

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1941
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Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 102 DP 614198, 236 Pittwater Road MANLY NSW 2095
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Eleanor Jane Bishop Daniel Eli Bishop
Applicant:	Norrsken Ko

Application lodged:	10/12/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/12/2018 to 25/01/2019
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval

Estimated Cost of Works:	\$ 150,000.00
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ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of

determination);

- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.2 Heritage Considerations

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

Manly Development Control Plan - 4.1.10 Fencing

SITE DESCRIPTION

Property Description:	Lot 102 DP 614198 , 236 Pittwater Road MANLY NSW 2095
Detailed Site Description:	<p>The site is known as 236 Pittwater Road, Manly and is legally referred to as Lot 102 DP 614198. The subject site consists of one (1) allotment located on the northern side of Pittwater Road.</p> <p>The site is regular in shape with a frontage of 9.755m along Pittwater Road and a depth of 41.35m. The site has a surveyed area of 384.4m².</p> <p>The site is located within the R1 General Residential zone of the Manly LEP 2013 and accommodates a two (2) storey dwelling located towards the rear of the site and a hard stand car parking space to the front of the site.</p> <p>The slope of the site is generally flat from the rear boundary to the road frontage.</p> <p>The site contains a modified landscape setting, with vegetation limited to a turf lawn area and palm trees within the front yard.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings within a landscaped setting. A growers/fruit market (Harris Farm Markets) is located southwest at 243 Pittwater Road and a child care centre is currently under construction at 239 Pittwater Road. A petrol station is also located southeast at 207-217 Pittwater Road. The subject site also falls within the Pittwater Road Conservation Area.</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:

2 December 2002

Development Application No. 354/02 for the first floor addition to existing dwelling was determined by the granting of consent on 2 December 2002.

9 March 2016

Emergency works order reference: MC/16/25008 issued concerning the garage and front boundary wall on 9 March 2016.

APPLICATION HISTORY

10 December 2018

Development Application No. DA2018/1941 lodged for the alterations and additions to a dwelling house.

16 January 2019

Site inspection undertaken.

23 January 2019

A letter was issued to the applicant requesting that the application be withdrawn due to concerns that the proposed development would not meet the parking design requirements of the Manly DCP.

14 February 2019

Additional information in the form of revised plans were submitted by the applicant addressing the above concerns. The revised plans form the basis of the following assessment.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the alterations and additions to a dwelling house. In particular, the works include:

Ground Floor - Dwelling

- Alterations to front dining room into a master bedroom;
- Alterations to front study into a walk in robe;
- Alterations to existing kitchen;
- Alterations and additions to Bedroom 1 into a family room;
- Alterations and additions to rear study into a dining room;
- Alterations to rear storage room into a guest room; and
- Landscape works, new paving as well courtyard to the rear of the site.

Ground Floor - Garage

- Construction of a single garage including bike storage area;
- Reconfiguration of entry stairs; and
- Construction of a stone faced boundary wall with planter box and timber fencing including gate.

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Mainly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the</p>

Section 4.15 Matters for Consideration'	Comments
	<p>building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the	The site is considered suitable for the proposed

Section 4.15 Matters for Consideration'	Comments
site for the development	development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

Name:	Address:
Withheld	Withheld

The issues raised in the submission received have been addressed below:

- Heritage Conservation
Comment:
Concerns were raised in the submission regarding the impact of the proposed garage and bike storage on the Pittwater Road Conservation Area. In order to address these concerns and those raised by Council's Heritage Advisor, amended plans were received which form part of this assessment. These amended plans have been reviewed by both the submitter and Council's Heritage Advisor. See Clause 3.2 Heritage Considerations for discussion.
- Roof colour and finish
Comment:
Concerns were raised in the submission regarding the impact of reflectively and glare from the proposed new roofing. In order to address this concern, a condition is recommended to ensure that the roof has a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Clause 3.4.1 Sunlight Access and Overshadowing requires that all external material and finishes incorporated into the development must consider and mitigate any excessive glare or reflectivity nuisance.
- Overshadowing

Comment:

The proposed development consists of ground level additions and alterations, and following an assessment of shadow diagrams submitted, it has been deemed that the proposed meets the sunlight access requirements under Clause 3.4.1 Sunlight Access and Overshadowing.

Personal mental well-being

Comment:

- Concerns were raised in the submission regarding the impact of the proposed development on personal and mental well-being. As these concerns relate to amenity, sunlight, landscaping and spatial separation, the matters have been assessed under relevant controls within Part 3.4 Amenity and Part 4.1 Residential Development Controls.

Fencing

Comment:

- The extent of fencing proposed is considered acceptable. See Clause 4.1.10 Fencing for discussion.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following conditions of consent.
Strategic and Place Planning (Heritage Officer)	<p>Proposal needs assessment from planning perspective to establish if it is a reasonable option for the site. The site is already heavily burdened by oversized development and it does not appear justified to accumulate the same effect further. Conversely, it is noted that main intrusive elements are already present. Thus planning comments are required.</p> <p>Planner Comments:</p> <p>In order to address concerns raised by Council's Heritage Advisor, amended plans were received which form part of this assessment. These amended plans have been reviewed by Council's Heritage Advisor. The proposal has been considered to be acceptable following an assessment in accordance with the requirements and objectives of Clause 3.2 (Heritage Considerations).</p>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A335916, dated 4 December 2018).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

power line.

Comment:

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

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposed development is not likely to cause adverse impacts on the matters identified in this clause.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The proposed development has been designed and sited to avoid adverse impacts on the Coastal

Environment Area.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

it has been considered that the proposed development will not likely cause increased risk of coastal hazards on the subject site or neighbouring land.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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	4.6m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1 (230.64m ²)	FSR: 0.46:1 (177.9m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.10 Heritage conservation	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
Schedule 5 Environmental heritage	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 384.4m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	North: 6m (based on gradient 0%)	2.8m	N/A	Yes
	South: 6m (based on gradient 0%)	2.3m	N/A	Yes
	East: 6m (based on gradient 0%)	2.5m (nearest to eastern boundary) 3.6m (eastern elevation of dining room)	N/A	Yes
	West: 6m (based on gradient 0%)	1.6m (garage) 2.3m (dwelling)	N/A	Yes
4.1.2.2 Number of Storeys	2	2 (existing)	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.74m	N/A	Yes
	Pitch: maximum 35 degrees	31.4 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	6m	0m (garage) 15.4m (dwelling)	100% N/A	No Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	East: 0.84m (based on wall height)	0.91m	N/A	Yes
	West: 0.54m (based on wall height)	0m (garage) 1.295m (dwelling)	100% N/A	No Yes
	West: 0.83m (based on wall height)			
	Windows: 3m	1.3m	57%	No
4.1.4.4 Rear Setbacks	8m	3.06m	61.7%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	42.6% (163.7m ²)	22.5% N/A	No Yes
	Open space above ground 25% of total open space	0%		
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	51.5% (100.7m ²)	N/A	Yes
	1 native trees	0 native trees	N/A	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	160sqm	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	4.81m (49% of frontage)	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	1 spaces	50%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	No	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.10 Fencing	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes

Detailed Assessment

3.2 Heritage Considerations

Description of non-compliance

The proposed single garage with bike storage is to be constructed forward of the building alignment of a building within a conservation area (Pittwater Road Conservation Area). While Council's Heritage Advisor has not supported the proposed development, the Applicant has demonstrated that a garage

has been in approximately the same location as that proposed, through 1943 SIX Maps aerial imagery, as well as Council issued development consents from 1973 (BA213/73) and 2002 (DA354/2002) and more recently through Google Street View imagery taken in August 2015. Written correspondence from Council also demonstrates that an emergency works order (Ref: MC/16/25008) was issued concerning the garage and front boundary wall on 9 March 2016. A statement submitted with the application indicates that the garage was subsequently demolished in 2016. Furthermore, it should be noted that no opportunities for rear vehicle access exist and that the subject site is not a listed heritage item under the Manly LEP 2013.

The proposed additions and alterations to the rear of the existing dwelling as well as the front boundary fencing are considered to meet the requirements of this clause.

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 conserve environmental heritage and cultural significance of Manly including:

- *significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- *the foreshore, including its setting and associated views; and*
- *potential archaeological sites, places of Aboriginal significance and places of natural significance.*

Comment:

The proposed garage does not involve the removal of heritage fabric such as original sandstone walls or fencing. Furthermore, the mix of external materials utilised for the garage consisting of stone and wood cladding, including a pitched roof form also compliments with the character and setting of this particular area of Pittwater Road. The proposed development is not considered to impact on the foreshore, views or potential archaeological sites, places of Aboriginal significance and places of natural significance.

Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.

Comment:

As a result of the 11.6m separation between both structures, the proposed garage is not considered to be a modification to an existing dwelling within the conservation area.

Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.

Comment:

The external finishes/materials composing of stone and wood for proposed garage utilities are considered as consistent with the design of other properties along the northern side of Pittwater Road. The pitched roof is also complimentary to the roof form of the existing dwelling on the subject site as well those of neighbouring dwellings. It is considered that the proposed design will therefore not adversely impact or detract from the significance of the locality or heritage items along Pittwater Road.

Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.

Comment:

The proposed garage structure is considered to be visually compatible with the surrounding character along Pittwater Road. It should be noted that there are a number of examples of front setback car parking structures including carports and garages neighbouring along Pittwater Road. Along the northern side of Pittwater Road, there are examples at No. 226, 240, 242, 246 and along the southern side examples at No. 223. Examples of vehicle hard stand spaces and driveways are also evident along the northern side of Pittwater Road at No. 222, 234, 238, 244 and along the southern side at No. 231, 233 and 235. A detailed inspection of this particular area of Pittwater Road reveals a prevalence of high boundary walls, garages, carports and sheds of varying styles and age. Consideration has been given that the proposed garage design will compliment the streetscape when compared to the existing hard stand arrangement.

Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.

Comment:

The proposed garage provides the property's occupants, being a young family with children, to have a safe and convenient parking arrangement. The stairs and pathways proposed behind the 1m high stone clad front boundary planter allows pedestrian access to the garage without having walk outside of the property boundaries. While the garage is less than 1m wider along the front boundary than the existing hard stand area, the application has proposed to utilise this additional area for the storage and maintenance of competition road bicycles and training equipment. Furthermore, despite the increase in dimensions for the garage, the width does not exceed 50% of the frontage as required under Clause 4.1.6.1. As discussed above, the proposal has demonstrated a design that integrates with the heritage management and conservation of the surrounding locality, while also adapting effectively accommodating for the needs of the occupants of the subject site.

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

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

Description of non-compliance

The front setback to the proposed garage is required to be a minimum of 6m. The application proposes that the garage will have a nil (0m) setback resulting in a 100% variation to this requirement.

The western side setback to the proposed garage is required to be a minimum of 0.54m (based on 1/3 of a wall height of 1.638m). The application proposes that the garage will have a nil (0m) setback resulting in a 100% variation to this requirement. The proposed setback to the dwelling is 1.295m when measured from the new external wall of the ground floor dining area to the boundary. It should be noted that no changes are proposed to the existing nil setback to the bathroom/laundry.

Also along the western elevation there is a proposed window marked 'D105' that is measured at 1.295m from the boundary, which is technically non-compliant with the 3m setback as required under this control.

The eastern side setback to the proposed rear additions to the dwelling is 0.91m and therefore complies with the 0.84m (based on 1/3 of a wall height of 2.54m).

The rear setback is required to be a minimum of 8m . The application proposed additions to the dwelling that are 3.06m from the rear boundary, resulting in a 61.7% variation to this requirement. It should be noted that no changes are proposed to the existing nil setback to the existing nil setback to the bathroom/ laundry and guest room.

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 proposal is considered to maintain and enhance the existing streetscape of this particular area of Pittwater Road which consists of a mix of car parking structures, high and low fencing as well as hard surface and landscaped frontages. As discussed in Clause 3.2 (Heritage Considerations), neighbouring properties have examples of car parking structures including those with a nil (0m) setback. It is considered that the proposed garage is consistent with the surrounding parking arrangement along Pittwater Road. The proposal also seeks the retention of the majority of the landscaped front yard, while also removing existing high front fencing with the replacement low-stepped stone clad boundary walls, plantings and timber fencing.

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:

Site inspections were carried out and it was considered that the proposal will ensure that adequate privacy, light, sunshine, air movement, view sharing and streetscape character is maintained. Furthermore, the proposal when set against the existing arrangement on site was considered adequate with regards to separation between neighbouring dwellings. It is not considered that the proposal will result in adverse safety and traffic conditions along Pittwater Road. As discussed in Clause 3.2 (Heritage Considerations), the streetscape character and particularly how it related to the Pittwater Road Conservation Area is not considered to be adversely impacted by this proposal.

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

Comment:

The location of the proposed garage within the front setback provides for a practical parking arrangement while also retaining the original fabric of the dwelling. When examining the existing dwelling setbacks and stamped plans issued in 2002, the side and rear setbacks are also considered to promote flexibility in the siting of buildings for the proposal. Furthermore, the location proposed window marked 'D105' is considered acceptable when compared to the existing window that is in approximately the same location.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposal enhance the natural features of the site through the installation of a planter above a boundary wall facing Pittwater Road as well as landscape plantings towards the rear of the site. Furthermore, the proposal results in a landscaped area of 59% of open space which is above that required in the Manly DCP.

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

Comment:

The subject site is not identified as being bushfire prone land and therefore not subject to a bushfire asset protection 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

Required Total Open Space 55% (211.42m²)
Proposed Total Open Space 42.6% (163.7m²)

The proposed development is technically non-compliant with the control that required 55% total open space. The proposal seeks to vary this control by 22.5% reducing the overall total open space to 42.6%.

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 proposed development predominately consists of works to existing hard surface areas and does not seek the removal of any native vegetation.

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 subject site maintains 61.5% (100.7m²) of the total open space dedicated towards landscaping and therefore complies with the minimum landscaped area requirement. It is therefore considered that there are opportunities for the planting of native trees and vegetation, particularly within the front yard. Furthermore, the proposal does not seek the removal of any locally native canopy trees.

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

Comment:

As discussed in Clause 4.1.4 (Setbacks (front, side and rear) and Building Separation) and given that the works predominantly consists of works at the ground floor level, the proposal is considered to maintain the amenity of the area.

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

Comment:

The proposed development results in a marginal increase in hard surface area. As the proposal seeks to retain the majority of the landscaped area on site, and complies with Council's landscaping requirement, it is considered that the proposal minimises stormwater runoff.

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

Comment:

The landscaping indicated in the proposal is not considered to result in the spread of weeds. The sediment control plan also demonstrates how run-off from the site during construction will be appropriately managed.

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

Comment:

The proposal does not seek the removal of any locally native vegetation or trees and is therefore not

considered to reduce wildlife habitat or 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.

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

As discussed in clauses 3.2 (Heritage Considerations) and 4.1.4 (Setbacks (front, side and rear) and Building Separation), the proposal has demonstrated that the design and location of the structure will minimise visual impact and dominance on the streetscape. Consideration has also been given that there is no other reasonably alternative locations for the structure onsite. The maximum width of the structure being 4.81m (49% of frontage) also complies with the requirements of this clause for garages to not exceed a width equal to 50 percent of the frontage, up to a maximum width of 6.2m. While the garage structure only provides for 1 vehicle parking space, the provisions of this clause allows for the consideration of 1 space when adherence to the requirement for 2 spaces would adversely impact on the streetscape or on any heritage significance identified on the land or in the vicinity and is therefore applicable in this instance as the subject site falls within the Pittwater Road Conservation Area. Based on the above, the proposed garage and bicycle storage structure is considered to meet the requirements of this clause.

4.1.10 Fencing

The proposed fencing when measured from the existing ground level does not considered to exceed the requirements of this clause. The assessment has also considered that the proposed fencing will be lower in height than the existing fencing, that the subject site is located on a busy road being Pittwater Road, and that the design will be consistent with neighboring fencing styles. A condition is recommended to ensure that any proposed fencing proposed is in no way to be construed as permission to build on or encroach over the allotment boundary.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1941 for Alterations and additions to a dwelling house on land at Lot 102 DP 614198, 236 Pittwater Road, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A-DA-100-00300 (Site, Roof & Landscape Plan)	13 February 2019	Norrsken Ko.
A-DA-110-001 (Ground Floor - Main House)	13 February 2019	Norrsken Ko.
A-DA-110-002 (First Floor Plan - Main House)	13 February 2019	Norrsken Ko.
A-DA-110-003 (Ground Floor - Garage)	13 February 2019	Norrsken Ko.
A-DA-200-00100 (South Elevation)	13 February 2019	Norrsken Ko.

A-DA-200-00200 (North Elevation)	13 February 2019	Norrsken Ko.
A-DA-200-00300 (East Elevation - Main House)	13 February 2019	Norrsken Ko.
A-DA-200-00400 (West Elevation - Main House)	13 February 2019	Norrsken Ko.
A-DA-200-00500 (East Elevation - Garage)	13 February 2019	Norrsken Ko.
A-DA-200-00500 (West Elevation - Garage)	13 February 2019	Norrsken Ko.
A-DA-300-00100 (Section AA)	13 February 2019	Norrsken Ko.
A-DA-300-00200 (Section BB & CC)	13 February 2019	Norrsken Ko.

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate, A335916	4 December 2018	Norrsken Kolektiv

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
A-DA-850-00100 (Waste Management, Erosion & Sediment Control Plan)	13 February 2019	Norrsken Ko.
Northern Beaches Council Waste Management Plan	10 December 2018	Norrsken Ko.

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

- (iii) stating that unauthorised entry to the work site is prohibited.
Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) 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.
- (d) 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.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) 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.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is

located on Council's website at www.northernbeaches.nsw.gov.au).

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

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

5. **Stormwater Disposal**

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003.

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

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

6. **Compliance with Standards**

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

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

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

7. **Sydney Water "Tap In"**

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

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

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

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

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

8. **External Finishes to Roof**

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. **Road Reserve**

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

Reason: Public Safety.

10. **Traffic Control During Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety

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

11. **Stormwater Disposal**

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

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

12. **House / Building Number**

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

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

Reason: Proper identification of buildings. (DACPLF04)

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

13. **Fencing**

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

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

Signed



Kent Bull, Planner

The application is determined on 05/04/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments