

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0237
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 130 DP 11162, 15 Alto Avenue SEAFORTH NSW 2092
Proposed Development:	Construction of a Dwelling House
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Shannon Elizabeth Deeran
Applicant:	Matthew Paul Deeran Shannon Elizabeth Deeran

Application Lodged:	11/03/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	26/03/2020 to 09/04/2020
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 562,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application forms a part of a stage development of three (3) stages. The final outcome of the development is a two lot subdivision, with a dwelling house on Lot 1 and a vacant site on Lot 2. Whilst the applicant has requested the proposal be staged into three (3) separate stages, it is in effect one development.

The three (3) stages of the proposal are as follows:

- **Stage 1:** Construction of a new dwelling house (**DA2020/0237**)
- **Stage 2:** Demolition of the existing dwelling (**DA2020/0238**)
- **Stage 3:** Torrens title subdivision of the existing Lot into two (2) Lots (**DA2020/0236**)

All three (3) applications will be linked by relevant conditions of development consent to ensure the resulting development is consistent with the final outcome of a two lot subdivision with a dwelling house on Lot 1 and a vacant site on Lot 2.

Stage one (1) of the proposal, seeks approval for the construction of a new dwelling on the subject site.

The proposed new dwelling will comprise the following:

Ground Floor

Dwelling House

- Entry, living room, laundry, bathroom, open plan lounge, dining and kitchen, rear deck and external steps.

Garage/Guest Room

- Front deck, guest room with ensuite, and double garage.

External

- Bridge linking the garage to the dwelling house.

First Floor

Dwelling House

- Four bedrooms, including a master bedroom with a walk in robe and ensuite, sitting room, and bathroom.

External Works

- New driveway
- Landscaping and associated works.

Stage one (1) will require the removal of a number of existing trees. The application is accompanied by an Arboricultural Impact Assessment prepared by Growing My Way Tree Consultancy, dated March 2019.

Note: The plans as part of stage one (1) include a reference to a swimming pool. The swimming pool is not a part of the staged development. As a result, the swimming pool is not considered under this application, or stage two (2) or three (3) for the development.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;

- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

Manly Development Control Plan - 3.3.2 Preservation of Trees or Bushland Vegetation

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 - 3.7 Stormwater Management

Manly Development Control Plan - 4.1.1.1 Residential Density and Dwelling Size

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

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

SITE DESCRIPTION

Property Description:	Lot 130 DP 11162 , 15 Alto Avenue SEAFORTH NSW 2092
Detailed Site Description:	<p>The subject site is legally identified as Lot 130 within Deposited Plan 11162 and is known as 15 Alto Avenue Seaforth. The site is located within the R2 Low Density Residential zone as mapped within the Manly Local Environment Plan 2013.</p> <p>The subject site is located on the eastern side of Alto Avenue and the western side of Prince Edward Road. As a result the subject site has two street frontages.</p> <p>The site is irregular in shape with a surveyed area of 1037m². The frontage along Alto Avenue measures 15.24m and the frontage along Prince Edwards Road measures 19.24m. The northern and southern side boundaries have an average depth of 68.5m.</p> <p>The site slopes from the south to north and includes a crossfall of approximately 1.3m. The site is burdened by a Council stormwater pipeline which traverses through the western portion of the subject site, closest to the Alto Avenue street frontage.</p> <p>The site is currently vegetated with a variety of landscaping, including existing large canopy trees.</p> <p>Adjoining and surrounding development is characterised by</p>

one and two storey dwelling houses, of varying ages, within a landscaped setting.

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 development applications:

- Development Application **DA2019/0344** for the subdivision of one (1) Lot into two (2) Lots and associated infrastructure was refused by Council on the 3 August 2009. The reasons for refusal were listed as non-compliance with the Manly Development Control Plan. The key planning issues, that formed the basis for refusal, included the location of the indicative footprint of a dwelling house to an existing stormwater easement, the impact on Council's stormwater assets, and the amenity impact for the proposed Lots resulting from the non-compliant rear setbacks proposed for both Lots.
- Pre-Lodgement meeting **PLM2018/0091** was held on the 22 May 2019. The proposal presented at the meeting consisted of the demolition of the structures on the site, the subdivision of one (1) Lot into two (2) Lots and the construction of a dwelling house. The applicant was advised to locate the existing stormwater infrastructure prior to lodgement of the development application. The setbacks of the proposal were highlighted as a significant planning concern, and amendments would need to be undertaken in order for the application to be supported by Council.

The applicant has requested the proposal be staged into three (3) separate stages, it is however in effect one development.

Council is in receipt of all three applications that form the basis for the three stages of the one development. All three stages are under assessment by Council as follows:

- Development Application **DA2020/0237** for the construction of a Dwelling House (Stage 1)
- Development Application **DA2020/0238** for the demolition of a dwelling house and associated structures (Stage 2)
- Development Application **DA2020/0236** for Subdivision of one (1) Lot into two (2) Lots (Stage 3)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>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 matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	Clause 98 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.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

Name:	Address:
Mr Lars Peter Weber	9 Alto Avenue SEAFORTH NSW 2092
Mr Rodney Dean Hermann	11 Alto Avenue SEAFORTH NSW 2092

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

- **Overdevelopment**
- **Stormwater**
- **Privacy**
- **Views**
- **Building Bulk**
- **Front setback**
- **Open space and Landscape area**
- **Solar Access**
- **Property value**

The matters raised within the submissions are addressed as follows:

- ***Concern has been raised that the subdivision proposal, with the potential for an additional dwelling house is overdevelopment, and inconsistent with the surrounding area.***

Comment:

The three stage proposal results in the subdivision of the site to provide one dwelling house on Lot 1 and the potential for one (1) dwelling house to be located on Lot 2. The construction of one (1) dwelling on each Lot is a permissible form of development within the R2 Low Density Residential Zone. The subject land is located within the residential density area D5 which requires a maximum density of one (1) dwelling per 500sqm of site area. Stage three (3) of the proposal is the subdivision of the subject site, which would result in a density of one (1) dwelling on a Lot size of 519.9sqm and one (1) dwelling on a 512.5sqm. This is compliant with the numerical requirements of the minimum Lot size and residential density of area D5.

The first stage of the proposal is for a one storey detached Garage, and a two storey Dwelling House that complies with the Building Height standard, with minor variations to the front setback, and northern setback of the garage.

It is considered that the built form of the Garage and Dwelling House has been sufficiently articulated to visually define the dwelling within the shape and topographical context of the site. In this sense, the building has been reasonably articulated to respond to the detached dwelling elements in the area with the resulting design achieving an architectural consistency with the detached dwellings which collectively characterise the local area.

As a result, the subdivision and construction of a new Dwelling House on Lot 1 is a permissible form of development within the R2 Low Density Residential Zone and Council has no fundamental issue with the construction of a new Dwelling House on the subject site, subject to the application being the first stage of a three (3) stage development.

This issues does not warrant the refusal of the application.

- ***Concern has been raised in regards the impact the dwelling house will have on the stormwater drainage, overland flow, and on the easement over Councils stormwater drainage pipeline.***

Comment:

In accordance with Council's Manly Drainage Easement Policy- D100, the applicant provided the required information of the Council pipeline. The application also includes a Flood Study Report, by Water Design Civil Engineers dated 6 March 2020 to determine the localised flooding impacts of an overland flow path from Councils Stormwater Drainage system, that traverses through the development site. Council's Development Engineers have reviewed the three stages of the proposed development and have raised no objections to the proposed stormwater design

subject to conditions of consent.

This issue does not warrant the refusal of the application.

- ***Concern is raised from the adjoining properties to the south, that the development will result in a significant loss of privacy to their rear private open space area, particularly with respect to the proposed windows on First Floor.***

Comment:

This issue has been addressed in detail elsewhere in this report (refer to Clause 3.4.2 Privacy and Security under the MDCP).

In summary, the assessment of stage one (1) of the development found that the new Garage and Dwelling House has been generally designed and utilised appropriate window treatments to satisfactorily address overlooking by locating living room windows and terraces away from habitable room windows, balconies and private open space area on neighbouring properties. Areas which have been identified as creating overlooking have been appropriately addressed by conditions which require the installation of a privacy screen.

This issue does not warrant the refusal of the application.

- ***Concern is raised from the southern adjoining sites that the development will adversely impact upon views.***

Comment:

When undertaking a site visit to No.9 and No. 11 Alto Avenue, in accordance with the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council* (2004) NSWLEC 140, the views detailed within the submissions are not classified as views, but a landscaped outlook on neighbouring properties over the subject site.

Therefore, the proposal for stage one (1), and the development as a whole, does not impact any significant views lines and does not warrant the refusal of the application.

- ***There is concern that the dwelling house is not compliant with the Manly DCP controls and displays significant bulk and scale that is not consistent with the character of the area.***

Comment:

The three (3) stages of the development have been assess against the provisions of Manly DCP and found to be consistent with the objectives and requirements of those clauses in that:

- Side and rear setbacks have been increased as wall height increases;
- Large areas of continuous wall planes have been avoided by varying building setbacks and using appropriate techniques to provide visual relief.
- The height and bulk of the development has been minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step by having one storey structure that then transitions to a two storey structure.
- The appropriateness of the height and bulk of the development is considered to be consistent with the planning principle established in the Land and Environment Court case *Flashing v Randwick Council* [2007] NSWLEC 428.
- The newly created two (2) Lots provides appropriate open space and landscaped areas.

This issue does not warrant the refusal of the application.

- ***Concern is raised that the proposed front setback will be visually dominant, resulting in amenity impacts to the Alto Avenue streetscape.***

Comment:

This issue has been addressed in detail in this report (refer to Clause 4.1.4 Setbacks (front, side and Rear) under the MDCP 2011).

In summary, the non-compliance of the new Dwelling House as a part of stage one (1) was found to satisfy the various objectives of the control and had minimal impact upon maintaining a sense of openness, the visual continuity and quality of the streetscape and the amenity of neighbouring properties such that the non-compliance did not warrant the refusal of the application.

- ***Concern is raised that the development will create unreasonably overshadowing to the neighbouring properties.***

Comment:

This issue has been addressed in detail in this report (refer to Clause 3.4.1 Sunlight Access and Overshadowing under the MDCP).

In summary, the assessment found that the new Dwelling House as a part of stage one (1) complied with the requirements of the control and did not warrant the refusal of the application.

- ***Concern is raised that the new dwelling house open space and landscaped area is not compliant for a dual occupancy development, but not compliant when the subject site is subdivide from one (1) Lot into two (2) Lots.***

Comments

Stage three (3) of the proposed development provides 62.9% of the site as total open space with a landscaped area of 58.7% for Lot 1. The dwelling house for Lot 1 is consistent with the build form controls, with only minor variations to the front setback and northern side setback for the Garage, which does not add to the the built form such that it exacerbates the bulk and scale of the building that it no longer is consistent with the character of the area.

Any proposal for a dwelling house for Lot 2 will be approved via appropriate planning Legislation, however the site is capable of providing appropriate open space and landscaped areas.

This issue does not warrant refusal of the application.

- ***Concern is raised that the development will reduce property value of the neighbouring sites.***

Comment:

This issue of property value is not a planning matter which can be addressed under the provisions of s.97C of the EP&A Act.

This issue does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The development application is assessed by Council's Landscape Referral section against the landscape controls of Manly DCP 2013, section 3: General Principles of Development, and section 4:

Internal Referral Body	Comments
	<p>Development Controls and Development Types, and in particular the following clauses: 3.3.1 Landscaping Design, 3.3.2 Preservation of Trees or Bushland Vegetation, 3.3.3 Footpath Tree Planting, 4.1.5 Open Space and Landscaping, and 4.1.5.2 Landscaped Area.</p> <p>A Landscape Plan is to be submitted for approval prior to the release of the Construction Certificate in accordance with DA Lodgement Requirements, to satisfy the landscape controls as referred above, and as a minimum shall include the following:</p> <ul style="list-style-type: none"> • <i>native tree planting to satisfy 3.3.1 and 4.1.5.2</i> • <i>screen planting along side boundaries to provide privacy to private open space to satisfy 3.3.1 and 4.1.5</i> • <i>street tree planting to satisfy 3.3.3</i> <p>A Arboricultural Impact Assessment prepared by Growing My Way Tree Consultancy, dated March 2019 is provided in accordance with the DA Lodgement Requirements with this application for existing trees within 5 metres of any development works, being 5 trees within the property and two within adjoining properties. The proposal requires the removal of existing trees T2 - Jacaranda (exempt species), T3 - Gordonia (exempt species), T4 - Sydney Peppermint (significant lean that is detrimental in the long term), T5 - Red Bloodwood (short useful life expectancy), all located within the driveway and building footprint, and shall be subject to conditions for tree replacement within the site.</p> <p>The landscape component is acceptable subject to the provisions of landscaping to satisfy the landscape controls of Manly DCP and subject to the protection of tree and vegetation not impacted by development works as listed in the Arboricultural Impact Assessment.</p>
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following condition of consent.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The property is not in an area with a Council adopted overland flow flood study. Therefore, the overland flow risk and flood assessment provided by the applicant will be assess by the Development Engineering Team as part of their referral.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the assessment,

many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 996395s_04 and dated 26 February 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 996395s_04 and dated 26 February 2020).

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

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

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m Dwelling House 4.7m Garage/Guest	- -	Yes Yes
Floor Space Ratio	FSR: 0.45:1	FSR: 0.0311:1 (Existing Dwelling 138sqm, New Dwelling 185.2sqm)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1037sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings per 500sqm	2	-	Yes
4.1.2.1 Wall Height	N: 6.5m	6.25m	-	Yes
	S: 6.5m	5.2m	-	Yes
4.1.2.2 Number of Storeys	2	2	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	2.2m	-	Yes
	Pitch: maximum 35 degrees	< 35 degrees	-	Yes
4.1.4.1 Street Front Setbacks	6m	6m - 7.5m Dwelling House	- up to 20%	Yes No

		4.8m - 5.73m Garage 4.76m - 5.76m Decking	up to 20.6%	No
4.1.4.4 Rear Setbacks	8m	8.025m Dwelling House	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Dwelling 1m - 1.73m (based on wall height of 3m to 5.2m) 2.08m (based on southern wall height 6.25m)	1.455 and 2.535m North	-	Yes
		2.12m South	-	Yes
	Garage 1.07m (based on a wall height of 3.2m)	1.0m North 1.57m South	6.5% -	No Yes
	Windows: 3m	> 3m	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area Lot 1: 285.7sqm	Lot 1: 62.9% (326.8sqm)	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space Lot 1: 114.38sqm	Lot 1: 58.7% (305m2)	-	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	> 18sqm	-	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	5.9m	-	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces for new dwelling house	-	Yes

The proposed new dwelling house, as a part of stage one (1) built form controls have been calculated from the proposed subdivision plans for stage three (3).

Proposed Lot 2 will be of adequate dimensions to enable any proposed future dwellings on Lot 2 so to fully comply with the built form controls. An estimated building footprint of 150m² for Lot 2 would be able to be located entirely within the required setback areas, and while providing adequate landscaped areas (excluding areas for driveway/access from Prince Edward Street).

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
3.3.3 Footpath Tree Planting	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles	No	Yes

Detailed Assessment

3.1.1 Streetscape (Residential areas)

The development involves the construction of a one storey garage/guest room and a two storey dwelling house with no significant site excavation, with the final outcome of the development being a two lot subdivision, with a dwelling house on Lot 1 and a vacant site on Lot 2.

In this regard, the proposed built form of stage one (1) will continue to sit comfortably with adjoining and surrounding one and two storey residential development.

The proposed built form of stage one (1) is located within mild sloping topography, with the works presenting to Alto Avenue as a one storey structure for the garage and two storey structure for the

dwelling house. Proposed landscaping, in conjunction with existing and conditioned landscaping, will assist to visually screen the bulk and scale of the built form and integrate the built form into the surrounding landscaped locality.

On balance, the development is considered consistent with the desired and future character of the immediate area and the compatible with the Alto Avenue streetscape.

3.3.2 Preservation of Trees or Bushland Vegetation

A Arboricultural Impact Assessment prepared by Growing My Way Tree Consultancy, dated March 2019 was submitted with the application. The recommendations of this report and further conditions of consent have been applied to ensure the protection of the existing trees and vegetation for all three (3) stages of the development. As a result, the application satisfies the requirements of the control.

3.4.1 Sunlight Access and Overshadowing

Description of compliance

Stage one (1) of the development, consisting of a new Dwelling House is compliant with the control under Part 3.4.1.1 of the Manly DCP to "*not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June).*" Shadow diagrams for the winter solstice demonstrate that the southern adjacent site at No. 17 Alto Avenue is partially overshadowed during mid-winter, by the new Dwelling House. However, the solar access impact is compliant with the requirements of the Sunlight Access and Overshadowing clause.

Whilst the application is compliant with the controls, the development is considered against the underlying Objectives of the Control as follows:

- ***To provide equitable access to light and sunshine.***

Comment:

The submitted shadow diagrams demonstrate that the proposed Dwelling House of stage one (1) will not lead to an unreasonable increase to overshadowing of the subject site or adjacent sites. The transition of building height through two separate pavilions, combined with compliant bulk and scale with significant break in built form through the detached pavilion style design, allows equitable access to light and sunshine for the subject site and adjacent sites.

- ***To allow adequate sunlight to penetrate:***

***private open spaces within the development site; and
private open spaces and windows to the living spaces/ habitable rooms of both the
development and the adjoining properties.***

Comment:

The siting of the proposed built form of stage one (1) allows for adequate sunlight to penetrate the windows and private open space areas across the neighbouring site. In particular, the east-west orientation combined with compliant building heights, the centre break in built form, and appropriate bulk and scale allows adequate sunlight to penetrate living/habitable rooms and principal outdoor areas of the adjoining property.

- ***To maximise the penetration of sunlight including mid-winter sunlight to the windows, living***

**rooms and to principal outdoor areas by:
encouraging modulation of building bulk to facilitate sunlight penetration into the
development site and adjacent properties; and maximising setbacks on the southern side of
developments to encourage solar penetration into properties to the south.**

Comment:

The proposed Dwelling House proposal of stage one (1) modulates the bulk of the development via the transition of building height through two separate pavilions, and through the significant break in the built form through the centre of the block. This building design displays complying building heights and bulk and scale, and consequently allows appropriate solar penetration to the southern adjoining site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.4.2 Privacy and Security

Description of Non-Compliance

The clause requires private open space areas, including living rooms of existing adjoining dwellings, are to be protected from direct overlooking by building layout, landscaping, screening devices or greater spatial separation.

The stage one (1) new Dwelling House has been generally designed to address overlooking by utilising a variety of windows treatments to limit potential overlooking, and has located larger living room windows and deck areas away from habitable room windows, balconies and private open space area on neighbouring properties.

Furthermore, in the Land and Environment Court Case *Meriton v Sydney City Council* [2004] NSWLEC 313 Senior Commissioner Roseth established a planning principle for the protection of visual privacy where it was considered that "generalised numerical guidelines..., need to be applied with a great deal of judgment, taking into consideration density, separation, use and design. The principals are utilised in guiding the assessment of the proposed new Dwelling House.

Merit Consideration

The proposed development is considered against the relevant objectives of the control:

- **To minimise loss of privacy to adjacent and nearby development by:**

**appropriate design for privacy (both acoustical and visual) including screening between
closely spaced buildings;
mitigating direct viewing between windows and/or outdoor living areas of adjacent
buildings.**

Comment:

The new Dwelling House of Stage one (1) is appropriately designed to maintain the privacy of the subject site and adjoining properties.

The first floor north elevation has two windows that service bedrooms. These windows W17 and

W16 display sill heights of 1.4m from the finished floor level, and S3 and S1 are skylights for additional light penetration.

The first floor southern elevation has two windows that service a bedroom and a bathroom. The window W22 displays a sill height of 1.4m from the finished floor level, and window W11 adjoins a bathroom. It is considered bedroom is not likely to be accommodated as regularly than the living room located on the Ground Floor. As noted in the planning principle above, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time, therefore it is not considered privacy treatments are required for the bedroom windows.

As a result, appropriate privacy mitigation treatments have been utilised for the elevated first floor to ensure appropriate levels of privacy that demonstrate consistency with residential living are achieved.

It is considered that the ground floor windows on the northern and southern elevation will not allow for direct viewing to the neighbouring properties, as these windows will be screened by boundary fencing, conditioned landscaping and are consistent with the expectation of low density residential living.

The rear deck area demonstrates sufficient side setbacks of 2.2m to the northern boundary and 2.6m to the southern boundary. The decked area is located at ground level on the northern side, transitioning to an elevation of 1.2m on the southern elevation. This elevation corresponds to the topography of the site.

Due to the elevated nature of the rear decked area and the spatial distance (i.e. 2.6m to the southern boundary), there is potential to overlook the existing windows and open space area of the neighbouring property. It is recommended that a privacy screen is installed on the northern elevation to prevent overlooking.

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

Comment:

The new Dwelling House of stage one (1) of the development will allow sufficient privacy and sunlight access to the subject site and adjoining properties.

- ***To encourage awareness of neighbourhood security.***

Comment:

The new Dwelling House of stage one (1) of the development does not change the awareness of neighbourhood security.

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

3.7 Stormwater Management

This clause requires compliance with Council's stormwater policy. The proposed three stage development includes sufficient information to demonstrate that the new Dwelling House, subdivision and Lot 2 building envelope is suitably sited to minimise impacts on the existing Council stormwater

infrastructure and the mapped overland flow paths. Councils Development Engineers have assessed the application above and have found it to include sufficient information to demonstrate compliance with the Councils Stormwater Policy. As a result the three (3) stage proposal sufficiently demonstrates the management of urban stormwater.

4.1.1.1 Residential Density and Dwelling Size

The subject land is located within the residential density area D5 which requires a maximum density of one (1) dwelling per 500sqm of site area. The proposed subdivision would result in a density of one (1) dwelling on a Lot size of 519.9sqm and one (1) dwelling on a Lot Size of 512.5sqm. This is compliant with the numerical requirements of the control.

The three (3) stage development is a permissible form of development within the R2 Low Density Residential Zone and Council has no fundamental issue with the construction of a new Dwelling House, demolition of the existing Dwelling House and subsequent subdivision on the subject site.

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

Applicable Clauses

- Clause 4.1.4.1 - Street Front Setbacks.
- Clause 4.1.4.2 - Side Setbacks and Secondary Street Frontages.
- Clause 4.1.4.4 - Rear Setback.

Description of non-compliance

Clause 4.1.4.1 - Street Front Setbacks

Clause 4.1.4.1 requires New Dwelling House to provide a front setback of 6.0m.

The new Dwelling House development provides a front setback of between 6.0m to 7.5m to Alto Avenue which complies with the 6m requirement. The Garage provides a front setback of between 4.8m to 5.73m which represents a variation of 20% with the 6m requirement, and the decking provides a front setback of 4.76m to 5.73m to Alto Avenue which represents a variation of 20.6% with the front setback requirement.

Clause 4.1.4.2 - Side Setbacks and Secondary Street Frontages

Clause 4.1.4.2 requires development to provide variable side setbacks based on the proposed wall height. In this respect, the new Dwelling House of Stage one (1) provides the following side setbacks to the north and south:

- Dwelling House North: side setbacks of 1.455m and 2.535m.
- Dwelling House South: side setback of 2.12m.
- Garage North: side setback of 1.0m.
- Garage South: side setback of 1.57m.

As a result the northern garage side setback provides a 6.5% variation to the northern side setback.

Clause 4.1.4.4 - Rear Setbacks

The rear setback control technically does not apply to this application as the site has two street frontages, Alto Avenue and Prince Edward Road. However, stage three (3) of the development is the subdivision of one (1) Lot into two (2) Lots. As a result, the new dwelling house will be assessed against the requirements of the rear setback control to ensure consistency with the required outcomes.

The dwelling house displays a 8.025m distance to the line of the proposed subdivision. This would technically comply with the 8.0m rear setback requirement.

The swimming pool is not part of the application.

Merit Consideration

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

- ***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:

As demonstrated in figure 1 below, the front setback non-compliance occurs at the south-eastern and western corner of the garage structure and a minor portion of the decking area.

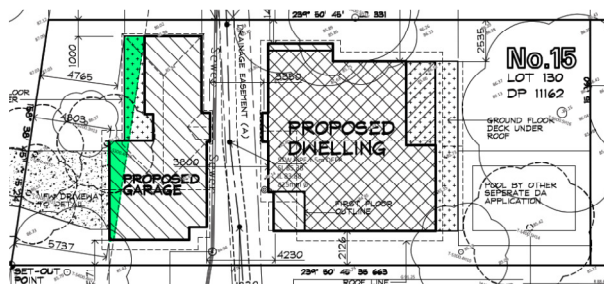


Figure 1: Front setback variation shown in green.

The proposed detached pavilion style Garage presents as a one storey structure from the street view, with the two storey dwelling house siting behind the detached pavilion style Garage. The stepping of the building heights into the site, along with the compliant Floor Space Ratio, landscaped area and sufficient built form modulation, provides a desirable outcome and compatibility with the existing character of the street and local area.

The landscape plans submitted with the stage one application, and additional conditional landscaping, ensure the front setback area between detached Garage and the front boundary will be densely landscaped such that the landscape character of the street will be preserved.

Similarly, the pavilion format of the garage of the stage one (1) new Dwelling House with respect to the side boundary setbacks, provides desired spatial proportions to respond to the landscape character of the locality.

The development satisfies this objective.

***To ensure and enhance local amenity by:
providing privacy.***

providing equitable access to light, sunshine and air movement.

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.
facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.***

Comment:

The separation of the built form through the pavilion design enables the stage one (1) new Dwelling House to satisfactorily respond to this objective as follows:

- Each of the proposed building is offset from the property boundary such that direct overlooking is avoided thereby providing privacy.
- The pavilion format enables the development to provide equitable access to light, sunshine and air movement through the site and through the neighbouring private and public properties.
- The separation of the buildings facilitates district landscaped outlook sharing and limits impacts on vistas from private and public spaces.
- The separate pavilion format of the development (which steps into the site from Alto Avenue), together with the offset contemporary design adds to the character of the streetscape and creates a rhythm of spaces when viewed from the neighbouring private and public properties.
- The development proposes a new driveway which allows for satisfactory sightlines along Alto Avenue.

The development satisfies this objective.

- ***To promote flexibility in the siting of buildings.***

Comment:

The proposed setbacks are reflective of the pavilion format of the and its attempt to respond to the stormwater easement constraint of the site. In this way, the development adopts a high level of flexibility in the siting of the buildings to preserve the natural features of the site and its relationship to its surrounds.

The development satisfies this objective.

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 pavilion format enables the stage one (1) new Dwelling House to satisfactorily respond to this objective as follows:

- The separation between the buildings enables the retention and provision of consolidated deep soil zones which can accommodate appropriate plantings including native vegetation

and native trees.

- The spatial arrangement of the development enables plantings to be provided which ensures that a satisfactory landscape transition is provided at the interface with the Alto Streetscape.
- Subject to conditions imposed by the Landscaping section, the development satisfies the provisions of State Environmental Planning Policy No 19 - Urban Bushland.

- ***To assist in appropriate bush fire asset protection zones.***

Comment:

The site is not identified as bush fire prone land and therefore does not require the establishment of bush fire asset protection zones.

This objective is not applicable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 and MDCP 2013 and the objectives specified in section 1.3 (a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Schedule 3 of MDCP requires two (2) parking spaces per dwelling house.

This application is part of a three (3) stage development, with the final outcome (stage 3) of the related applications being the subdivision of 1 Lot into 2 Lots, where the provision of vehicle access from Prince Edward Road and allocation of two car spaces will be incorporated within the requirements for Lot 2. Therefore, full compliance with the car parking will be achieved via stage three (3) of the development.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$5,620 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$562,000.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0237 for Construction of a Dwelling House on land at Lot 130 DP 11162, 15 Alto Avenue, SEAFORTH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

Development consents DA2020/0036, DA2020/0037, and DA2020/0038 for Stage 1, 2 and 3 are to operate concurrently and are linked to ensure the completed development is consistent with all requirements of Stages 1, 2 and 3, with the resulting development being a dwelling house on Lot 1 and the land subdivided in accordance with DA2020/0036.

The following consent is granted for Stage 1 of the development in accordance with Section 4.22 of the Environmental Planning and Assessment Act 1979.

Stage 1 development consent is granted only for the following:

- construction of a new dwelling, garage/guest room/driveway and

associated landscaping.

The works will be consistent with the following table:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan 01 Rev D	12/02/2020	Classic Country Cottages
Ground Floor Plan Rev D	12/02/2020	Classic Country Cottages
First Floor Plan Rev D	12/02/2020	Classic Country Cottages
Southern and West Elevation Rev C	12/02/2020	Classic Country Cottages
Northern and Eastern Elevation Rev C	12/02/2020	Classic Country Cottages
Western and Eastern Elevation & Easter Elevation of Garage and Guest Rev C	12/02/2020	Classic Country Cottages
Section 1 and 2 Rev B	14/12/2019	Classic Country Cottages
Section 3 and Section 4 Rev C	12/02/2020	Classic Country Cottages
Driveway Setout Plan Rev D	12/02/202	Classic Country Cottages
Longitudinal Section of Northern Side Rev B	14/12/2019	Classic Country Cottages
Longitudinal Section of Southern Side Rev B	14/12/2019	Classic Country Cottages

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Construction Impact and Management Statement	March 2019	Grow My Way Tree Services
Floor Study Report	6 March 2020	Water Design Civil Engineers

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

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

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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);
- 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.

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$5,620.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$562,000.00.

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

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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 \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, 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.

6. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$ 10000 as security against any damage to the stormwater drainage as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

7. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification).

Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure

8. **Amendments to the approved plans**

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

- a) A 1.65m privacy screen (measured from finished floor level) is to be erected for the entire southern length of the outermost southern edge of the decking located off the Dining room as shown on the approved plans. The privacy screens shall be of louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development or paneled glass to be fitted with obscured glazing.

b) The swimming pool is not included as part of the application. All plans are to be updated by removing the reference to the "swimming pool" prior to release of the Construction Certificate.

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. On-site Stormwater Management Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater management in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003, and generally in accordance with the concept drainage plans prepared by Waterdesign Civil Engineers, Job number 2018-053, drawing number SW 1- SW 3, dated 28/3/2019.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer. The drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

10. Vehicle Crossings Application

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

11. Stormwater Drainage Application

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the connection to Council's pipeline which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

12. 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.

13. Landscape Plan

A landscape plan shall be provided to the Certifying Authority for approval prior to the issue of a Construction Certificate.

As a minimum, the landscape plan shall incorporate the following requirements:

- two (2) native trees planted within the frontage of the site and one (1) native tree planted within the rear of the site, as listed in Schedule 4 - Part B Native Tree Selection, suited to the site conditions, shall be documented on the plans, and to be installed at 75 litre container size,
- screen planting along side boundaries to provide privacy to private open space and to screen any potential overlooking from the proposed dwelling, consisting of shrub planting capable of attaining at least 3 metres in height at maturity, selected to suit the site conditions, and to be installed at 200mm pot container sizes and no more than 1 metre apart,
- street tree planting of one (1) *Callistemon viminalis* shall be planted within the road verge, located at least 2 metres from the proposed driveway northern edge, installed at 75 litre container size, within a prepared planting hole 1m x 1m x and at least 700mm depth, backfilled with sandy loam soilmix, and finished with a mulch layer and 3 post tree guard and hessian wrap.

The Certifying Authority must be satisfied that all of the relevant requirements listed above have been included in the landscape plan.

Reason: ensure the landscape treatments soften the built form and provide neighbourhood landscape amenity.

14. Pre-Construction Stormwater Assets Dilapidation Report

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available in Council's web site.

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

15. 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.

16. External Finishes to Roof

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

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

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

17. Sydney Water "Tap In"

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

19. Tree removal within the property

The following trees located on the property and assessed as impacted by development, and without an alternative design layout to retain the trees, as assessed and recommended in the Construction Impact & Management Statement, dated March 2019, prepared by Growing My Way, are granted approval for removal:

- T2 - Jacaranda,
- T3 - Gordonia,
- T4 - Sydney Peppermint,
- T5 - Red Bloodwood.

Advice: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by a AQF level 5 Arborist that determines that the tree presents an imminent risk to life or property.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

20. **Road Reserve**

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

Reason: Public safety.

21. **Survey Certificate**

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

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

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

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

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

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

22. **Property Boundary Levels**

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

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

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

23. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 NL and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

24. **Waste Management During Development**

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

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

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

25. Tree and vegetation protection

a) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation within the site, identified in the Construction Impact & Management Statement report prepared by Growing My Way, T7 - Port Wine Magnolia, excluding exempt trees under the relevant planning instruments or legislation,
- ii) all trees and vegetation located on adjoining properties, including T1 - Red Bloodwood and T6 - Broad Leaf Paperbark
- iv) all road reserve trees and vegetation.

b) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF minimum Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF minimum Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF minimum Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, 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,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by aAQF minimum Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF minimum Level 5 Arborist on site,
- viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF minimum Level 5 Arborist, including advice on root protection measures,
- ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF minimum Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- x) 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 AS 4970-2009,
- xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

c) Specifically, the recommendations as listed under section 6. Site Specific 'Tree Management Plan' of the Construction Impact & Management Statement report prepared by Growing My Way shall be undertaken.

d) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree

Reason: to retain and protect significant planting on development and adjoining sites.

26. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist, shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed subdivision works, including the following information:

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

Reason: to retain and protect significant planting on development sites.

27. Approved Landscape Plan

Landscape works are to be implemented in accordance with the approved Landscape Plan.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the landscape plan and with any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

28. 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.

29. Reinstatement of Kerb

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

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

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

30. Certification of Structures Located Adjacent to Council Pipeline or Council Easement

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification).

Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural certification prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure

31. Post-Construction Stormwater Assets Dilapidation Report

The Applicant is to submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset after the completion of works. Council's Guidelines are available on Council's web site.

The post-construction dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

32. Floor Level and Footprint

The applicant shall provide written certification is to be provided by a suitably qualified person for the following works:

1) The built floor level of any dwelling and structures is not to be less than the building platform levels indicated in plans prepared by Waterdesign Civil Engineers, Job Number 2018-053, drawing number OF2, Revision 2 and dated 3/09/2018.

2) The built building footprint of any dwelling and structures is not to be larger than the building platform indicated in plans prepared by Waterdesign Civil Engineers, Job Number 2018-053, drawing number OF2, Revision 2 and dated 3/09/2018.

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

Reason: To ensure no modification of the stormwater overland flow path and the building platform without Council's approval

33. Subdivision Stage 3 (DA2020/0036)

The subject land Lot 130 of DP 378463 shall be subdivided as per the Stage 3 approval DA2020/0036.

Evidence of the approved Subdivision Certificate Application, as per Stage 3 (DA2020/0236) shall be provided to the Principle principal Certifying Authority prior to the issue of a Final occupational certificate.

Reason: To ensure all three (3) stages of the proposal are complete.

34. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

35. Demolition Works - Stage 2 (DA20202/0238)

All existing buildings as part of the demolitions works for Stage 2 (DA2020/0238) shall be demolished.

Evidence of the demolition of the buildings, as approved in Stage 2 (DA2020/0238) shall be provided to the Principle principal Certifying Authority prior to the issue of a Final occupational certificate.

Reason: To ensure all works are complete prior to the subdivision of the land.

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

36. **Landscape maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

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

Signed



Catriona Shirley, Planner

The application is determined on 22/05/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments