

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2024/0986
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<b>Responsible Officer:</b>	Jordan Howard
<b>Land to be developed (Address):</b>	Lot 176 DP 11162, 99 Clontarf Street SEAFORTH NSW 2092
<b>Proposed Development:</b>	Construction of a carport and associated works
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Applicant:</b>	Carolyn Kapel

<b>Application Lodged:</b>	01/08/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	08/08/2024 to 22/08/2024
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 149,600.00
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### PROPOSED DEVELOPMENT IN DETAIL

This Development Application seeks development consent for construction of a carport and associated works. Specifically, the proposal seeks development consent for a double carport structure with a nil setback from the front boundary, involving excavation and landscaping.

### 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 - 3.1.1 Streetscape (Residential areas)

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

Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 176 DP 11162 , 99 Clontarf Street SEAFORTH NSW 2092
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the western side of Clontarf Street.</p> <p>The site is regular in shape with a frontage of 12.19m along Clontarf Street and a depth of 42.67m. The site has a surveyed area of 520.2sqm.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a dwelling house.</p> <p>The site slopes from the rear (west) down towards the front (east), with a fall across the site of approximately 7m.</p> <p>The site contains lawn areas, garden beds, trees and vegetation. There are no details of threatened species at the site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by dwelling houses of varying design, style and age.</p>

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:

**Development Application No. DA 497/2007** for "Alterations & Additions to Dwelling including addition of a rear deck and front porch on the ground floor level and first floor addition" was approved on 12 June 2008.

**Development Application No. DA455/2008** for "Alterations and additions to the existing dwelling including first floor addition, extension and deck" was approved on 3 March 2009. This Development Application was subsequently modified twice, the first modification being approved on 10 December 2009 and the second modification being approved on 17 August 2010.

## 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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration	Comments
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 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 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 29</u> of the EP&amp;A Regulation 2021 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 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 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 69</u> of the EP&amp;A Regulation 2021 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>
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) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 Matters for Consideration	Comments
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 application has been publicly exhibited from 08/08/2024 to 22/08/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Ms Lesley Lawson	97 Clontarf Street SEAFORTH NSW 2092

The following issues were raised in the submission:

- Bulk of carport (as viewed from the adjoining property to the south)**

The submission raised concerns that the proposed carport is unreasonable in size and bulk, being overbearing on the adjoining property to the south (97 Clontarf Street). The submission raises issue with the roof form, height and size of the carport.

Comment:

The proposed carport complies with the height of buildings development standard (established by MLEP 2013 Clause 4.3 Height of buildings) and notably complies with the southern elevation wall height control (established by MDCP Clause 4.1.2.1 Wall Height). These controls limit the height and bulk of built form, and the wall height control in particular limits the height of walls / structures along side boundaries. Therefore, the proposed carport is not considered to be excessive in regard to height or bulk, as presenting to the adjoining property to the south (97 Clontarf Street).

This issue does not warrant refusal of the application.

- **Bulk of carport (as viewed from the street) and impact on streetscape**

The submission raised concerns that the proposed carport is unreasonable in size and bulk, creating an adverse impact on the streetscape. The submissions raises issue in particular with the width of the carport (including the roof over the pedestrian entry gate), as well as the roof form, height and size of the carport.

Comment:

As noted above, the proposed carport complies with the height of buildings development standard (established by MLEP 2013 Clause 4.3 Height of buildings) and complies with the southern elevation wall height control (established by MDCP Clause 4.1.2.1 Wall Height). Regarding the width of the structure, MDCP Clause 4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas stipulates that 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. With a front boundary of 12.19m, this limits the width of the carport structure to 6.095m. A condition of consent has been applied to reduce the width of the carport by removing an excess section of roof over the pedestrian entrance. As a result, the carport will have a width of 5.9m, compliant with the control. Refer to the section of this report on 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities) for detailed assessment of this control.

This issue does not warrant refusal of the application, however, conditions of consent have been applied to address this issue.

- **Overshadowing of the front yard of the adjoining property to the south (97 Clontarf Street)**

The submission raised concerns that the proposal would unreasonably overshadow the front yard of 97 Clontarf Street.

Comment:

As noted above, the proposed carport complies with the height of buildings development standard (established by MLEP 2013 Clause 4.3 Height of buildings) and complies with the southern elevation wall height control (established by MDCP Clause 4.1.2.1 Wall Height). Regarding overshadowing of outdoor areas, MDCP Clause 3.4.1 Sunlight Access and Overshadowing provides guidance for assessing overshadowing / sunlight access impacts. Not all outdoor areas are considered equally, with the control stipulating solar access requirements for outdoor areas of private open space. The front yard of 97 Clontarf Street would not be considered an area of private open space, with the backyard of 97 Clontarf Street providing private open space for this property. The rear yard is unaffected by the proposal. Furthermore, it must be noted that 97 Clontarf Street is downhill and south of the subject site, leaving it highly vulnerable to overshadow from development at the subject site. Given that the height and size of the carport is considered reasonable along the southern elevation, and that overshadowing does not impacts areas of private open space at 97 Clontarf Street, the impact on solar access is not considered to be unreasonable.

This issue does not warrant refusal of the application.

- **Landscaping**

The submissions raised concerns that trees indicated for for retention may be removed or damaged. The submission also raised concern over the potential impacts on trees within the adjoining property to the south (97 Clontarf Street).

Comment:

The proposal has been reviewed by Council's Landscape Officer, with the referral response available in the section of this report on 'Referrals'. In summary, the proposed removal of one small tree was supported, and a number of conditions have been recommended for imposition. These included requiring the engagement of a Project Arborist prior to commencement, and the protection / retention of trees and vegetation not indicated for removal.

This issue does not warrant refusal of the application.

- **Stormwater management**

The submission raised concerns regarding stormwater management, particularly raising grievances with existing stormwater management at the site.

Comment:

The proposed development includes a Stormwater Management Plan, proposing to direct water from the carport to an existing stormwater line which is connected to Clontarf Street. The proposed stormwater management has been reviewed by Council's Development Engineering team, who have raised no objection, subject to conditions. These conditions include that the applicant is to demonstrate how stormwater from the new development is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy, and certification of stormwater works by a qualified person.

This issue does not warrant refusal of the application.

- **Driveway and parking area**

The submission raised that various elements of the driveway and parking area were non-compliant with requirements of Council or Australian Standards. The submission again raised objection to the carport width, considering that the parking area itself is too wide.

Comment:

The proposed driveway and parking area has been reviewed by Council's Development Engineering team, who have raised no objection, subject to conditions. Regarding width, as discussed above, a condition of consent has been applied to reduce the width of the carport by removing an excess section of roof over the pedestrian entrance. As a result, the carport will have a width of 5.9m, compliant MDCP Clause 4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas with the control. Refer to the section of this report on 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities) for detailed assessment of this control. Therefore, no further reduction of the carport width is deemed necessary.

This issue does not warrant refusal of the application.

- **Driveway crossover / street parking**

The submission raised that the driveway crossover should be designed so that a car could park on the street between the driveway of the adjoining property to the south (97 Clontarf Street) and the subject site.

Comment:

The proposed driveway and parking area has been reviewed by Council's Development Engineering team, who have raised no objection, subject to conditions. These conditions have included requiring amendments to the crossover to reduce its width for the purposes of preserving on-street parking.

Regarding the request to require the applicant to position the driveway further north so that space is created specifically for a parking space between between the driveway of the adjoining property to the south (97 Clontarf Street) and the subject site, conditions have specified the driveway should be widened to the north, thereby not narrowing the kerb length to the south. However, requiring further of the applicant, or further relocation of the driveway, is not considered to be necessary, as there is ample on-street parking, noting in particular that the eastern portion of Clontarf Street in this area unburden by any driveway crossovers.

This issue does not warrant refusal of the application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application seeks consent for: Construction of a carport and associated works.</p> <p>The site slopes up from the street and excavation works are required to provide for a widened driveway and carport slab.</p> <p>It is noted that a large tree is located in the front yard of the adjoining property at No. 97 Clontarf Street, with works proposed within the Tree Protection Zone of the tree.</p> <p>No Arborist's Report was sighted with the documentation reviewed.</p> <p>Based on the plans provided, the tree appears to be subject to a potential 12% incursion into the TPZ, but no works are proposed within the Structural Root Zone.</p> <p>It is recommended that a Project Arborist be engaged to address tree protection during works, as included in recommended conditions.</p> <p>One small tree (<i>Callistemon</i> sp.) is proposed for removal, which is not objected to subject to replanting.</p> <p>No objections are raised with regard to landscape issues subject to conditions as recommended.</p>
NECC (Development Engineering)	<p>The proposed development is in Region 3. On-site detention is not required. Vehicle crossing construction is proposed. The proposed vehicle crossing width is excessive. Conditions have been provided to ensure the vehicle crossing width complies with the Manly DCP. Development engineering raises no other objections to the proposed development, subject to conditions.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

All, Environmental Planning Instruments (SEPPs 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 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 (Transport and Infrastructure) 2021

#### Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

### SEPP (Resilience and Hazards) 2021

#### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no

risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

### 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	2.9m	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	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

Built Form Controls - Site Area: 520.2sqm	Requirement	Proposed	% Variation	Complies
4.1.2.1 Wall Height	North: 7.6m (based on gradient 1:5.5)	2.6m	-	Yes
	South: 7.7m (based on gradient 1:5)	3.5m	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Nil	100%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	North: 0.9m (based on 2.6m wall height)	3.7m	-	Yes
	South: 1.2m (based on 3.5m wall height)	1.2m	-	Yes
4.1.4.4 Rear Setbacks	8m	>8m	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (286.11sqm)	55.3% (287.6sqm)	-	Yes
	Open space above ground no more than 25% of total open space (71.9sqm)	0% (0sqm)	-	Yes

4.1.5.2 Landscaped Area	Landscaped area 35% of open space (100.66sqm)	84.4% (242.8sqm)	-	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm	-	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m (6.095m)	7.3m	19.8%	Yes*
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	-	Yes

\* A condition of consent has been applied to reduce the width of the carport by removing an excess section of roof over the pedestrian entrance. As a result, the carport will have a width of 5.9m, compliant with the control. Refer to the section of this report on 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities) for a detailed assessment of this control.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	No	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	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	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.10 Fencing	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

#### Detailed Assessment

### **3.1.1 Streetscape (Residential areas)**

#### **Description of non-compliance**

##### 3.1.1.4 Garages, Carports and Hardstand Areas

The control requires garages, carports and hardstand areas be designed and sited in a manner that does not dominate the street frontage. Exceptions may be considered where parking structures are a positive element of the streetscape.

The proposal includes a double carport within the front setback.

#### **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 any negative visual impact of walls, fences and carparking on the street frontage.*

##### Comment:

The design and scale of the proposed carport is not considered to cause unreasonable visual impact upon the streetscape, particularly considering that carports and garage in the surrounding street with similar front setbacks already exist, and that the sloping site restricts alternatives to achieve a compliant level of parking.

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

##### Comment:

As above, the proposed carport is considered to positively complement the streetscape.

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

##### Comment:

The proposed fence is considered acceptable in the context of the site and locality.

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 s1.3 of the Environmental

Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

##### **Description of non-compliance**

Clause 4.1.4.1 Street Front Setbacks stipulates that proposed front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity. Furthermore, where building lines are neither consistent nor established, a minimum 6m front setback generally applies.

The streetscape includes some example of structures built in close proximity the Clontarf Street frontage, including parking structures at 103 Clontarf Street and 107 Clontarf Street. Furthermore, a driveway at 101 Clontarf Street is supported by retaining walls within the front setback, exhibiting built form in proximity to the street. However, these examples are set amongst other examples of dwellings with greater front setbacks of approximately 6m. Therefore, in the absence of a consistent / established front setback, the general 6m front setback is considered to apply in this instance.

The proposal includes a double carport with a nil setback to the front boundary, representing a 100% variation to the control.

The proposal is compliant with the other requirements of this control, including side and rear setbacks.

##### **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 design of the proposed parking space is open and is not considered to cause an unacceptable aesthetic impact to the streetscape (especially considering existing examples within the street of parking arrangement within the front setback). In this regard, the existing streetscape is considered to be maintained and enhanced.

*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:**

An acceptable level of privacy between buildings will be maintained. The streetscape will not be

detrimentally impacted by the parking space within the front setback area. No significant impacts to solar access or views have been identified. The proposal is considered to meet the above.

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

Comment:

The slope of the site towards the street and existing site structures restrict where a carport may be placed. The existing site has a non-compliant level of parking, with only one parking space provided, rather than the required two. Furthermore, the applicant has advised that the grade and design of the existing driveway and garage is non-compliant with Australian Standards. Given the restrictive site conditions, the proposed development is considered to be appropriately sited in order to provide a compliant level of parking. The proposed development is not expected to result in any unreasonable amenity impacts on surrounding properties and has demonstrated it meets the underlying objectives of the control. As such, flexibility is warranted, in this instance.

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:

The proposal meets the required total open space and landscaped area requirements of MDCP Clause 4.1.5 Open Space and Landscaping. Adequate landscaping and vegetation is maintained.

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

Comment:

The site is not classified as bush fire prone land.

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.

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

##### **Description of non-compliance**

Under MDCP Clause 4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas stipulates that 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. With a front boundary of 12.19m, this limits the width of the carport structure to 6.095m.

The proposed carport has a width of 7.3m, representing a 19.8% non-compliance with this control. This includes an additional section of the carport roof, which extends over a proposed pedestrian entrance, presenting visually to the street as a continuation of the carport.

It is noted that Schedule 3 of MDCP 2013 requires the provision of two (2) off-street parking spaces. This proposal brings the site into compliance through the provision of a double carport to provide two (2) spaces. Currently, only one (1) is provided.

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

Comment:

The proposed garage provides accessible and adequate parking on-site for two (2) cars. Notably, the proposed development brings the site into compliance with minimum parking requirements.

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

Comment:

The proposed garage provides accessible and adequate parking on-site for two (2) cars. Notably, the proposed development brings the site into compliance with minimum parking requirements. As such, the proposal reduces the demand for on-street parking, as an additional space is provided off-street.

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

Comment:

Given restrictive site conditions (slope and existing built form), it is considered appropriate to permit an open carport within the front setback area in order to provide a compliant level of parking. There are also other examples within the surrounding streetscape of parking structures forward of the front building line. Therefore, the location of the proposed carport forward of the building line is considered acceptable in this instance.

However, the proposed parking structure is considered to exhibit an excessive width, as the roof form extends further than necessary to provide coverage for two parking spaces in order to cover over a pedestrian entry gate at the front of the site. This is in direct non-compliance with requirements of MDCP limiting the width of carport structures, and occurs at the very front of the property (within the front setback area). As such, it is considered appropriate to include a condition of consent in the recommendation of this report requiring the amendment of the approved plans to remove this additional roof over the pedestrian entrance. This will reduce the width of the carport structure from 7.3m at the front boundary, to 5.9m, compliant with the 6.095m width control.

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

Comment:

The proposed garage requires minor excavation, however this is minimised and considered appropriate. The works are unlikely to cause site instability or interruption to ground water flows. The proposal is supported by Council's Development Engineering team, subject to conditions.

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

Comment:

The number of footpath crossings remains unchanged. Whilst widening of the driveway will effect the availability of on-street parking, this trade off is considered acceptable, given that the proposal is doing so to attain compliance with off-street parking requirements, and that the additional off-street parking space will reduce on-street parking demand. The proposed driveway has been reviewed by Council's Development Engineering team, who are supportive of the proposal, subject to conditions. Finally, it is noted that there is ample on-street parking available within the surrounding area which will remain available for use.

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

Comment:

The alterations and additions utilise the existing driveway and crossover and are reasonably placed. The proposal meets landscape area requirements of the MDCP.

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

Comment:

The site is located within a residential area and the proposal complies with the required number of parking spaces. The proposal will not restrict the use of active or public transport by residents of the area.

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 and subject to conditions.

## **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 2024**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$ 748 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 149,600.

## **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 2021;
- 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

THAT Council as the consent authority grant Development Consent to DA2024/0986 for Construction of a carport and associated works on land at Lot 176 DP 11162, 99 Clontarf Street, SEAFORTH, subject to the conditions printed below:

## Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

### GENERAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans
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Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
ADE	A	Demolition & Excavation Plan	CARGOdesign	22 July 2024
A01	A	Site Plan	CARGOdesign	22 July 2024
A02	A	Floor Plans	CARGOdesign	22 July 2024
A03	A	Floor Plans	CARGOdesign	22 July 2024
A04	A	Floor Plans	CARGOdesign	22 July 2024
A05	A	Floor Plans	CARGOdesign	22 July 2024
A06	A	Elevations Colours & Materials	CARGOdesign	22 July 2024
A07	A	Elevations	CARGOdesign	22 July 2024
A08	A	Elevations	CARGOdesign	22 July 2024
A09	A	Sections	CARGOdesign	22 July 2024
A10	A	Driveway Sections	CARGOdesign	22 July 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Stormwater Management Plan, Drawing No. ASM	A	CARGOdesign	22 July 2024
Waste Management Plan - 99 Clontarf Street, Seaforth	-	-	-

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

## 2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Undated

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

### 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 Certifier 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 Certifier 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 Certifier 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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that

applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

- iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.
- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) 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 Section 7.12 Contributions Plan 2024

A monetary contribution of \$748.00 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 (as amended).

The monetary contribution is based on a development cost of \$149,600.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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 Certifier 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](http://www.northernbeaches.nsw.gov.au)).

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

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **7. Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Stormwater shall be conveyed from the site to the street. Details by an appropriately qualified and practicing Civil or Hydraulic Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with Council's policy are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

### **8. Vehicle Crossings Application**

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 5.0 metres wide on the kerb line and 6.0 metres wide on the property boundary in accordance with Northern Beaches Council Standard Drawing A4 3330/6 MH in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

### **9. Off Street Parking Design**

The Applicant shall submit a design for the parking facility in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Compliance with this consent.

**10. Amendment of Vehicle Crossing width on Master Plans**

The vehicle crossing width on drawing A02 dated 22.07.24 by Cargo Design and all other drawings in the set that depict the proposed vehicle crossing shall be amended to provide for a vehicle crossing with a width of 5.0 metres (2.0 metre extension to the north) on the kerb line and a maximum width of 6.0 metres on the property boundary.

Reason: Maintenance of on-street parking

**11. Amendments to the approved plans**

The following amendment is to be made to the approved plans:

- The additional section of roof which extends to the north of the proposed carport (over the pedestrian gate entrance area), as well as the associated four (4) pillars supporting this section of roof, are to be deleted. The carport is only to consist of the structure providing shelter for the two (2) parking spaces.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

**12. Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, shall be provided in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

**13. 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 Certifier prior to the issue of the Construction Certificate.

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

**14. External Finishes to Roof**

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

Details demonstrating compliance are to be submitted to the Certifier 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.

15. **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 Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://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 THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS4970-2009 Protection of trees on development sites.

The Project Arborist shall be in attendance and supervise all excavation works. within the Tree Protection Zone of trees to be retained.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Principal Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

## DURING BUILDING WORK

### 17. **Protection of Rock and Sites of Significance**

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

### 18. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected, including:
  - i) all trees within the site not indicated for removal on the approved Plans,
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all trees and vegetation within the road reserve.
- b) Tree protection shall be undertaken as follows:
  - i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites,
  - ii) alteration of existing ground levels within the tree protection zone of trees to be retained, shall be authorised by the Project Arborist,
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with the Project Arborist,
  - 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 the Project Arborist on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with the Project Arborist including advice on root protection measures,
  - vii) should either or all of v) or vi) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Project Arborist to the Principal Certifier,
  - 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 AS4970-2009 Protection of trees on development sites,
  - ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 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 Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken and certified by the Project Arborist as compliant to AS4970-2009 Protection of trees on development sites.

Reason: Tree and vegetation protection.

#### 19. **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 the Project Arborist 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.

#### 20. **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.

#### 21. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in

accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

**22. Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

**23. Property Boundary Levels**

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To maintain the existing profile of the nature strip/road reserve.

**24. Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

## **BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**

**25. Required Tree Planting**

Trees shall be planted in accordance with the following:

- a) 1 x locally native tree shall be planted within the property to achieve at least 5 metres height at maturity, and in accordance with the following:
  - i) tree planting shall be a minimum pre-ordered planting size of 75 litres; generally selected from Northern Beaches Council's Native Plant Species Guide, or Council's Tree Guide; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and located either within garden bed or within a prepared bed within lawn,

- ii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
- b) Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

**26. Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

**27. 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 Certifier prior to the issue of an Occupation Certificate.

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

**28. Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces.

**29. Certification of Off Street Parking Works**

The Applicant shall submit a certificate from a suitably qualified person certifying that the parking facility was constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: Compliance with this consent.

30. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Proper identification of buildings.

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

**Signed**



**Jordan Howard, Planner**

The application is determined on 05/09/2024, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**