urban forest of the Northern Beaches", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>It is noted that the Landscape Plan indicates the planting of <i>Bamboo textilis gracilis</i> within the site, however is has not been shown within the planting schedule. Although this is not a preferred species due to its mature height capabilities and maintenance requirements, the use of Bamboo for screening in narrow spots can be useful due to the privacy it provides. To ensure views are maintained and sunlight access it retained, the proposed bamboo located in-ground is required to be maintained at a maximum height of 5m, as measured from ground level. Should the Bamboo be located in the planters proposed above the garage, they shall be required to be maintained at a height of 2m.</p> <p>Concern is raised as no trees are proposed within the site, only shrubs and low-lying perennials. Control 4.1.5, specifically 4.1.5.2 c), states that at least one native tree is required within the site. It is therefore recommended that an additional native canopy tree be proposed within the site in order to satisfy this control, as well as control 3.3.1, which seeks to ensure open space and landscaping dominates over the built form. The completion of landscape works as proposed on the Landscape Plan, inclusive of this additional tree, is necessary to comply with controls 3.3.1 and 4.1.5, as key objectives include "to maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland", as well as "to maintained and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and surrounding area".</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plan, inclusive of an additional tree in accordance with control 4.1.5.2.</p>
NECC (Development	

Internal Referral Body	Comments
Engineering)	<p>The applicant proposed to build a new dwelling on a future lot. The Lot must be created prior to activate the consent.</p> <p>A deferred commencement condition has been placed to address the creation of the new lot.</p> <p>Development Engineer has no objection to the application subject to the following conditions of consent.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. An undated referral was received on 27 April 2021, which confirmed that no response was required; no conditions were provided.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A870672S dated 31 March 2021).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	50

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.3m	-	Yes
Floor Space Ratio	FSR: 0.5:1 (178.4m ²)	0.499:1 (178.3m ²)	-	Yes

Note: All calculations based on the dimensions and areas of approved Lot 1, not the existing site.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Manly Development Control Plan

Built Form Controls

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Built Form Controls - Site Area: 356.8m²	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings	1	-	Yes
	Dwelling Size: 122m ²	183.3m ²	-	Yes
4.1.2.1 Wall Height	N: : 6.6m (based on gradient 1:32.6)	7.5m	13.64%	No
	S: 6.6m (based on gradient 1:44.5)	6m	13%	No
4.1.2.2 Number of Storeys	2	2	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	Max. 1.5m	-	Yes
	Pitch: maximum 35 degrees	Max. 31.7 degrees	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	5.38m	10%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	N: 2.5m (based on wall height)	1.8m	20%	No
	S: Ground: 1.35m First: 2.277m	Ground: 960mm First: 1.55m	28.9% 31.9%	No
	Windows: 3m	North: 2.7m South: N/A (no habitable windows)	10%	No
4.1.4.4 Rear Setbacks	8m	900mm	88.75%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% (196.24m ²) of site area	17.5% (62.3m ²)	68.3%	No
	Open space above ground 35% (58.872m ²) of total open space	165.1% (31.6m ²)	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% (68.684m ²) of open space	25.6% (50.2m ²)	24%	No
	2 native trees	1 (by condition)	50%	No
4.1.5.3 Private Open Space	18sqm	93.9m ²	-	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	-	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	No	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

Description of non-compliance

Two properties (Nos.2 and 4 Ethel Street, Balgowlah) raised concern with the proposed shadowing impact of the proposed development.

The proposed development eliminates more than one third of the existing sunlight accessing the private open space of adjacent property (No 2 Ethel Street, Balgowlah) from 9am to 3pm on the winter solstice (21 June), inconsistent with numeric requirement of Clause 3.4.1.1 a) of the Manly Development Control Plan.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

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

Comment:

The proposed development will overshadow the private open space of the adjoining property at all hours (9am- 3pm) during the winter solstice. However, the level of sunlight access retained to this area between 9am and 3pm is considered to be a reasonable and equitable provision of sunlight for the site. It is important to note that the southern adjacent properties are particularly vulnerable to shadowing from any development on the subject site given the east-west orientation of the allotments along Maretimo Street and the fact that the subject site is currently vacant. The proposed dwelling house complies with the Height of Buildings and Floor space ratio development standards and provides a varied second storey side setback of 0.966 - 1.55m from the southern boundary. Whilst the southern elevation involves a 13% variation to the wall height, a compliant design would not result in a materially different impact in regards to solar access. For these reasons, Council is satisfied that this objective is achieved.

It is also noted that sunlight is restricted to the private open space areas as a result of existing trees on the adjoining property.

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.*

Comment:

Whilst the impact to the adjoining properties to the south is acknowledged, the properties will maintain sunlight to the ground and first floor living areas for reasonable portions of the day during mid-winter. Furthermore, occupants will have access to areas of private open space in direct sunlight throughout the entirety of the day.

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:

The first floor has been increasingly setback from the southern boundary and the ground floor, minimised floor to ceiling heights at ground and first floor level and incorporated a roof form to reduce the shadowing impact to the living room windows and principal outdoor living area of the adjoining southern properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.4.2 Privacy and Security

Description of non-compliance

Clause 3.4.2 of the MDCP 2013 states that activities likely to generate noise (i.e. outdoor open space) should be located in a manner which considers the acoustical privacy of neighbours, including neighbouring bedrooms and living areas.

The proposal includes a terrace on top of the proposed double garage. The terrace is located in close proximity to habitable rooms and private open space on the southern adjoining site (No. 4 Ethel Street).

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

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; and*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

Comment:

Windows

Clause 3.4.2.1 of MDCP prescribes the use of narrow, translucent or obscured glass windows, where necessary, and that where close to boundaries, windows shall be off-set from those in the adjacent building. The proposed windows along the southern elevation are highlight windows (with a minimum sill height of 1.4m above first floor level) from the first floor bathrooms. The proposed windows will not directly overlook living areas of the adjoining properties and are not located off high use rooms. The proposed windows are deemed acceptable.

Terrace

Clause 3.4.2.2 of MDCP prescribes the need for architectural or landscape screens to balconies to limit overlooking of nearby properties. The proposal incorporates a terrace on top of the proposed garage to the rear of the dwelling, that is located within 9m of private open space of the dwellings to the south at Nos. 4 and 6 Ethel Street. However, the terrace is located at RL87.80, and below the natural ground level of the adjoining southern properties. Occupants of the subject dwelling will not have a direct sightline of the adjoining living areas of the adjoining southern property. The balconies that adjoin the bedroom and living room at ground and first floor level are orientated to the north of the site and will not directly overlook living areas of the adjoining northern property.

Balconies

The proposed first floor balconies are orientated to the north towards the adjoining northern property (No. 19 Maretimo Street, Balgowlah Heights). The proposed balconies are setback 3.55m from the adjoining northern property boundary and located off bedrooms which are not high use rooms. The proposed balconies do not directly overlook the private open space of No. 19 Maretimo Street. However, to mitigate any potential casual overlooking between properties a condition of consent has been imposed to replace the proposed operable screen with fixed sliding screens.

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

Comment:

The proposed windows will provide the occupants of the site with a reasonable level of access to light and air whilst not compromising the neighbouring sites privacy.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal will not compromise casual surveillance of the street from the property.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Description of non-compliance

The maximum wall height permitted by this control is determined by the slope of the land. The slope of the land along the northern and southern elevations is as follows:

-
- North elevation: 1:32.6 gradient, which permits a maximum wall height of 6.6m
- South elevation: 1:44.5 gradient, which permits a maximum wall height of 6.6m.

The maximum wall height of the proposed dwelling house is as follows:

- Northern elevation: 7.5m, which represents a 13.64% variation from the numeric requirement.
- Southern elevation: 6m, compliant with the numeric control.

Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the objectives of the control. The control relies upon the objectives specified within Clause 4.3 of the Manly LEP 2013.

(1) (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,

Comment:

The roofline of the dwelling house sits under the 8.5m statutory height limit and remains consistent with the desired building height envisaged for the site. The form and scale of the proposed dwelling is commensurate to established residential development along Maretimo Street

(1) (b) to control the bulk and scale of buildings.

Comment:

The proposal complies with the height of buildings and floor space ratio development standards, which are the key controls that govern the bulk and scale of buildings. The proposed development is well articulated and incorporates varied wall planes, which further minimises building bulk. Overall, the resulting built form is considered to be appropriate in the context of the site.

(1) (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 harbour and foreshores).*

Comment:

The proposed development does not disrupt views to or from nearby private or public places.

(1) (d) To provide solar access to public and private open space and maintain adequate sunlight access to private open spaces and to habitable rooms of adjoining dwellings.

Comment:

The proposal has included detailed shadow diagrams that indicate the solar impacts of this development are minimal and acceptable in terms of their impact on habitable rooms of the adjoining properties and public open space.

(1) (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.

Comment:

The subject site is not located within a recreation or environmental protection zone, nor does the site adjoin a recreation or environmental protection zone.

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

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

Description of non-compliance

Clause 4.1.4 of the Manly DCP requires development be setback at least 6m from the front property boundary.

Clause 4.1.4.2 of the Manly DCP requires development be setback at least 2.5m from the northern property boundary and 2.27m from the southern property boundary. Windows are also required to be setback 3m from side boundaries.

Clause 4.1.4.4 of the Manly DCP requires development be setback at last 8m from the rear boundary.

The development proposes the following:

Front setback- 5.38m (10% variation to the numeric control)

North side setback- 1.8m (20% variation to the numeric control).

South side setback - 1.55m (31.9% variation to the numeric control)

Rear setback- 0.9m (88.75% variation to the numeric control).

Windows - 2.7m (10% variation to the numeric control).

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

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.

Comment:

The impact of the proposed new dwelling on the streetscape is negligible noting the existing development on site and prevailing setback of development along the western side of Maretimo Street. The proposed development is consistent with the established streetscape. The proposed side setbacks are consistent with the existing development within the immediate vicinity, and introduces an improved landscape treatment to the front setback area. As such, the proposed development maintained the existing desired spatial proportions of the street, the street edge and the landscape character of the street, despite the non-compliant side and front setbacks.

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.*

Comment:

The side boundary non-compliance does not directly attribute to unreasonable privacy impacts. A detailed assessment of solar access is provided in this report which concludes a equitable level of sunlight is achieved as required by the DCP. No view impacts arise from the proposal. The proposal maintains appropriate building separation that is consistent with the street and envisaged by the DCP.

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

Comment:

The proposal maintains access down each side of the building for maintenance. The proposed setbacks allow a reasonable building footprint, compliant with the floor space ratio to provide a functional dwelling for the site.

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.*

Comment:

Suitable levels of landscaping is provided across the site.

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

Comment:

The subject site is not located in a bush fire zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

Clause 4.1.5.1 of the Manly DCP requires at least 55% (196.24m²) of the site area be total open space. The proposed total open space is 17.5% (62.4m²), non-compliant with the numeric control. This represents a 68.3% variation to the numeric control.

Clause 4.1.5.2 of the Manly DCP requires at least 35% (68.68m²) of total open space being landscaped area. The proposed landscaped open space is 24.6% (50.2m²) non-compliant with the numeric control. This represents a 24% variation to the numeric control.

Further, Clause 4.1.5.2 of the Manly DCP requires a minimum two trees native trees required on site.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

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

Comment:

The development does not result in the removal of significant canopy trees, which would result in the character of the site being compromised or impact populations of flora and fauna. Given the constraints of the site including steep topography and existing building on site, the requirement to provide two medium and large sized trees is not deemed reasonable.

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.

Comment:

The proposed works proposes a suitable level of landscaped open space, given the sloping nature of the site and existing dwelling house.

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

Comment:

Amenity considerations including sunlight access, privacy and views have all been considered as part of this application, with no unreasonable impacts upon the subject site or neighbouring properties. The established streetscape character is not likely to be impacted by the proposed works.

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

Comment:

The proposal will retain sufficiently sized landscape areas across the site that are capable of water infiltration, which will assist in minimising stormwater run-off.

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

Comment:

The proposed planting on site is suitable for the site, so as not to contribute to the spread of weeds and the degradation of nearby public open space.

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

Comment:

The proposed development does not compromise any wildlife habitats or potential wildlife corridors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$7,623 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$762,300.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Section 95 of the EP&A Regulation 2000 to DA2021/0412 for Demolition works and Construction of a dwelling house on proposed Lot 1 on land at Lot 6 DP 18433, 17 Maretimo Street, BALGOWLAH, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to

the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. Subdivision Certification

The subject land Lot 6 of DP 18433 shall be subdivided under a subdivision application, with the works proposed limited to the yet to be created proposed Lot 1. Prior to the activation of this consent, the applicant must provide Council with evidence of the creation/registration of the proposed Lot 1.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA205/ Revision B	29 June 2021	Ursino Architects
DA301/ Revision B	29 June 2021	Ursino Architects
DA302/ Revision B	29 June 2021	Ursino Architects
DA303/ Revision B	29 June 2021	Ursino Architects
DA304/ Revision B	29 June 2021	Ursino Architects
DA401/ Revision B	29 June 2021	Ursino Architects
DA402/ Revision B	29 June 2021	Ursino Architects
DA501/ Revision B	29 June 2021	Ursino Architects
DA502/ Revision B	29 June 2021	Ursino Architects
DA503/ Revision B	29 June 2021	Ursino Architects
DA504/ Revision B	29 June 2021	Ursino Architects
DA702/ Revision A	23 March 2021	Ursino Architects
DA709/ Revision A	23 March 2021	Ursino Architects
DA901/ Revision A	23 March 2021	Ursino Architects

Reports / Documentation – All recommendations and requirements contained

within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 870672S	31 March 2021	BASIX Certificate Centre

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
DA706/ Revision B	29 June 2021	Ursino Architects

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Construction Management Plan	23 March 2021	Ursino Architects
Waste Management Plan	February 2020	Ursino Architects

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:

- A. the name and licence number of the principal contractor, and
- B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried

out in accordance with WorkCover requirements and the relevant Australian Standards.

- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork

NSW Codes of Practice.

- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
- Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$7,623.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$762,300.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council

that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

7. **On Slab Landscape Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for lawn
- ii) 600mm for shrubs

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

8. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Maretimo Street.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

9. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The pergola proposed atop the rear terrace is to be deleted.
- The proposed operable bi-fold screens along the Northern Elevation at both ground and first floor level are to be replaced with sliding screens.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

10. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

11. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

12. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on

Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

14. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

15. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

16. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive of the following conditions:

- i) at minimum, 1x locally native canopy tree shall be required within the site, minimum 25L pot size. Suggested species include: *Angophora costata*, *Banksia integrifolia* or *Eucalyptus haemastoma*.

Tree planting shall be located within a 9m² deep soil area wholly within the site and be located a

minimum of 3 metres from existing and proposed buildings, and other trees.

Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

Native tree planting species shall be selected from Council's list, specifically the *Native Plant Species Guide - Manly Ward*: www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

17. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

18. Landscape Maintenance

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

For all new residential works, a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

All *Bamboo textilis gracilis* planted in-ground within the site is to be maintained at a height of 5 metres measured from the ground level adjacent to the trunk. Should additional *Bamboo textilis gracilis* be planted on-slab above the existing garage, it is to be maintained at a height of 2 metres measured from soil level adjacent to the trunk.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

19. Undesirable Trees

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other Undesirable Trees identified by Council, must not be planted on the site for the life of the development.

In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Maxwell Duncan, Planner

The application is determined on 10/11/2021, under the delegated authority of:



Rebecca Englund, Acting Development Assessment Manager