

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/2269
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 1 DP 1087622, 36 Beatrice Street BALGOWLAH HEIGHTS NSW 2093
Proposed Development:	Demolition works of part of existing dwelling and swimming pool and alterations and additions to existing dwelling and construction of swimming pool to allow the construction of the battle-axe access handle to the rear; allotment as per subdivision consent DA 0103/2015;;
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:	Lisa Jane Mah-Chut James Glen Mah-Chut
Applicant:	Walter Barda Design Pty Ltd

Application Lodged:	09/01/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	13/01/2023 to 27/01/2023
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 6.4%
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,394,986.00
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PROPOSED DEVELOPMENT IN DETAIL

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

The works incorporate the following:

- Demolition of the swimming pool and a portion of the existing dwelling to allow for the access handle to the approved rear lot.

- Alterations to the existing dwelling to allow for:
 - Basement/lower ground level:
 - Vehicle garaging for two vehicles.
 - Storage for one boat and trailer.
 - Plant and services room, workshop, water tanks and access stairs.
 - Ground floor:
 - Entrance foyer, kitchen, dining and living area.
 - Terrace and pergola.
 - Laundry, bathroom, and family room
 - Pool, courtyard, and landscaping.
 - First floor
 - Terraces, Master bedroom, ensuite.
 - Two bedrooms, Study/office

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 - 6.1 Acid sulfate soils

Manly Local Environmental Plan 2013 - 6.2 Earthworks

Manly Development Control Plan - 3.1 Streetscapes and Townscapes

Manly Development Control Plan - 3.4.2 Privacy and Security

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

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.1.10 Fencing

SITE DESCRIPTION

Property Description:	Lot 1 DP 1087622 , 36 Beatrice Street BALGOWLAH HEIGHTS NSW 2093
Detailed Site Description:	<p>The subject property is commonly known as 36 Beatrice Street, Balgowlah and legally known as Lot 1 in DP 1087622.</p> <p>The site is located on the eastern side of Beatrice Street, opposite the southern end of Gordon Street. Lot 1 is rectangular in shape having frontage of 19.09m to Beatrice Street and depth of 75.99m.</p> <p>The lot has an area of 1449m² and contains an existing brick dwelling which is sited upon the front western portion of the site fronting Beatrice Street. An inground pool is located behind the existing dwelling. The site has a medium slope to Beatrice Street.</p> <p>The highest point of the site is the rear north eastern corner at 82.12mAHD and lowest point is the front south western corner at 75.80AHD.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached one, two and three storey dwellings. It is noted that the site backs onto Balgowlah Heights Primary School to the south. The site is directly adjacent to a similar subdivision pattern on the southern side of the existing laneway.</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:

DA103/2015 - Two (2) lot Torrens Title Subdivision and driveway. (Approved by Land and Environment Court (LEC) 23 May 2016)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) 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	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Matters for Consideration	Comments
accordance with the EPA Act or EPA Regs	
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 13/01/2023 to 27/01/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Mr Chris King	40 Beatrice Street BALGOWLAH HEIGHTS NSW 2093

The following issues were raised in the submissions:

- **Survey accuracy**
- **Construction impacts**
- **Insufficient Information/Architectural Design**
- **Dilapidation Report**

The above issues are addressed as follows:

- **Survey accuracy and post works survey**

Comment:

The submission raised concerns around the suitability of the lodged survey noting that it is dated February 2014. The objection also noted that if the proposal is to be approved a works as executed survey is to be provided to ensure works are completed in compliance with the approved plans.

A updated survey was lodged with the application on 2 August 2023. Further, conditions have been imposed to ensure a new boundary identification survey is prepared to reflect the property boundaries as shown on the survey, with setbacks between the property boundaries

and the approved works consistent with those nominated on the Approved Plans of this consent. Survey confirmation is also to be provided to ensure wall columns and floor and ridge level are built in accordance with the concerns throughout construction.

- **Construction impacts**

Comment:

Inevitably construction any site will undoubtedly cause disruption to adjoining residential properties. In order to reduce the potential disruption, standard conditions have been included as part of the recommendation to ensure compliance with the relevant Australia standards and to allow for respite for neighboring properties by imposing set operation/construction hours.

- **Insufficient Information/Architectural Design**

Comment:

The submissions raised concerns that the architectural plans contain inadequate information. The plans and documents submitted to accompany the application are of a suitable quality and prepared by suitably qualified consultants. The level of detail provided is sufficient for the purpose of a DA assessment.

- **Dilapidation Report**

The submissions noted that if the application was to be approved, pre and post construction dilapidation reports were to be conditioned.

Comment:

Pre and post construction dilapidation reports have been conditioned for properties Nos. 34 and 40 Beatrice Street.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal is supported with regard to landscape issues.</p> <p><u>Additional Information Comment 14/06/23:</u> The Arboricultural Impact Assessment (AIA) is noted.</p> <p>The AIA identified 24 trees of which trees 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 21, 22, and 23 are exempt and as such can be removed or managed at the discretion of the applicant without consent. Street tree, tree 1, shall be retained and protected during works, and the recommendations by the Arborist for the tree sensitive design of the front fence is supported, subject to the imposed conditions. The Arborist outlines the current design does not allow for the retention of tree 4. If tree 4 is to be retained the Arborist recommendations shall be adopted; however, no concern is raised with its removal should it be required. No concern is raised with the</p>

Internal Referral Body	Comments
	<p>removal of trees 5 and 6. Trees 17, 19, and 20 are located within the approved right of way and as such require removal to allow access to the rear lot in the previously approved subdivision. Tree 24 shall be retained and the tree protection recommendations in the AIA are supported. A Project Arborist shall be engaged to supervise work in the tree protection zone of trees to be retained.</p> <p>Two replacement trees are shown on the Landscape Plan; however, to offset canopy loss and to satisfy the Manly DCP requirements one additional locally native canopy tree shall be installed within the property boundary, subject to the imposed conditions. All proposed planting shall be installed as per the requirements outlined in the conditions of consent.</p> <p><u>Original Comment Summary:</u></p> <ul style="list-style-type: none"> An updated Arboricultural Impact Assessment was required.
NECC (Development Engineering)	<p>The proposed works are consistent with the previously approved subdivision for the site providing the necessary detail for the demolition of portions of the dwelling to accommodate the required access driveway to the rear lot. The proposed driveway access and crossing are acceptable subject to conditions limiting the width. The submitted stormwater management plans including OSD are acceptable with connection via the inter-allotment drainage easement in proposed lot 2.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A470212 dated 9 November 2022).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid. 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.

SEPP (Biodiversity and Conservation) 2021

Part 6.3 Foreshores and Waterways Area

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

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.045m	6.4%	No
Floor Space Ratio	FSR: 0.45:1 (351.05sqm)	FSR: 0.447:1 (349sqm)	-	Yes

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
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.045m
Percentage variation to requirement:	6.4%

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 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:

"1. The proposal is specifically designed to respond to the requirements of the L&E Court determination relating to the subdivision of the site with the battle-axe access handle requiring demolition of part of the existing dwelling and pool, and also responding to the needs of the owner's family to provide additional floor space and garaging in a modern dwelling form. The DA proposal provides for a lower building height than existing.

2. Strict compliance with the height control would require lowering the roof and ceiling heights which are not acceptable as this would be detrimental to the architecture and interior; and would serve no useful purpose – noting that the roof is lower than existing, and the roof pitch is at a minimal slope.

3. *The proposal does not result in environmental or amenity negatives.*

Conclusion: A requirement to strictly comply with the numerical controls is unnecessary and would result in negative impacts with no apparent benefits being achieved. The variation sought results in no loss of iconic views or negative environmental impacts. The proposal is worthy of consent and acceptance of this variation."

Council's Assessment of the Clause 4.6 Request

The applicant has satisfactorily demonstrated that the works are consistent with the objects of the EP&A Act, specifically the following objects of the EP&A Act:

- The development promotes the orderly and economic use and development of the land, in so far as the proposal is a redevelopment is ageing building which contributes to the overall streetscape and is not a overdevelopment of the site.
- The development promotes good design and amenity of the built environment, noting that the proposed development will not unreasonably compromise the amenity of adjoining residential and other development within the immediate vicinity.

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 that will reasonably protect and improve the amenity of the surrounding built environment, 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 building height is deemed appropriate is deemed to be reasonable given the significant fall of the land from the front to the rear of the property. The development is predominantly beneath the maximum permissible height limit as evident on the architectural plans, and overall achieves a building height that is consistent with other residential dwelling on the eastern of Beatrice Street.

b) to control the bulk and scale of buildings,

Comment:

The bulk and scale of the development is consistent with nearby development and will not result in any unreasonable impacts within the locality. The proposed bulk and scale is satisfactory in this circumstance. The predominant compliance achieved by the building demonstrating a considered built form that is compatible with any future development on surroundings lands.

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 proposed development does not cause unreasonable view loss to and from public and private open 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 solar impacts of this aspect of the development are minimal and acceptable in terms of the impacts on habitable rooms of the adjoining properties and public open 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:

The height and bulk of the proposed building has had regard to the adjoining development and the existing landscaping and topography of the adjoining sites.

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 proposed development is for residential use.

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

It is considered that the development satisfies this objective.

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, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

6.1 Acid sulfate soils

Clause 6.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on

adjacent Class 1, 2, 3 or 4 land is required to be assessed to determine if any impact will occur. The proposed works will not lower the water table to below 1 metre AHD.

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and

(b) to allow earthworks of a minor nature without requiring separate development consent.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 780.1sqm	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	Northern wall: 7.3m (based on gradient 1:7.5)	6.65m	-	Yes
	Southern wall: 7.3m (based on gradient 1:7.5)	8.4m	15%	No
4.1.2.2 Number of Storeys	2	3	50%	No
4.1.2.3 Roof Height	Height: 2.5m	0.7m	-	Yes
	Pitch: maximum 35 degrees	<35 degrees	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	15m	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.21m (based on northern wall height)	First floor - 1.3m	41%	No
	2.8m (based on southern wall height)	First floor - 0.4m	85.7%	No
	Windows: 3m	0.4m - 1.25m	86%	No
4.1.4.4 Rear Setbacks	8m	7.1m - 8.845m	11.25%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% (434sqm) of site area	57.2% (464.4sqm)	-	Yes
	Open space above ground 25% (111.6sqm) of total open space	6.68% (31sqm)	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% (162.54sqm) of open space	30.9% (143.6sqm)	11.8%	No
	3 native trees	3 proposed, 1 conditioned	-	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	5.49m	-	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	0.7m	-	Yes

	1m curtilage/1.5m water side/rear setback	1.6m, 2.9m	-	Yes
4.1.10 Fencing	1m or 1.5m with 30% transparency	1.8m	80%	No
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	-	Yes

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
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.1.1 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	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.1.10 Fencing	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

Detailed Assessment

3.1 Streetscapes and Townscapes

Description of non-compliance

Clause 4.1.10 of the Manly DCP requires font fences be a maximum height of 1m or 1.5m with 30 percent transparency.

The proposed front fence has a maximum height of 1.8m, non-compliant with the numeric control.

Merit consideration:

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

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

Comment:

The proposed development will have an unreasonable impact upon the streetscape. The proposed height of the front fence in conjunction with the carport to the front of the dwelling house is not consistent with other development within the street. A condition of consent have been included in this recommendation to mitigate the visual impact of this development. The condition is as follows:

"The maximum fence height is not to exceed 1.5m from ground level on the street side of the fence.

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

Reason: To maintain consistency within the streetscape."

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

Comment:

Subject to condition of consent included above, the proposal will complement other development within the streetscape.

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

Comment:

The proposed landscaping within the front setback is suitable in this circumstance.

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

3.4.2 Privacy and Security

Merit consideration:

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

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

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

Comment:

Windows

The provisions of this development control prescribe that when located close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy. All windows along both sides of the dwelling are appropriately offset, incorporate raised sill heights or comprise screens to prevent overlooking between adjoining dwellings.

Balconies/outdoor living areas

From a view of what is visible from the site it is evident there are some sight lines into the balconies and rear yards of the adjoining properties to the north and south. However, the sightlines are not the dominant views (which is directly to the rear of the subject site to the west) and inevitable given the sloping topography and residential use of the area. The expectation of complete privacy is not reasonable in this circumstance. Reasonable visual privacy is maintained between the subject site and neighbouring properties.

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

Comment:

Subject to the above conditions, the proposal will achieve this objective.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

Existing levels of neighbourhood security are maintained.

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

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

Description of non-compliance

Clause 4.1.2 of Manly DCP 2013 limits the external wall height for development on this site to 7.3m

above natural ground level.

The maximum wall height of the proposed building is 6.65m - 8.4m, which represents a 15% variation from the numeric requirement.

This Clause relies upon the objectives of Clause 4.3 under MLEP 2013. An assessment of the proposal against the objectives of Clause 4.3 has been provided within this report. This assessment has found the proposal to be consistent with the objectives of Clause 4.3.

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

Description of non-compliance

Clause 4.1.4.2 of the Manly DCP requires any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building. The proposed wall along the southern boundary be setback at least 5.1m from the southern boundary.

Clause 4.1.4.4 of the MDCP requires any part of a building and the rear boundary must not be less than 8m.

North side setback - first floor 1.3m

South side setback- first floor 0.4m

Windows - 0.4m - 1.25m (up to 86% variation to the numeric control)

Rear Setback - 7.1m - 8.845m (11.25% variation to the numeric control)

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposed setbacks are consistent with the existing development within the immediate vicinity, and introduces an improved landscape treatment to the rear setback area. As such, the proposed development maintained the existing desired spatial proportions of the street, the street edge and the landscape character of the street, despite the non-compliant side and front setbacks.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The side boundary non-compliance does not directly attribute to unreasonable privacy and solar impacts on adjoining properties. No significant view impacts arise from the proposal. The proposal maintains appropriate building separation that is consistent with the street and envisaged by the DCP

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

Comment:

The proposed setbacks allow a reasonable building footprint, compliant with the floor space ratio to provide for five functional dwellings for the site.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The application proposes a compliant level of landscape open space. Landscaping is able to be provided down along both the front and rear of the dwelling to soften the built form and assist in privacy. There are adequate deep soil zones in the front and rear setbacks to provide canopy trees as shown in the landscape plan.

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

Comment:

The subject site is not located in a bushfire zone.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

Clause 4.1.5.2 of the Manly DCP requires at least 40% of total open space being landscaped area. The proposed landscaped open space is 23.5% (80sqm), non-compliant with the numeric control. This represents a 42% variation to the numeric control.

Merit consideration:

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

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

Comment:

The application does not propose the removal of any important landscape features (Trees, plants or rock formations).

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Comment:

The proposed development provides suitable landscape open space on site, compliant with the numeric control.

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

Comment:

Amenity considerations including sunlight, privacy and views have been suitably mitigated to a reasonable standard as part of this application, despite the non-compliance with the numeric control.

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

Comment:

The proposed development provides ample soft open spaces for the purpose of onsite water infiltration to minimise stormwater runoff.

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

Comment:

The proposal is not likely to lead to a significant spread of weeds.

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

Comment:

The development will not affect any existing wildlife habitat and potential for wildlife corridors.

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

4.1.10 Fencing

This clause relies upon the objectives of clause 3.1 under Manly DCP 2013. An assessment of the proposal against the objectives under clause 3.1 has been provided within this report. The assessment found the proposal to be consistent with the objectives of clause 3.1, subject to conditions.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$23,950 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,394,986.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

Accordingly Council as the consent authority grant Development Consent to DA2022/2269 for Demolition works of part of existing dwelling and swimming pool and alterations and additions to existing dwelling and construction of swimming pool to allow the construction of the battle-axe access handle to the rear; allotment as per subdivision consent DA 0103/2015;; on land at Lot 1 DP 1087622, 36 Beatrice Street, BALGOWLAH HEIGHTS, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
110/ Revision A	7 December 2022	Walter Barda Design
120/ Revision A	7 December 2022	Walter Barda Design
121/ Revision A	7 December 2022	Walter Barda Design
122/ Revision A	7 December 2022	Walter Barda Design
200/ Revision A	7 December 2022	Walter Barda Design
201/ Revision A	7 December 2022	Walter Barda Design
202/ Revision A	7 December 2022	Walter Barda Design
203/ Revision A	7 December 2022	Walter Barda Design

301/ Revision A	7 December 2022	Walter Barda Design
302/ Revision A	7 December 2022	Walter Barda Design
303/ Revision A	7 December 2022	Walter Barda Design
310/ Revision A	7 December 2022	Walter Barda Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A470212	9 November 2022	House Energy Certified
Geotechnical Report	August 2022	Grozier Geotechnical Consultants

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	N/A	Wayne Collins

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 Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been

completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

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

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

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

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

Reason: Legislative requirement.

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 an 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 \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (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 Section 7.12 Contributions Plan 2022

A monetary contribution of \$23,949.86 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$2,394,986.00.

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

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

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

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

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 Certifier prior to the issue of the Construction Certificate.

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

6. **Footing Design Near Trees to be Retained**

a) footing structural layout plans for the works including the front fence shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer, following a tree root mapping investigation near existing tree 1, to locate critical tree roots and recommend footing design and locations for the construction works.

b) the Arborist shall review, comment, recommend design revision as required and approve the footing layout, to ensure the locations of footings will be manageable in terms of tree protection measures.

c) the Arborist shall submit certification to the Certifier, that the locations of the footings are accepted.

d) the agreed footing structural layout plans shall be submitted to the Certifier for approval prior

to the issue of a Construction Certificate.

Reason: Tree protection.

7. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

8. 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 Certifier prior to the issue of any Construction Certificate.

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

9. On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Taylor Consulting, Title Stormwater Management Plan Lot 1 - 36 Beatrice Street, Balgowlah, drawing number Storm-1/B, dated 10 March 2023. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. Details of the overflow pipe connection from the OSD tank into the outlet pipe.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier 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. 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.

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

Reason: To provide public and private safety.

11. 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. Concurrence from the relevant service authority is to accompany the application for any adjustment to the existing service pit located within the proposed driveway crossing.

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 Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

12. Fencing

The maximum front fence height is not to exceed 1.5m from ground level on the street side of the fence.

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

Reason: To maintain consistency within the streetscape

13. Compliance with Standards

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

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

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

14. External Finishes to Roof

The external finish to the roof shall have a 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 Certifier prior to the issue of the Construction Certificate.

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

15. Sydney Water "Tap In"

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. Project Arborist

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

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

- a) tree protection requirements under section 1.4.3, 1.4.5, 2.2 and 2.3.

All tree protection measures specified must:

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

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

Note:

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

Reason: Tree protection.

17. Tree Removal Within the Property

This consent approves the removal of existing trees on the subject site as identified in the Arboricultural Impact Assessment, approved Plans, or as listed below:

- a) tree 5 - *Murraya paniculata*, tree 6 - *Pittosporum undulatum*, tree 17 - *Melia azedarach*, tree 19 and 20 - *Lophostemon confertus*,
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

18. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier 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.

Properties: 40 and 34 Beatrice Street, Balgowlah Heights

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier 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 Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

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 Certifier prior to the commencement of any works on site.

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

DURING BUILDING WORK

19. Protection of Rock and Sites of Significance

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

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

20. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS4970-2009 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

All street trees within the road verge 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. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

21. **Tree and Vegetation Protection**

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

- i) all trees within the site not approved for removal,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project 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 Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

22. Condition of Trees

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

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

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

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

Reason: Protection of trees.

23. 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.

24. 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.

25. Geotechnical Requirements

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

Reason: To ensure geotechnical risk is mitigated appropriately.

26. 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 Certifier.

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

27. Vehicle Crossings

The Applicant is to construct one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing Normal Profile 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 Certifier.

Reason: To facilitate suitable vehicular access to private property.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

28. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawing 120 by Walter Barda Design dated 07/12/22), and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) one additional locally native tree shall be installed within the property boundary to achieve at least 8 metres height at maturity; selected from Northern Beaches Council's Native Plant Species Guide - Manly Ward,
- c) all tree planting shall be a minimum pre-ordered planting size of 75 litres; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
- d) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan(s),
- e) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- f) all proposed tree planting shall be positioned in locations to minimise significant impacts on

neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,

g) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.

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

Reason: Environmental amenity.

29. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

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

Reason: Tree and vegetation protection.

30. 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 Certifier prior to the issue of an Occupation Certificate.

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

31. Geotechnical Certification Prior to Occupation Certificate

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

32. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

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

33. 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(s) and any conditions of consent.

The approved landscaped area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

34. Geotechnical Recommendations

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

35. Swimming Pool/Spa Motor Noise

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

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

36. Dividing Fence

No side or rear boundary is approved in this consent. Any boundary fencing is subject to the

Dividing Fences Act (NSW) 1991

Reason: To ensure compliance with the terms of this consent

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

Signed



Maxwell Duncan, Principal Planner

The application is determined on 08/08/2023, under the delegated authority of:



Rodney Piggott, Manager Development Assessments