

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1403
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Responsible Officer:	Lachlan Rose
Land to be developed (Address):	Lot 29 DP 2610, 14 Ogilvy Road CLONTARF NSW 2093
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Nigel White

Application Lodged:	01/11/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	13/11/2024 to 27/11/2024
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.4 Floor space ratio: 7.44%
Recommendation:	Approval

Estimated Cost of Works:	\$ 461,439.00
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PROPOSED DEVELOPMENT IN DETAIL

The development is described as Alterations and additions to a dwelling house.

The proposal includes:

First floor

- Construction of a first floor including
 - a master bedroom, walk in robe, ensuite, deck
 - two additional bedrooms
- Bathroom

Ground floor

- Alterations to the ground floor including
 - demolition of the internal walls to create a living/ dining area

- enlarge deck across the front of the dwelling
- new windows to the side elevations
- new kitchen and bathroom

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 - Zone R2 Low Density Residential
 Manly Local Environmental Plan 2013 - 4.4 Floor space ratio
 Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Development Control Plan - 4.1.1.1 Residential Density and Dwelling Size
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.3 Floor Space Ratio (FSR)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

Property Description:	Lot 29 DP 2610 , 14 Ogilvy Road CLONTARF NSW 2093
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Ogilvy Road.</p> <p>The site is regular in shape with a frontage of 10.695m along Ogilvy Road and a depth of 44.15m. The site has a surveyed area of 472.1m².</p> <p>The site is located within the R2 Low Density Residential</p>

zone and accommodates a part 2/3 storey dwelling house with an attached carport.

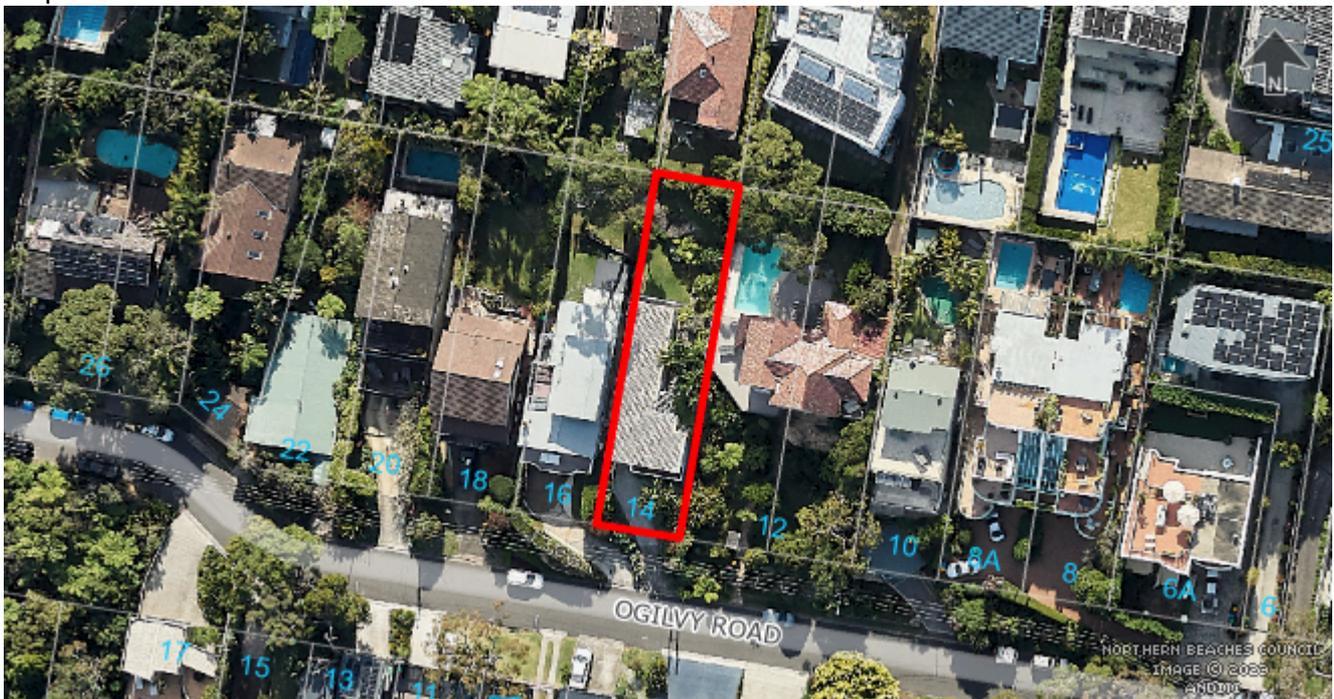
The site has a slope aspect from the northern to the southern boundary. There is an average gradient of 15 degrees.

The site includes landscaped areas of rock outcrop, trees, shrubs and grassed areas. There are no known threatened species on the subject site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by residential development.

Map:



SITE HISTORY

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

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

APPLICATION HISTORY

Following a preliminary assessment of the application and site inspection of the subject site and adjoining properties Council wrote to the applicant on 10/12/2024 outlining concerns that would not allow for Council to support the application in its current form. The concerns related to the side setback to the first floor and FSR. The applicant lodged amended plans on 18/12/2024 to address the concerns raised.

The amended plans incorporate the following changes:

- Increased western side setback to the first floor
- Reduced FSR

The proposed amendments will have a reduced environmental impact on the adjoining properties and public open space than the original proposal. The amended plans result in a reduced size development and increase first floor setback to the western boundary with a compliant first floor setback to the eastern boundary. Therefore, re-notification was not required in accordance with Northern Beaches Community Participation Plan.

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 (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>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to side setbacks and FSR calculations.</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>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>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Planning & Design, dated 23/09/2024) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 13/11/2024 to 27/11/2024 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 David Ashley Webb	33 Cutler Road CLONTARF NSW 2093

The following issues were raised in the submissions:

- The development is out of proportion
- Wall height non-compliance
- Question regarding a covenant restricting the roof height

The above issues are addressed as follows:

- **The development is out of proportion**

The submissions raised concerns that the development is out of proportion with the land size.

Comment:

The proposal results in a compliant first floor addition to the eastern setback requirements, with a variation to the side setback requirements to the western setback. See the merit assessment under Control 4.1.4 Setbacks of this report for detail. It has been considered that the proposed development will compliment the existing built form of the ground floor and will achieve compliance with the objectives of Control 4.1.4 Setbacks. Therefore, the development is considered to compliment the existing dwelling on the subject site and is reasonably proportioned.

Floor Space Ratio (FSR) calculations have been provided with the architectural plans and reflect a 7.44% variation in the maximum floor space ratio. A Clause 4.6 Request for Variation Report has been submitted with the application and considered satisfactory. Due to the proposed subject site having a site area which is below the minimum lot size requirement, the FSR is calculated in accordance with Control 4.1.3 Floor Space Ratio (FSR) variation for undersized allotments. Therefore, subject to the Clause 4.6 Variation Report and Control 4.1.3 Floor Space Ratio the proposed development is considered acceptable with regards to the lot size and FSR requirements.

Therefore, this concern **does not** warrant a reason for refusal.

- **Wall height non-compliance**

The submissions raised concerns that the development does not comply with the wall height requirements.

Comment:

The development results in a 8.3% variation to the maximum wall height requirement to the western elevation. Amended plans have been provided which results in a greater setback to

the western boundary to the first floor. A merit assessment has been conducted under Control 4.1.2 Height of Buildings of this report and determined that the proposal is acceptable in this instance. See Control 4.1.2 Height of Buildings for detail. Therefore, this concern **does not** warrant a reason for refusal.

- **Question regarding a covenant restricting the roof height**

The submissions raised concerns that there may be a covenant restricting the roof height.

Comment:

The survey plan and registered lot plan do not indicate a covenant restricting the roof height. The proposal will comply with the maximum building height requirements and compliment the existing roof design. This concern **does not** warrant a reason for refusal of this application.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable provisions:</p> <ul style="list-style-type: none"> • SEPP (Resilience and Hazards) 2021 cl. 2.8 Development on land in proximity to coastal wetlands or littoral rainforest <p>The proposed works are located within the footprint of the existing dwelling and as such does not require the removal of any native prescribed vegetation, nor impacts to native fauna habitat.</p> <p>No objections, subject to recommended conditions.</p>
NECC (Coast and Catchments)	<p>The applicant seeks to do the following Construct an upper level addition comprising of:</p> <ul style="list-style-type: none"> •A master bedroom with a walk-in robe, ensuite and street facing deck; •Two additional bedrooms; •A bathroom; and •A staircase leading to the lower level. <p>Alterations to the ground floor of the existing dwelling include:</p> <ul style="list-style-type: none"> •Demolish some internal walls to create an open plan living/dining area; •Enlarge a deck across the frontage and install new windows in the side elevations; the •Install a new kitchen and bathroom; and •The installation of an internal staircase accessing the upper level. <p>SEPP (Resilience and Hazards) 2021 cl. 2.8 Development on land in</p>

Internal Referral Body	Comments
	proximity to coastal wetlands or littoral rainforest and therefore the Biodiversity Team are the lead referral body. The Coast and Catchment team supports their assessment with minor conditions.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1759346 dated 09 August 2024).

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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 1 Coastal Wetlands and littoral rainforest area

2.7 Development on certain land within coastal wetlands and littoral rainforests area

- 1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:
 - a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
 - b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
 - c) the carrying out of any of the following:
 - i) earthworks (including the depositing of material on land),
 - ii) constructing a levee,
 - iii) draining the land,
 - iv) environmental protection works,
 - d) any other development

Comment:

The proposed development is not located within coastal wetlands and littoral rainforest area.

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

The proposed development has been reviewed by Council Coastal and Biodiversity Officers stating

that the development is supported subject to conditions. Therefore, it is considered that the development will not significantly impact on subsection 1a) and b).

Division 5 General

2.12 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:

Council is satisfied the proposed development will not cause an increased risk of coastal hazards on the site or surrounding land.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

All relevant provisions of applicable certified coastal management programs have been considered as part of the assessment of the application.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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 I 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	8.3m	N/A	Yes

Floor Space Ratio	FSR: 0.4:1 (188.84sqm)	FSR: 0.429:1 (202.9sqm)	7.44%	No
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Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

Zone R2 Low Density Residential

Land use definition: MLEP 2013	Permitted or Prohibited
Dwelling House	Permitted with consent

The underlying objectives of the R2 Low Density Residential zone:

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

Comment:

The proposal does not result in a increase to the dwelling density of the subject site. The development will provide for the housing needs of the community within a low density residential environment.

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:

The proposal will not result in changes to the existing land use of a dwelling house and therefore, will enable the day to day needs of residents.

It is considered that the development satisfies this objective.

4.4 Floor space ratio

Detailed Assessment

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

(a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The proposed development is for alterations and additions to the existing dwelling house including a first floor addition. The proposal will not result in unreasonable bulk and is consistent with the existing and desired streetscape character.

(b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

The development is of a bulk and scale to compliment the building density of the site area and development does not obscure important landscape and townscape features.

(c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The proposal maintains an appropriate visual relationship between the existing dwelling house and the alterations and additions including the first floor. There will be no detrimental impact to the landscape of the area.

(d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

The development will not result in adverse environmental impacts on the use or enjoyment of adjoining land and the public domain.

(e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

The proposed development is located in residential zoned area and is not located in a local centre or business zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 and the objectives specified in section 1.3(a) of the

Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance

4.6 Exceptions to development standards

The application seeks consent to vary a development standard as follows:

Development standard: Clause 4.4 Floor Space Ratio

Requirement: 0.4:1

Proposed: 0.429:1

Percentage of variation: 7.44%

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application **is/is not** accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the MLEP 2013 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(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.

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

(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 4.4 Floor Space Ratio is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Comment:

Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.4 Floor Space Ratio is unreasonable or unnecessary in the circumstances of this application for the following

reasons:

- The proposed development achieves the objectives of the standard notwithstanding the noncompliance.
- The proposed development achieves the desired general residential character of the area and is compatible with the height, bulk and scale of surrounding development.
- The proposal is not considered to give rise to unreasonable amenity impacts in terms of privacy, view loss or overshadowing to surrounding properties.
- The variation to the floor space ratio control by approximately 14.06sqm arises do to the relatively small site area and the existence of an excavated lower ground level of floor space containing 2 rooms.
- The proposed increase in floor space with the proposed upper level is modest and is reasonably contained above the footprint of the lower level.
- The development to the ground floor is well articulated and will ensure the streetscape character is maintained.

(b) 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.'

The Clause 4.6 Request argues, in part:

"In this case the variation to the floor space ratio control does not impact on the ability to accord with all other development standards and controls.

Strict compliance with the floor space ratio control in this instance would not achieve any additional architectural integrity or urban design merit of the development.

Compliance with the building height and setback controls demonstrates that a suitable modulation of built form has been achieved.

The proposed built form will not be intrusive and will sit well within its setting surrounding the site.

In addition, there are no adverse amenity impacts arising, which affect existing residential properties.

With regards to the objectives for FSR, it is noted that the scale and form of the building is consistent with surrounding built form.

The floor space ratio variation is of no consequence in respect of the zone objective. Approval of the

proposed development will have no impact on any other nearby development opportunities.

The floor space generated on-site does not result in any significant view loss, loss of privacy or overshadowing in the context of the site. There is no adverse heritage impacts associated with the proposed development. The height and scale of the development is typical within the residential context.

Having regard to the above there are well founded environmental planning grounds to vary the development standard in this instance."

The applicant's Clause 4.6 Request is generally supported. It is noted that the proposal results in a variation to the FSR due to the existing lower ground area and proposed first floor which will not significantly impact the bulk and scale of the existing site. It is also acknowledged that the non-compliant GFA/FSR will not result in unacceptable streetscape or any adverse residential amenity impacts in terms of views, privacy or solar access. The applicants Clause 4.6 Request adequately addresses the objectives of this development standard, demonstrates that compliance with the development standard is unreasonable or unnecessary, and that there are sufficient environmental planning grounds to contravene the development standard . In summary, it has been demonstrated that the proposed development is compatible with the character of surrounding character.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.4 Floor Space Ratio for the following reasons:

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, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

Public Interest:

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:

Council is satisfied as to the matters set out in Clause 4.6 of the MLEP 2013.

It is considered on balance, that having regard to the particular circumstances the Clause 4.4 Floor Space Ratio variation arising due to the existing allotment constraints, existing lower ground area and its minimal impacts to the bulk and scale of the site, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 472.1sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 950sqm per dwelling	472.1sqm	50.3% (477.9sqm)	No
	Dwelling Size: 124sqm	202.9sqm	N/A	Yes

4.1.2.1 Wall Height	E: 6.7m (based on gradient 1:30)	6.1m	N/A	Yes
	W: 7.2m (based on gradient 1:9)	7.8m	8.3% (0.6m)	No
4.1.2.2 Number of Storeys	2	Part 2/3	50%	No
4.1.2.3 Roof Height	Height: 2.5m	0.4m	N/A	Yes
	Pitch: maximum 35 degrees	4.5 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	8.2m (basement) 7m (ground floor deck) 12.1m (first floor deck)	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	E: 2-2.1m (NE first floor dwelling) 2m (eastern first floor) 1.23m- 1.27m (SE ground floor dwelling) 0.46m (ground floor deck) (based on wall height)	E: 4.7m 2m 0.77m 0.77m	N/A N/A Max 39% (0.5m) N/A	Yes Yes No (no change) Yes
	W: 2m - 2.6m (first floor) 2.1m (first floor deck) 0.97m (ground floor deck) (based on wall height)	W: 1.5m 2.5m 0.95m	Max 42.3% (1.1m) N/A 2.1% (0.02m)	No Yes No
	Windows: 3m	E: 1 window at 2m 2 windows at 4.7m W: 1 window at 0.95m 4 windows at 1m	E: 33% (1m) N/A W: Max 68% (2.05m)	No Yes No
4.1.4.4 Rear Setbacks	8m	17.5m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area	63.8% (301.5sqm)	N/A	Yes
	Open space above ground 25% of total open space	9.1% (27.6sqm)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% of open space	78% (235.7sqm)	N/A	Yes
	4 native trees	2 trees	N/A	N/A (no change)

4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm	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	2.6m	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	1 spaces	50%	N/A (no change)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 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 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	No	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	N/A	N/A
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

4.1.1.1 Residential Density and Dwelling Size

Clause 4.1.1.1 of the Manly DCP requires 950m² of site area per dwelling in residential density areas D8. The proposed site is 472.1m², a 50.3% variation to the numeric control. Although, as there is no proposed change to the approved residential density, there is no need for a merit assessment in this instance.

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

Description of non-compliance

4.1.2.1 Wall Height

Based on a gradient of 1:30, the maximum permitted wall height is 6.7m to the eastern elevation. The proposed dwelling is to have a maximum wall height of 6.3m. The eastern wall height complies with the control.

Based on a gradient of 1:9, the maximum permitted wall height is 7.2m to the western elevation. The proposed dwelling is to have a maximum wall height of 7.8m. This represents a 8.3% (0.6m) variation to the control requirement.

4.1.2.2 Number of Storeys

Buildings must not exceed 2 storeys. The proposed dwelling is to partially incorporate 3 storeys.

Variation to the maximum number of storeys may be considered:

- i) where specific physical site constraints warrant an exception to this requirement. In these circumstances the development must still fully comply with other numeric height controls and development standards; and*
- ii) to allow an additional understorey where that storey satisfies the meaning of basements in the LEP.*

In this case, the site's topography includes an existing understorey and the first floor addition will not exceed the maximum permitted building height. The dwelling visually presents as a single storey dwelling to the rear and a part 2/3 storey dwelling from the street front due to the slope of the land. The 3 storey element of the proposed dwelling is therefore considered acceptable.

Merit consideration

There are no underlying objectives of this control under which to consider the merits of this variation. This clause instead relies on the objectives for the Height of Buildings at clause 4.3 in the Manly LEP

2013. An assessment against these objectives is 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 proposal involves building bulk that is well separated from the streetscape to ensure the development is in keeping with the character of the area. Ogilvy Road includes a mix of residential development with a variety of 3 storey structures to the street front. In particular, the compliant building height and relatively large front setback to the front of the dwelling ensures the built form will not be visually dominant in streetscape or result in a variation from the future streetscape character.

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

Comment:

The dwelling provides sufficient modulation, articulation, and setbacks to the street and neighbours to ensure that the presentation of bulk and scale is appropriate. The first floor of the dwelling is stepped back from the lower ground and ground floor from the street and is located up slope from Ogilvy Road. The front setback includes landscaped areas which will minimise the presentation of bulk and scale. The variation to the wall height on the western elevation is primarily due to the sloping gradient from the eastern to the western boundary, whereby the development will comply with the maximum building height requirements.

(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:

As a result of the sloping topography of the surrounding land, compliant building height and the adequate setbacks, the proposal maintains sufficient viewing corridors over and through the site. Therefore, the proposal will not result in unreasonable impact on views, and provide viewing corridors through the site as a result of reasonable setbacks and appropriate modulation.

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

Comment:

The proposal provides sufficient design and stepping toward the front of the site to allow for corridors for sunlight. The first floor addition will follow the existing built form of the ground floor and complements the built form of the neighboring dwelling at 16 Ogilvy Road. The proposal also complies with the numerical requirements for sunlight under Clause 3.4.1 of the Manly DCP.

(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:

Not applicable

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

4.1.3 Floor Space Ratio (FSR)

The MDCP Clause 4.1.3 Floor Space Ratio (FSR) provides guidance in assessing the floor space ratio of undersized allotments.

The site is located in 'Area T' on the MLEP Lot Size Map zoned in area requiring the minimum lot size of 950sqm. Clause 4.1.3 Floor Space Ratio states that based on an actual lot size of 472.1sqm in Area T, the calculation of FSR can be based on 750sqm lot size/ site area.

Using this calculation, the floor space ratio of the proposed development is 0.27:1, which complies with the maximum permitted 0.4:1 FSR.

A detailed assessment of the FSR variation has been undertaken within the section of this report relating to Clause 4.6 of the MLEP. In summary, the applicant has adequately justified that compliance with the Clause 4.4 Floor Space Ratio Development Standard is unreasonable and unnecessary, and that there are sufficient environmental planning grounds to contravene the development standard.

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

Description of non-compliance

Clause 4.1.4.2 of the MDCP requires development be setback at least one third of the adjoining wall height. The development proposes multiple variations to the numeric requirement at the ground and first floor along both the eastern and western elevations.

Clause 4.1.4.2 of the MDCP requires windows from habitable dwellings that face the side boundary are to be setback at least 3m from side boundaries. There are proposed windows along the eastern and western elevation that are non-compliant with the numeric control.

The development proposes the following:

Eastern Setback

- 2-2.1m (NE first floor dwelling) required- 4.7m proposed- compliant with the requirement.
- 2m (eastern first floor) required - 2m proposed- compliant with the requirement.
- 1.23m- 1.27m (SE ground floor dwelling) required- 0.77m proposed- 39% (0.5m) variation- no change from existing.
- 0.46m (ground floor deck) required- 0.77m proposed- compliant with the requirement.

Western Setback

- 2m - 2.6m (first floor) required- 1.5m proposed- 42.3% (1.1m) variation.
- 2.1m (first floor deck) required- 2.5m proposed- compliant with the requirement.
- 0.97m (ground floor deck)- 0.95m proposed- 2.1% (0.02m) variation.

Windows

Eastern Elevation

- 1 window at 2m- 33% variation.
- 2 windows at 4.7m- compliant.

Western Elevation

- 1 window at 0.95m- 4 windows at 1m- max 68% variation.

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 areas of non-compliance to the side setback requirements present an acceptable impact upon the streetscape character and surrounding dwellings. The first floor addition is setback further front the western boundary from the ground floor level and is not considered to result in unreasonable impacts to either, the western property of the eastern property. The alterations and additions will compliment the established existing built form and not result in impacts from the streetscape. The windows which breach into the 3m requirement are of a low scale and high sill design, thus it is not considered to result in unreasonable privacy impacts. The proposal will maintain the existing landscaped character of the street.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposed development is acceptable with respect to privacy due to the windows on the first floor to the eastern elevation being located to the bathroom and bedrooms which are not considered highly trafficable areas. Additionally, the windows are small in size and includes a sandblasted design to the ensuite window. The windows on the western elevation to the first floor are located to the main bedroom, staircase and bedroom 2 and 3. These windows are also small in scale and high sill design. The development is considered to provide adequate privacy to adjoining properties. The proposed development is compliant with the solar access and view sharing requirements of Clauses 3.4.1 Sunlight Access and Overshadowing and 3.4.3 Maintenance of Views of the Manly Development

Control Plan 2013. The proposed development provides suitable separation between the first floor addition and buildings on adjoining sites, allowing suitable rhythm and pattern of buildings. The development does not impact upon traffic conditions.

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

Comment:

Notwithstanding the non-compliances to the abovementioned controls, there remains adequate spatial separation to ensure there is access and flexibility in the siting of the building.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposed works do not significantly alter the landscaped areas and deep soil areas. The proposal complies with the landscape area requirements and is considered satisfactory. The subject site does not adjoin or impact upon open space lands, National Parks or urban bushland.

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

Comment:

The recommendations of the Bushfire Risk Assessment has been included as part of this consent and can assist in appropriate bush fire asset protection zones.

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

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

There is no change to the parking under this application. Therefore, this control is not applicable to this application.

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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$4,614 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$461,439.

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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Manly Local Environment Plan 2013 seeking to justify variation of the development standard contained within Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

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

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

RECOMMENDATION

That Northern Beaches Council, as the consent authority, vary the development standard contained within Clause 4.4 Floor Space Ratio, pursuant to Clause 4.6 of the Manly Local Environmental Plan 2013 because the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly Council as the consent authority grant Development Consent to DA2024/1403 for Alterations and additions to a dwelling house on land at Lot 29 DP 2610, 14 Ogilvy Road, CLONTARF, 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

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
4059 DA 1	F	PLANS, ELEVATIONS AND SECTIONS	ADD-STYLE HOME ADDITIONS	19/12/2024
-	-	EXTERIOR COLOUR SCHEDULE	ADD-STYLE HOME ADDITIONS	28/08/2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
WASTE MANAGEMENT PLAN	-	APPLICANT	14/10/2024
BASIX CERTIFICATE (A1759346)	-	Add-Style Home Additions	09 August 2024
Preliminary Geotechnical Assessment	1	Ascent Geo	3 October 2024
Bushfire Risk Assessment	-	Bushfire Planning Services	23/09/2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent,

the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	28/11/2024

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. 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.

4. **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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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.
- (e) 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.

- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) 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.
- (l) 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.

- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) 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

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$4,614.39 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 \$461,439.00.

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.

6. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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

7. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

8. **Stormwater Drainage Disposal**

The stormwater drainage systems for the development are to be designed, installed and

maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifier prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

9. **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.

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.

10. **Boundary Identification Survey**

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, 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.

11. **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.

12. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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.

13. 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

14. Installation and Maintenance of Sediment and Erosion Control

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

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

DURING BUILDING WORK

15. Wildlife Protection

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

16. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

17. **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.

18. **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.

19. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

20. **Maintenance of Sediment and Erosion Controls**

Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

21. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

22. **Stockpiling materials**

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

23. **Stormwater Drainage Disposal Certification**

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the 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), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. 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 detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the authority 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 for the on-site stormwater detention system 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 satisfactory management of stormwater.

24. **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.

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

25. **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.

26. **Approved Works**

Nothing within this consent grants approval for works beyond the property boundaries of the subject site to which this development application applies.

Reason: To ensure all works are undertaken in accordance with this consent, and to ensure all works remain wholly within the property boundaries.

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

Signed



Lachlan Rose, Planner

The application is determined on 20/12/2024, under the delegated authority of:



Rodney Piggott, Manager Development Assessments