

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1059
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Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 13 DP 29355, 56 Peronne Avenue CLONTARF NSW 2093
Proposed Development:	Alterations and additions to a dwelling house and family flat, including the construction of a swimming pool and associated landscape works
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Nicole Rosalie Adamo
Applicant:	Minto Planning Services Pty Ltd

Application Lodged:	12/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/07/2021 to 02/08/2021
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	4.3 Height of buildings: 22.47%
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,500,000.00
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EXECUTIVE SUMMARY

The application seeks consent for alterations and additions to the existing dwelling house and family flat.

The pitched roof of the existing dwelling has a maximum height of approximately 10.26m (20.7% variation). The proposed new roof form results in a marginally increased building height of 10.41m, representing a variation of 22.47% to the building height development standard. Despite the proposed breach, the new roof design lowers the ridge height of the dwelling by 510mm.

The dwelling additions are contained below the existing roof ridge level and do not result in any

unreasonable building bulk or amenity impacts. An assessment of the proposed building height breach and the accompanying Clause 4.6 written request is undertaken within this report and is found to be satisfactory. As the development standard variation exceeds 10% and the proposal relates to a Class 1 building, the application is referred to the Development Determination Panel for determination.

The existing 131.4m² family flat exceeds the maximum GFA of 84.6m² permitted for secondary dwellings by MLEP Clause 5.4. However, this limitation is not considered to be applicable in relation to the existing development, which was approved under a previous environmental planning instrument. Further discussion of this matter is included under Clause 5.4 of this report.

Three submissions were received in response to the notification of the application, generally relating to privacy and construction impacts. As detailed in the report, none of the concerns raised in submissions warrant the refusal of the application.

No further assessment issues are raised and the proposal is recommended for approval based on the detailed assessment within this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the existing dwelling and family flat/secondary dwelling as follows:

Garage

- New garage doors
- New green roof to existing garage
- New timber screen and pergola over entry stair
- Demolish internal wall

Lower ground floor

- New dwelling entry and awning roof
- New internal lift
- New front terrace with vertical planter
- Additions and internal reconfiguration to provide entry, living, beds 4 & 5, bathroom & laundry

Ground floor

- Demolish existing front balcony and construct new terrace and planters
- New privacy screen and operable louvre roof to terrace
- Additions and internal reconfiguration to provide kitchen, living, dining & WC

First floor

- Reconstruct existing front terrace with blade wall screens and planters
- Internal reconfiguration to provide bed 1 with ensuite and robe, beds 2 & 3, bathroom & linen

Secondary dwelling

- Demolish existing lower bedroom and construct open bridge link and external stair
- Demolish and replace existing deck adjacent to proposed swimming pool
- Demolish and replace internal stair

External

- Demolish existing hipped dwelling roof and construct new skillion roof
- Changes to doors and windows
- New materials and finishes
- New swimming pool with end wall
- Demolish and replace path and stair adjacent to south-eastern side boundary
- New south-east boundary wall adjacent to lower ground floor
- New inclinator stop at rear of ground floor
- New landscaping to south-eastern boundary and pool surrounds

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 Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Local Environmental Plan 2013 - 5.4 Controls relating to miscellaneous permissible uses

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

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)

Manly Development Control Plan - 4.1.8 Development on Sloping Sites

Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features

Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

Property Description:	Lot 13 DP 29355 , 56 Peronne Avenue CLONTARF NSW 2093
Detailed Site Description:	<p>The subject site consists of one allotment located on the north-eastern side of Peronne Avenue.</p> <p>The site is irregular in shape with a frontage of 11.62m along Peronne Avenue and a maximum depth of 58m. The site has a surveyed area of 988m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates an existing three-storey dwelling with an attached secondary dwelling and a detached garage at the front boundary.</p> <p>The site slopes 23.42m from rear (north-east) to front (south-west).</p> <p>The site contains 21 significant trees, generally located within the heavily vegetated rear and southern side setbacks.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by multi-storey detached dwellings.</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:

- DA4036/1991 for Proposed alterations - Approved 10 July 1991.
- DA5043/1991 for Modification of the determination of Development Application No. 4036/91 - Approved 11 March 1992.
- DA0492/1996 - Part 1 for Alterations and additions to rear of existing dwelling - Approved 18 August 1997.
- DA0633/1999 for Creation of family flat within existing dwelling - Approved 14 March 2000.
- DA0188/2000 for Replace existing roof - Approved 5 June 2000
- DA0350/2001 - Part 1 for Erection of pergola - Approved 9 October 2001.
- DA0350/2001 - Part 2 for Erection of pergola - Approved 3 February 2003.
- DA0492/1996 - Part 4 for Alterations and additions to existing dwelling - Approved 9 May 2005.
- DA0052/2006 for Alterations to the existing space under the house to create a bathroom within the existing walls - Approved 27 April 2006.
- DA0247/2014 for Alterations and additions to an existing secondary dwelling including new sunroom, pergola to courtyard, new windows and doors - Approved 18 March 2015. Despite the approval of DA0247/2014, Council's records do not include any evidence of a Construction Certificate being issued and a physical inspection of the site indicates that the works never commenced.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of

Section 4.15 Matters for Consideration	Comments
Regulation 2000 (EP&A Regulation 2000)	<p>consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 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 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.

Section 4.15 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

See Clause 5.4 discussion.

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 19/07/2021 to 02/08/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Mrs Husniye Yavuz	54 Peronne Avenue CLONTARF NSW 2093
Mr Manfred Fahr Miss Carla Gail Heindl Sablene Heindl	2 A Russell Street CLONTARF NSW 2093
Mr Ajoy Ghosh Ms Maryam Zoljalali	41 Peronne Avenue CLONTARF NSW 2093

The matters raised within the submissions are addressed as follows:

- **Privacy concerns**

Comment: Concerns were raised in relation to the visual and acoustic privacy impacts to 54 Peronne Avenue resulting from the proposed lift, south-eastern entry door and external bridge link to the secondary dwelling. Concerns were also raised in relation to the privacy impacts to 2A Russel Street resulting from the proposed ground and first floor terraces, swimming pool and new inclinator stop.

The proposed lift entry is located a level lower (2.8m) than the existing front door and the new south-eastern entry door incorporates an awning roof, timber batten, vegetation screening and a new boundary wall. Further, the proposed lift and door are access points to the dwelling with a lower frequency of use in comparison to living areas, and are not considered to result in adverse privacy impacts. The proposal includes sufficient detail in relation to the first floor terrace privacy screening, and the combination of the louvre screening, planter box and increased separation to the trafficable terrace area are considered to provide a suitable privacy outcome. Given the elevation of the bridge link between the primary and secondary dwelling, a condition is imposed requiring the provision of a privacy screen to the south-eastern elevation. A further condition is imposed to ensure that the operation of the lift, swimming pool equipment and any

other mechanical equipment does not give rise to unreasonable noise impacts.

The proposed ground and first floor terraces are considered to be appropriately designed to maintain privacy to 2A Russel Street. The existing ground floor terrace extends across the full width of the dwelling to the north-western boundary, while the proposed terrace maintains a minimum setback of 6m and incorporates a non-trafficable planter beyond. The existing first floor terrace is demolished and reconstructed in the existing position, with a blade wall and non-trafficable planter to the north-western boundary. The applicant indicates that a high boundary fence can be provided adjacent to the proposed swimming pool and inclinator stop as requested, however this is not included in the application and is a civil matter between the adjoining owners.

- **Traffic impacts during construction**

Comment: A condition is imposed requiring the preparation of a Construction Traffic Management Plan (CTMP) for approval by Council.

- **Lift compliance with relevant standards and implementation of dust suppression measures during construction**

Comment: A standard condition is imposed to ensure that all aspects of the development comply with the relevant Australian standards.

- **Preparation of dilapidation reports for adjoining properties**

Comment: Conditions are imposed requiring the preparation of pre and post-construction dilapidation reports to identify any damage to adjoining properties as a result of the works.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Supported with conditions.</p> <p>This application is for the alterations and additions to an existing residential dwelling. Proposed works include the demolition of the primary residence and construction of a new residential dwelling. An existing secondary dwelling is located towards the rear of the site and is proposed to be largely retained, with minor alterations to the lower level. A swimming pool is also proposed towards the rear of the site.</p> <p>Councils Landscape Referral section has considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls:</p> <ul style="list-style-type: none"> • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation • 4.1.5 Open Space and Landscaping <p>The Statement of Environmental Effects provided with the application notes that the proposal does not involve the removal of any significant trees, and that proposed works are not expected to have any unreasonable tree impacts. This statement is largely supported by the Architectural Plans provided as it is clear the proposed works are</p>

Internal Referral Body	Comments
	<p>mostly confined to the existing dwelling footprint, with minor impacts on existing significant trees.</p> <p>A Landscape Plan is provided with the application which proposes both the in-ground and on-slab planting of trees, shrubs, accents, grasses as well as groundcovers.</p> <p>Slight concern is raised regarding the potential impacts of works on the lower ground floor of the secondary dwelling. On plan, this area is located within the Tree Protection Zone (TPZ) of the significant native tree located towards the north of the secondary dwelling, as well as existing trees to the south of this secondary dwelling. As no Arboricultural Impact Assessment has been provided with the application, the impacts of proposed works are not fully understood. As works are largely located within the existing footprint, the expected impacts are to be minimal, however to ensure existing significant trees are retained, it is recommended that a Project Arborist be appointed to supervise all works with the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of existing trees retained. The Project Arborist is to ensure no significant roots are impacted by proposed works, as any negative impact to both the short-term and long-term health of these trees would not be supported. The retention of these significant trees is vital to satisfy control 3.3.2, as key objectives of this control include "to protect and enhance the urban forest of the Northern Beaches", "to effectively manage the risks that come with an established urban forest through professional management of trees", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>The completion of landscape works as proposed on the landscape works are also necessary to satisfy both controls 3.3.1 and 4.1.5, as key objectives of these controls include "to encourage appropriate tree planting and maintenance of existing vegetation", "to maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland", as well as "to maintain amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area".</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plans.</p>
NECC (Development Engineering)	<p>Supported with conditions.</p> <p>No objections to approval subject to conditions as recommended.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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</p>

External Referral Body	Comments
	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. A413864_02 dated 1 June 2021).

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	10.41m	22.47%	No
Floor Space Ratio	0.4:1 395.2m ²	0.4:1 394.8m ²	-	Yes
Secondary Dwelling GFA	60m ² , or 30% of total floor area of the principal dwelling (84.6m ²)	112.8m ²	33.3%	No (see Clause 5.4 discussion)

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	10.41m

Percentage variation to requirement:

22.47%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

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

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

(a) *the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- *"The proposal is for the carrying out of alterations and additions to the existing building and which currently has a building height of 10.26m and which exceeds the Council's maximum building height control of 8.5m.*
- *The non-compliance results from the sites steep topography together with the height of the existing floor levels.*
- *The proposed alterations and additions include a new roof to the existing dwelling. The proposal whilst technically resulting in an increased building height by definition results in a reduction in the effective building height via a 510mm reduction in the ridge level.*
- *The additional building height over the 8.5m maximum building height is largely a result of the proposed privacy screening to the existing balcony.*
- *The proposed dwelling alterations and additions are of a design which is in keeping with the character of the locality and will make a positive contribution to the existing streetscape.*
- *The proposal will not result in any additional negative impacts on the privacy or amenity of the adjoining properties to the north west and south east.*
- *The proposal will not result in any view loss impacts upon the adjoining properties.*
- *Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out."*

Comment:

The proposed variation occurs due to the proposed new skillion roof design over the existing dwelling that already exceeds the building height control. The overall height of the dwelling is increased by a maximum of 150mm, while the ridge height of the roof is reduced by 510mm. Despite the increased height of the dwelling, the proposal is considered to reduce the bulk of the roof form above the 8.5m height plane and maintain a reasonable level of amenity to adjoining properties and the public domain. Figure 1 below illustrates the building height non-compliance and redistribution of bulk resulting from the proposed skillion roof (grey) in comparison to the existing hipped roof (white).

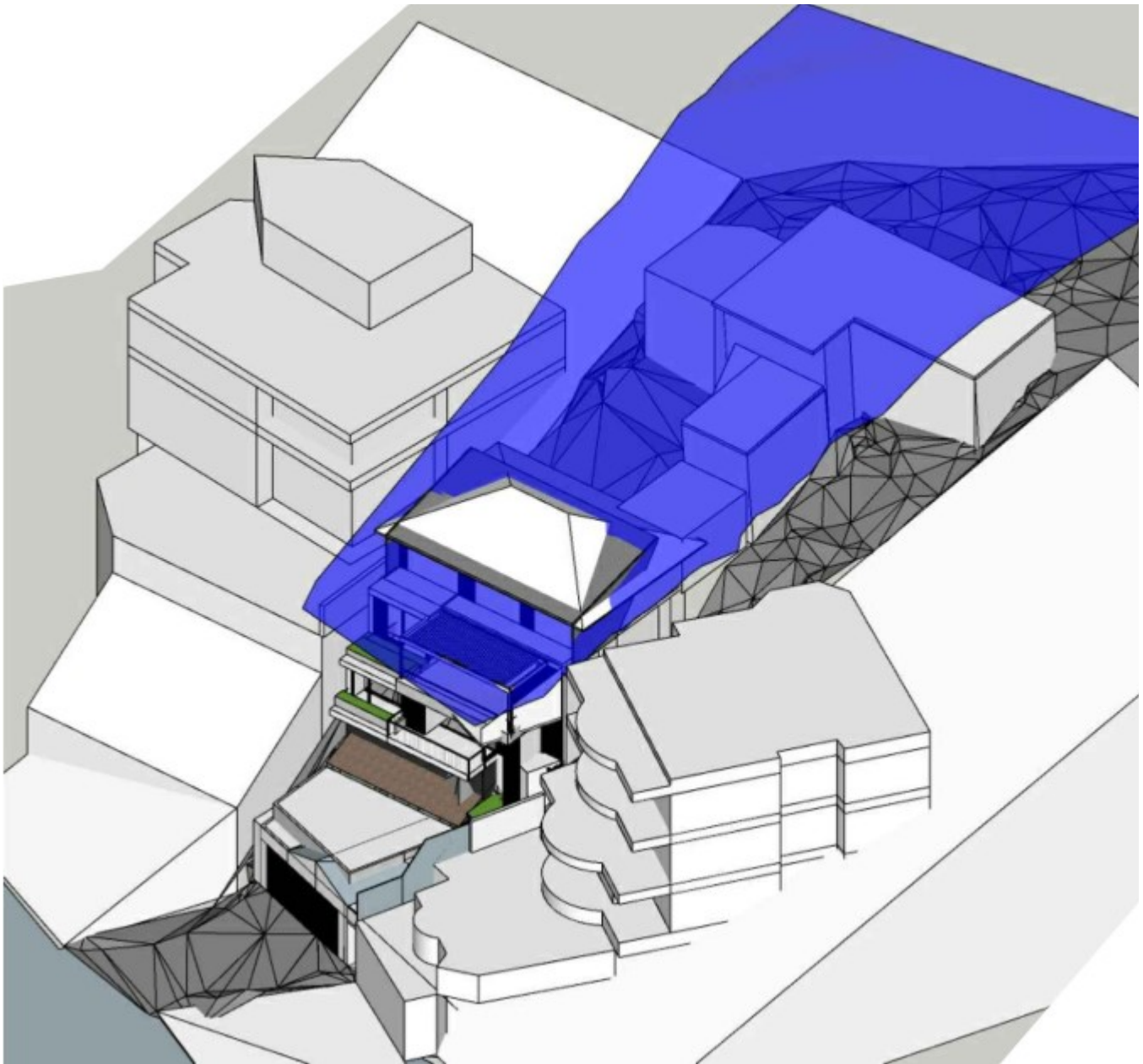


Figure 1. Height non-compliance of existing and proposed roof forms.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design and amenity, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the MLEP 2013 are:

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

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

Comment:

The proposed development provides a building height and roof form that is consistent with the topography, prevailing building height and desired streetscape within the locality.

b) to control the bulk and scale of buildings,

Comment:

The proposal is not considered to be excessive in bulk or scale notwithstanding the minor increase to the existing height breach.

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 proposal will not unreasonably impact views to or from surrounding developments and public spaces.

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 proposal will maintain a compliant level of solar access to adjoining properties and nearby public spaces.

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:

N/A

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposal retains the existing low density residential use of the site.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

N/A

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 24 May 2019, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Height of buildings Development Standard associated with a single dwelling house (Class 1 building).

5.4 Controls relating to miscellaneous permissible uses

Clause 5.4(9) specifies that the total floor area of a secondary dwelling must not exceed 60m² or 30% of the total floor area of the principal dwelling, whichever is greater. In order to comply with this control, a secondary dwelling at the subject site would need to be limited to a maximum GFA of 84.6m².

The existing second dwelling was originally approved through DA0633/1999 as a 'family flat', with a

GFA of 123.6m². Section 2.6 Family Flats of the *Manly Development Control Plan for the Residential Zone 1986* allowed for the conversion of a dwelling house into two dwellings, but did not include any restrictions on the floor area of the resulting family flat. Subsequent alterations and additions to the family flat approved through DA0052/2006 resulted in the current approved GFA of 131.4m².

The imposition of MLEP in 2013, which now includes a restriction on the size of secondary dwellings, acts to prohibit secondary dwellings of the size approved on the site and proposed to be modified. As the family flat was not subject to a maximum floor area control at the time of approval, it is considered that existing use rights apply and that the family flat/secondary dwelling can be maintained.

Further, while the proposed GFA is non-compliant with the provisions of Clause 5.4(9), the proposal results in an overall reduction of 18.6m² to the existing floor area. Based on the existing use rights benefiting the development and the reduction in the floor area of the family flat, the proposal is acceptable on merit despite the technical non-compliance.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 988m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	NW: 8m	GF planter: 5.58m	N/A	Yes
		GF wall: 2.7m - 7.3m	N/A	Yes
		FF: 5.5m - 9.3m	16.25%	No
	SE: 8m	LGF terrace: 5.6m	N/A	Yes
		LGF wall: 5.3m	N/A	Yes
		GF terrace: 9m	12.5%	No
		GF lift & wall: 3.6m - 8m	N/A	Yes
		FF: 6.4m - 10.3m	28.75%	No
4.1.2.2 Number of Storeys	2	3	50%	No (existing)
4.1.2.3 Roof Height	Height: 2.5m	1.3m	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Garage: 0m	100%	No (existing)
		Dwelling: 6m	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	NW (GF planter): 1.86m	1.87m	N/A	Yes
	NW (GF wall): 0.9m - 2.43m	1.6m - 1.8m	26%	No
	NW (FF): 1.83m - 3.1m	1.6m - 1.8m	42%	No
	SE (LGF terrace): 1.87m	3.13m	N/A	Yes
	SE (LGF wall): 1.77m	2.3m	N/A	Yes

	SE (GF terrace): 3m	1.14m	62%	No
	SE (GF lift & wall): 1.2m - 2.67m	1.17m - 4.2m	56.2%	No (existing)
	SE (FF): 2.1m - 3.4m	1.6m - 4.2m	53%	No
4.1.4.4 Rear Setbacks	8m	6.7m	N/A	No (existing)
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area 592.8m ²	68.2% 673.7m ²	N/A	Yes
	Open space above ground 25% of total open space	4.6%	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% of open space 267.48m ²	55.5% 373.6m ²	N/A	Yes
4.1.5.3 Private Open Space	18m ² per dwelling	> 18m ²	N/A	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	7.7m	N/A	No (existing)
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	0.6m - 3m	170%	No
	1m curtilage side/rear setback (2.7m)	1.6m	40.7%	No
	1.5m water side/rear setback (2.7m)	1.9m	29.6%	No
Schedule 3 Parking and Access	3 spaces	3 spaces	N/A	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 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
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
3.7 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	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Storeys & Roof Height)		
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)	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	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

3.1.1 Streetscape (Residential areas)

The proposal retains the existing garage location and setbacks and includes a new green roof to soften the visual bulk of the structure. The proposal also includes new additions to the front of the existing dwelling that will provide increased facade articulation and improve the overall appearance of the development within the streetscape. The development maintains an appropriate relationship with surrounding developments and the existing streetscape in accordance with this control.

3.4.1 Sunlight Access and Overshadowing

Compliance with control

The proposal includes various minor increases and reductions to bulk at the south-eastern elevation of the development. The proposal will result in minor additional overshadowing of the pool area and lower terrace of 54 Peronne Avenue at 12pm. There is no additional impact to No. 54 at 9am and a reduction to overshadowing of the lower terrace at 3pm.

The proposal maintains a compliant level of sunlight access to adjoining properties throughout the day in accordance with the control.

3.4.2 Privacy and Security

Compliance with control

The proposal, as conditioned, will maintain a reasonable level of privacy to the subject site and adjoining properties. The proposed front terraces incorporate a variety of privacy measures including louvre screening, planter boxes and vertical 'green screens', and are not anticipated to result in any unreasonable privacy impacts in comparison to the existing development. Several window openings at the upper levels are in-filled while the proposed new windows and doors to the side elevations are located at the lower ground floor and will not give rise to any adverse privacy impacts.

Due to the potential overlooking opportunities arising from the proposed elevated and unenclosed external bridge link between the primary and secondary dwellings, a condition is imposed requiring the

provision of a privacy screen to the south-eastern elevation of this structure.

Further detailed discussion of specific privacy concerns raised in the submissions is included under the Submissions section of this report.

3.4.3 Maintenance of Views

The proposal results in an overall reduction to the ridge height of the dwelling and is not anticipated to cause any unreasonable view impacts.

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

Description of non-compliance

The proposed additions and new skillion roof form will result in increased wall heights at the north-western and south-eastern elevations. The north-western wall height is increased by 0.8m to a maximum of 9.3m, which exceeds the 8m control. At the south-eastern elevation, the ground floor terrace wall height is increased by 1.5m to a maximum of 9m and the first floor wall height is increased by 1.2m to a maximum of 10.3m.

Merit consideration

With regard to the consideration for a variation, the development is considered against the LEP objectives for Clause 4.3 Height of Buildings:

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

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

Comment:

The proposed wall and building heights remain compatible with the prevailing building heights of the locality and the new roof form improves the consistency of the dwelling with the steep topography of the site.

b) to control the bulk and scale of buildings,

Comment:

The proposed additions improve the articulation of the dwelling and are of an appropriate bulk and scale in relation to the site area.

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 proposal will not result in any unreasonable view impacts to, from or between residential development and public spaces.

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 overshadowing impacts arising from the development are minimal and compliance with the solar access control is maintained.

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:

N/A

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supportable in this particular circumstance.

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

Description of non-compliance

The development includes various existing and proposed setback non-compliances. Given that the proposal is for alterations and additions, the below assessment of setback non-compliances is limited to new works and does not include consideration of existing/unchanged breaches.

The 1.6m north-western side setback to the ground and first floor additions to the front of the dwelling is non-compliant with the 1/3 wall height control.

At the south-eastern elevation the 1.14m setback to the ground floor terrace is non-compliant with the 3m requirement and the minimum 1.6m setback at the front of the first floor is non-compliant with the 3.4m requirement. The proposed ground floor terrace provides improved separation from the south-eastern boundary and the planter box increases the setback to the trafficable area of the terrace in comparison to the existing situation. The first floor south-eastern setback remains unchanged but the wall height is increased as a result of the new roof design, increasing the setback requirement and creating a technical non-compliance.

It is noted that the garage front setback remains unchanged and the first floor terrace is demolished and reconstructed as existing.

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 development will maintain and enhance the existing streetscape through improved facade articulation and the new landscaped roof above the garage.

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 proposal will not result in any unreasonable impacts in relation to privacy, solar access, privacy, views, streetscape character or traffic conditions.

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

Comment:

The proposed setback non-compliances are considered to be acceptable on merit.

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 maintains deep soil areas of sufficient dimensions and includes new planting across the site to achieve consistency with this objective.

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

Comment:

N/A

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

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

The non-compliance with the maximum garage width is existing and remains unchanged. The proposal includes refurbishment of the garage and will improve the appearance of the structure within the

streetscape.

4.1.8 Development on Sloping Sites

The site is mapped as Landslip Hazard Areas G1 and G2. A Geotechnical Investigation has been prepared in relation to the proposed development, the recommendations of which are incorporated into the conditions of consent.

4.1.9 Swimming Pools, Spas and Water Features

Description of non-compliance

Clause 4.1.9.1 requires that:

- a) Swimming pools and spas must be built on or in the ground and not elevated more than 1m above natural ground level. Consideration of any exception to exceed the height above ground must demonstrate that any swimming pools and/or spa and their curtilage and/or concourse more than 1m above natural ground level:*
- i) would not detract from the amenity or character of the neighbourhood; and*
 - ii) is a minimum distance from any side boundary equivalent to the height of the swimming pool*

The proposed swimming pool reaches a maximum height of 3m above ground level, which is non-compliant with the 1m control. The swimming pool has minimum north-western boundary setback of 1.6m to the curtilage and 1.9m to the water edge, resulting in a non-compliance with the 3m setback requirement.

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

Comment:

The proposed pool design includes a 1.2m high solid end wall to the north-western boundary and does not propose any new decking within the side setback. Additional landscape screening is provided to the front of the pool.

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

Comment:

The proposed pool is appropriately located at the rear of the primary dwelling to avoid any adverse impacts to the streetscape or character of the locality.

Objective 3) To integrate landscaping; and

Comment:

New planting is proposed to screen the front wall of the pool.

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

Comment:

N/A - The subject site is not mapped 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 the control. Accordingly, this assessment finds that the proposal is supportable in this particular circumstance.

4.4.5 Earthworks (Excavation and Filling)

The proposal includes minor excavation works to accommodate the new lift and swimming pool. The excavation is limited to a maximum depth of 1.5m and is suitably located to minimise impacts to the natural environment and surrounding properties.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

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

A monetary contribution of \$15,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,500,000.

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

The application seeks consent for alterations and additions to the existing dwelling and secondary dwelling.

The key planning issues considered within the assessment are the proposed development standard variation, built form non-compliances and the likely amenity impacts of the proposal.

Notwithstanding the proposed building height variation of 22.47%, the development is not considered to result in any unreasonable impacts to adjoining properties or the public domain.

Three submissions were received in relation to the development, and are addressed within the report with suitable conditions imposed where necessary.

Assessment of the application against the Manly LEP and DCP finds that the development is suitable in the context of the site, and is recommended for approval.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2021/1059 for Alterations and additions to a dwelling house and family flat, including the construction of a swimming pool and associated landscape works on land at Lot 13 DP 29355, 56 Peronne Avenue, CLONTARF, 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02 Site and Roof Plan	Issue A, 28 May 2021	Michael Cumming Architect
DA10 Lower Ground Floor	Issue A, 28 May 2021	Michael Cumming Architect
DA11 Ground Floor	Issue B, 2 August 2021	Michael Cumming Architect
DA12 First Floor	Issue A, 28 May 2021	Michael Cumming Architect
DA13 Secondary Dwelling Upper Plan	Issue A, 28 May 2021	Michael Cumming Architect
DA15 Roof Plan	Issue A, 28 May 2021	Michael Cumming Architect
DA20 North West Elevation	Issue A, 28 May 2021	Michael Cumming Architect
DA21 South East Elevation	Issue B, 2 August 2021	Michael Cumming Architect
DA22 Front Elevation	Issue A, 28 May 2021	Michael Cumming Architect
DA23 Rear Elevation	Issue A, 28 May 2021	Michael Cumming Architect
DA25 Section A	Issue B, 2 August 2021	Michael Cumming Architect

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A413864_02	1 June 2021	Michael Cumming
Geotechnical Investigation	2 July 2021	White Geotechnical Group

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:

Landscape Plans		

Drawing No.	Dated	Prepared By
1 Lower GF Plan	2 June 2021	Paul Scrivener Landscape
2 First Floor Plan	24 May 2021	Paul Scrivener Landscape
3 Ground Floor Plan	24 May 2021	Paul Scrivener Landscape
4 Site Analysis Plan	24 May 2021	Paul Scrivener Landscape

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 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

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$15,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$1,500,000.00.

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

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

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

5. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

6. **On Slab Landscape Works**

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

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

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

- i) 300mm for lawn
- ii) 600mm for shrubs
- iii) 1m for small trees

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

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

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. 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.

8. Amendments to the approved plans

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

- A privacy screen shall be provided to the south-eastern elevation of the external bridge link between the primary and secondary dwellings. The screen is to be a minimum height of 1.8m measured above the FFL of the bridge link, with a maximum transparency of 30%.

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

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

9. 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.

10. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

11. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue

of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

12. **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.

13. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Seven (7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the

surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site

- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

14. **Geotechnical Recommendations**

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

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 Certifying Authority that all 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:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) 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.

16. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties:

- o 54 Peronne Avenue, Clontarf
- o 2A 2A Russell Street, Clontarf

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. **Tree and Vegetation Protection**

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

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

b) Tree protection shall be undertaken as follows:

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

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

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

Reason: Tree and vegetation protection.

18. 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.

19. 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.

20. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

21. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

22. Implementation of Geotechnical Recommendations

All recommendations included in the Geotechnical Report referenced in Condition 1 of this consent are to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

23. Landscape Completion

Landscaping is to be implemented in accordance with the approved Landscape Plan.

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

Reason: Environmental amenity.

24. Condition of Retained Vegetation - Project Arborist

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, 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 protection.

25. Stormwater Disposal

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

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

26. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

27. Certification of Geotechnical Recommendations

Certification from a suitably qualified and practicing Geotechnical Engineer that all recommendations included in the Geotechnical Report referenced in Condition 1 of this consent have been incorporated into the development shall be provided to the Principal Certifying Authority prior to the issue of a Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

28. **Landscape Maintenance**

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

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

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

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

Reason: To maintain local environmental amenity.

29. **Mechanical Plant**

Noise associated with the ongoing operation of the lift motor, pool pump and any other mechanical equipment is not exceed 5dBa above background noise level within habitable rooms of the surrounding residential properties.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

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

Signed

Rebecca Englund, Manager Development Assessments

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

Rebecca Englund, Manager Development Assessments