

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0706
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<b>Responsible Officer:</b>	Maxwell Duncan
<b>Land to be developed (Address):</b>	Lot A DP 313797, 42 Upper Clifford Avenue FAIRLIGHT NSW 2094
<b>Proposed Development:</b>	Alterations and additions to a dwelling house
<b>Zoning:</b>	Manly LEP2013 - Land zoned R1 General 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>Owner:</b>	Jody Lennon Simon John Phillips
<b>Applicant:</b>	Stewart Design Studio

<b>Application Lodged:</b>	26/06/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	06/07/2020 to 20/07/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 207,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for alterations and additions to the existing dwelling house including:

- New double garage.
- Internal alterations.
- Replacement of wall cladding.

### AMENDED PLANS

Following a preliminary assessment of the application Council wrote to the applicant on 28 July 2020 outlining a number of engineering issues that would not allow for Council to support the application in its current form. The issues were related to the proposed garage, particularly the non-compliance with

clause 4.1.6 of the Manly DCP and insufficient information being provided. Following receipt of the letter the applicant advised that they intended to amend the development application and provide additional information. Council agreed to accept amendments to the application. Following this, the applicant provided additional information to address concerns raised on 29 July 2020, 19 August 2020 and 28 August 2020.

The amendments proposed were minor in respect to the original plans lodged with Council, and do not result in a greater environmental impact. As such, the amended application was not re-notified to neighbouring properties. This is in accordance with Northern Beaches Council Community Participation Plan.

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

## SITE DESCRIPTION

<b>Property Description:</b>	Lot A DP 313797 , 42 Upper Clifford Avenue FAIRLIGHT NSW 2094
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Upper Clifford Avenue, Seaforth.</p> <p>The site is regular in shape with a frontage of 10.67m along Upper Clifford Avenue and a depth of 40.24m. The site has a surveyed area of 430.5m<sup>2</sup>.</p>

The site is located within the R1 General Residential zone and accommodates a dwelling house.

The site slopes from the street up to the rear boundary.

**Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by residential development.

Map:



**SITE HISTORY**

A search of Council’s records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

**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

Section 4.15 Matters for Consideration'	Comments
	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)(iiia) – 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&amp;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&amp;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&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to the proposed driveway and garage.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent 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&amp;A Regulation 2000 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 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;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	<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>

Section 4.15 Matters for Consideration'	Comments
economic impacts in the locality	<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 (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 06/07/2020 to 20/07/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>The proposed garage does not comply with clause 4.1.6 of the Manly DCP in terms of the proposed width. Due to the grade of the existing footpath which cannot be altered, and the proposed nil setback for the garage, it is unlikely that the proposed grades will comply with AS2890.1:2004 in terms of access and parking of vehicles.</p> <p>Development Engineering cannot support the application due to insufficient information to address clause 4.1.6 of the Manly DCP.</p> <p><b>Additional Information submitted 30.07.2020</b> The amended plans have been reviewed and when compared to the existing survey plan, it appears that the existing footpath levels will need to be altered to suit the proposed garage levels within the</p>

Internal Referral Body	Comments					
	<p>property which cannot be supported. Also there is insufficient transition between the footpath and the proposed garage levels in accordance with AS/NZS 2890.1:2004.</p> <p>Development Engineering cannot support the application as the proposal does not comply with clause 4.1.6 of the Manly DCP.</p> <p><b>Additional information submitted 24/08/2020</b> The revised plans and Traffic report have been reviewed and the amended design fails to demonstrate that vehicles will not scrap when entering and exiting the proposed parking spaces. The sections provided do not include the 85th percentile vehicle template in all movements on all sections to ensure clearance is achieved. The required levels to achieve the grade for the parking spaces requires significant changes in grade both adjacent to the boundary for the width of the wall and between the spaces which will either cause vehicles to scrap, due to non compliance with the transition requirements of AS/NZS 2890.1:2004, or cause pedestrians to trip when walking around the parked vehicles to exit the garage. The door exiting the garage also conflicts with the parking space.</p> <p>Development Engineers cannot support the application as the proposal does not comply with clause 4.1.6 of the Manly DCP.</p> <p><b>Planners Comment</b> Following two (2) attempts from the applicant to address the concerns raised by Council's Development Engineer, it was agreed between Council and the applicant that a solution to the issue concern raised by Council's engineer would not be able to be suitably addressed in a timely manner. As such, it was agreed to delete any works related to the proposed garage and driveway from the application. A suitable condition has been imposed to ensure no consent is given for the garage and driveway should this application be approved.</p>					
Strategic and Place Planning (Heritage Officer)	<table border="1"> <thead> <tr> <th data-bbox="520 1480 1439 1518">HERITAGE COMMENTS</th> </tr> </thead> <tbody> <tr> <td data-bbox="520 1518 1439 1556">Discussion of reason for referral</td> </tr> <tr> <td data-bbox="520 1556 1439 1803"> <p>The application has been referred to Heritage as is adjacent to a heritage listed item:</p> <p><b>Item 150 - Manly Reservoir</b> - Fairlight Street (corner Ashley Parade and Fairlight Street)</p> </td> </tr> <tr> <th data-bbox="520 1803 1439 1841">Details of heritage items affected</th> </tr> <tr> <td data-bbox="520 1841 1439 2136"> <p>Details of the item as contained within the Manly Heritage Inventory are:</p> <p><u>Statement of significance:</u> Manly Reservoir (WS 64) is a fine example of a 19th century below-ground reservoir, although originally unroofed (not covered). It is one of the 3 main structures of the Manly Water Supply Scheme,</p> </td> </tr> </tbody> </table>	HERITAGE COMMENTS	Discussion of reason for referral	<p>The application has been referred to Heritage as is adjacent to a heritage listed item:</p> <p><b>Item 150 - Manly Reservoir</b> - Fairlight Street (corner Ashley Parade and Fairlight Street)</p>	Details of heritage items affected	<p>Details of the item as contained within the Manly Heritage Inventory are:</p> <p><u>Statement of significance:</u> Manly Reservoir (WS 64) is a fine example of a 19th century below-ground reservoir, although originally unroofed (not covered). It is one of the 3 main structures of the Manly Water Supply Scheme,</p>
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Internal Referral Body	Comments			
	<p>which was independent of the Sydney Water Supply, the other structures being Manly Dam and Bantry Bay Reservoir (WS 8).</p> <p><u>Physical description:</u>  Manly Reservoir (WS 64), built in 1892, is a rectangular rock cut reservoir, but due to the unevenness of the rock outcrop, the sides have been built up in a gravity section concrete wall to an even height.  Standard features include: davit, access ladder, handrails and inlet and outlet valve chambers.  A stone and concrete block wall forming the side of a platform is located on the east side of the reservoir and served as the footings of an elevated tank between 1916 and 1924.  A face brick fence was built in the 1920s to enclose Manly Reservoir. The reservoir was decommissioned in the 1990s and the site re-zoned for multi-residential units in 2009.  A multi housing development application was approved by NBIAP in 2016, requiring:</p> <ul style="list-style-type: none"> <li>• Retention of elements in-situ: Perimeter walls to the reservoir; the whole of the reservoir below ground along with remnant elements such as cast-iron water main.</li> <li>• Re-use of elements such as the sandstone blocks as landscaping elements.</li> <li>• A interpretative sign on the 1920s brick wall and signs to the remnant objects.</li> </ul>			
	<p><b>Other relevant heritage listings</b></p>			
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Other	No			
	<p><b>Consideration of Application</b></p>			
	<p>The subject property is not a listed heritage item or in a conservation area, but adjoins a heritage item to the rear northern boundary.</p> <p>The proposal seeks consent for alteration and additions to the existing dwelling which was substantially altered in the late 1970s, including a first floor addition with metal cladding to the external</p>			

Internal Referral Body	Comments
	<p>walls. This application proposes to remove this cladding, extend a small section of the first floor, internal alterations to both levels and an extension to the lower ground level right up to the front boundary to add a double garage and it is considered that, replacing the front garden with the proposed double garage will impact the visual quality of the existing streetscape.</p> <p>Given the bulk and scale of the dwelling remains as existing, It is believed that, the proposal will not have an adverse impact upon the significance of the heritage item.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions are required.</p> <p><u>Consider against the provisions of CL5.10 of MLEP 2013.</u>            Is a Conservation Management Plan (CMP) Required? No            Has a CMP been provided? No            Is a Heritage Impact Statement required? No            Has a Heritage Impact Statement been provided? No</p> <p><b>Further Comments</b></p> <p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 15 July 2020</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.

### 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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. A380895 dated 22 June 2020).

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.

#### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

## 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:	8.50m	8.31m	-	Yes
Floor Space Ratio	FSR: 0.60:1 259.50m <sup>2</sup>	FSR: 0.541:1 233m <sup>2</sup>	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes

## Manly Development Control Plan

### Built Form Controls

Built Form Controls - Site Area: 430.5sqm	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	West: 8m (based on gradient 1:4)	8.3m	3.75%	No
	East: 6.7m (based on gradient 1:30)	7.4m	10.44%	No
4.1.2.3 Roof Height	Parapet Height: 0.6m	0.2m	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	0m	100%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.76m (based on western wall height)	0.926m	66%	No
	2.43m (based on eastern wall height)	1.9m	22%	No
	Windows: 3m	1m	66%	No
4.1.4.4 Rear Setbacks	8m	14.837m	-	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or	Maximum 50% of frontage up to maximum 6.2m	6.4m	28%	No

Hardstand Areas				
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:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	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
3.6 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
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.8 Development on Sloping Sites	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
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

### Detailed Assessment

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

##### Description of non-compliance

This Clause relies upon the objectives of Clause 4.3 under MLEP 2013.

Clause 4.1.2 of the Manly DCP stipulates that walls are not to exceed 8m for the western side wall and 6.7m for the eastern wall when measured from the existing ground level to the underside of the ceiling on the uppermost floor.

The proposed development would result in a maximum western wall height of 8.3m above the existing

ground level, non-compliant with the numeric control. This represents a 3.75% variation to the numeric control.

The proposed development would result in a maximum eastern wall height of 7.4m above the existing ground level, non-compliant with the numeric control. This represents a 10.44% 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:

*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 proposed height of the building is minimised by low roof pitch and articulation on all sides of the development. The visual impact upon the streetscape will be negligible and not unreasonable in this residential setting.

*b) to control the bulk and scale of buildings,*

Comment:

The proposed bulk and scale of the building relates favourably to the topography of the site. The works will allow for an appropriate relationship and spatial separation with surrounding development. The visual bulk of the dwelling as viewed from the street is not adverse or unreasonable.

*c) to minimise disruption to the following:*

*(i) views to nearby residential development from public spaces (including the harbour and foreshores),*

*(ii) views from nearby residential development to public spaces (including the harbour and foreshores),*

*(iii) views between public spaces (including the harbour and foreshores),*

Comment:

The impact on views from the proposed development are considered acceptable, having regard to *Tenacity Consulting V Warringah [2004] NSWLEC 140*.

*d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

Comment:

The solar impacts of this aspect of the development are minimal and acceptable in terms of their impact on habitable rooms of the adjoining properties and public open space.

*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 wall height non-compliance does not create unreasonable impacts over land in recreation or environmental protection zones, that might conflict with bush land and surrounding land uses.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / 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.

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

Description of non-compliance

Clause 4.1.4.2 of the Manly DCP requires development be setback at least 2.76m from the western boundary, 2.43m from the eastern boundary. Further new windows facing side boundaries are to be setback at least 3m from the side boundary.

The development proposes the following:

**Western side setback-** 0.926m (66% variation to the numeric control).

**Eastern side setback-** 1.9m (22% variation to the numeric control).

**Windows-** 1m (66% 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 proposed side setbacks are consistent with the large majority of neighbouring properties along the northern side of the street.

*Objective 2) To ensure and enhance local amenity by:*

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

Comment:

The proposed works maintains suitable levels of privacy and solar access for adjoining properties. In regards to views, the proposed will largely retain existing water views from neighbouring properties to

the west.

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

Comment:

Flexibility is promoted in this circumstance as there are no unreasonable amenity impacts that will result on neighbouring properties.

*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 proposed development maintains a compliant area for landscaped open space and retains significant landscape features on site.

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

Comment:

The subject site is not located in a bushfire zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / 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

Clause 4.1.6.1 of the Manly DCP requires 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.

The proposed garage has a width of 6.4m, non-compliant with the numeric control. This results in a 28% 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 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 original plans and amended plans provide to Council fails to demonstrate that vehicles will not scrap when entering and exiting the proposed parking spaces, due to non compliance with the transition requirements of AS/NZS 2890.1:2004. As such, the proposed garage and crossover cannot be supported.

*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 would allow for two (2) off-street parking spaces, compliant with the numeric control.

*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:

The proposed driveway is not suitably designed in accordance with Council's normal driveway profile.

*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 development does not rely on significant excavation.

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

Comment:

The proposed development limits vehicular access to a single driveway, thereby ensuring the width and number of footpath crossings are minimised.

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

Comment:

Adequate landscaping is proposed to offset the built form of the garage .

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

Comment:

Not applicable. The subject site is not located in a local or neighbourhood centre.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / 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 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$2,070 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$207,000.

## **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**

THAT Council as the consent authority grant Development Consent to DA2020/0706 for Alterations and additions to a dwelling house on land at Lot A DP 313797, 42 Upper Clifford Avenue, FAIRLIGHT, subject to the conditions printed below:

**DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

1. **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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA03	23 June 2020	Stewart Design Studio
DA05	23 June 2020	Stewart Design Studio
DA06	23 June 2020	Stewart Design Studio
DA07	23 June 2020	Stewart Design Studio
DA08	23 June 2020	Stewart Design Studio
DA09	23 June 2020	Stewart Design Studio
DA10	23 June 2020	Stewart Design Studio
DA13	23 June 2020	Stewart Design Studio

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No. A380895	22 June 2020	Jean Stewart
Waste Management Report	22 June 2020	Jean Stewart

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

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

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
DA14	23 June 2020	Stewart Design Studio

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.

## 2. 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.

### 3. **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 2008
    - (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

### 4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,070.00 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 2019. The monetary contribution is based on a development cost of \$207,000.00.

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 2019 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](http://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.

### 5. **Security Bond**

A bond (determined from cost of works) of \$1,500 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](http://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

### 6. **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 MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification 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 development.

### 7. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared 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 Certifying Authority 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.

### 8. **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.

### 9. **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)

10. **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](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.

11. **Double Garage and Driveway**

The driveway crossing and double garage are not approved as part of this consent.

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

Reason: To ensure compliance with the terms of this consent.

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. **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.

13. **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.

14. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL

IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

15. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

16. **Stormwater Disposal**

The Applicant shall submit a certificate from a suitably qualified person that the stormwater drainage works have been constructed/installed in accordance with all relevant Australian Standards and Codes.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

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

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

**Signed**



**Maxwell Duncan, Planner**

The application is determined on 18/09/2020, under the delegated authority of:



**Anna Williams, Manager Development Assessments**