

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/0384
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<b>Responsible Officer:</b>	Maxwell Duncan
<b>Land to be developed (Address):</b>	Lot 18 DP 13750, 36 Clontarf Street SEAFORTH NSW 2092
<b>Proposed Development:</b>	Alterations and additions to the existing dwelling and construction of a secondary dwelling.
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Gueorgui Troharov Roumiana Troharov
<b>Applicant:</b>	Gueorgui Troharov

<b>Application lodged:</b>	13/03/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	23/05/2018 to 08/06/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 325,000.00
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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 - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

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

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 18 DP 13750 , 36 Clontarf Street SEAFORTH NSW 2092
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Clontarf Street, Seaforth.</p> <p>The site is regular in shape with a frontage of 13.7m along Clontarf Street and a depth of 57.9m. The site has a surveyed area of 794.3m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a dwelling house..</p> <p>The site slopes slightly from the front of the property to the rear.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by residential development typically single and two storey dwelling houses.</p>

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.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal is for alterations and additions to the existing dwelling house including:

- Secondary dwelling
- Swimming pool
- Carport
- First floor addition encompassing:
  - 4 bedrooms including master bedroom with ensuite and walk-in robe.
  - Bathroom.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

## 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	None applicable.

Section 4.15 Matters for Consideration'	Comments
draft environmental planning instrument	
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)(iiiia) – 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&amp;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&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;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	<p>(i) <b>Environmental Impact</b></p> <p>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>

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

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

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

Name:	Address:
Mr Michael Guy Haley	38 Clontarf Street SEAFORTH NSW 2092
Mrs Jennifer Burgess	34 A Clontarf Street SEAFORTH NSW 2092

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

- Carport location.
- Privacy.

The matters raised within the submissions are addressed as follows:

- Carport location  
Comment:

The proposed carport location results is an extension of an existing side setback non-compliance. The proposed carport will not give rise any unreasonable amenity impacts nor does it present as unreasonable bulk and scale as viewed from the street and as such is considered

to be reasonable in this residential context. It is further recognised that the proposal allows for additional parking on site, compliant with the numeric control in the Manly DCP.

This is not a reason for refusal.

- Privacy  
Comment:

Concern was raised in regards to potential privacy impacts resulting from the secondary dwelling. This matter is addressed elsewhere in this report (See Clause 3.4.2 Privacy and Security). To summarise, a single storey secondary dwelling that consistent with the setback controls and with no southern facing windows will not result in unreasonable privacy impacts (acoustic and visual).

## MEDIATION

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p>The landscape component of the proposal is acceptable, subject to completion of landscaping and protection of trees and vegetation not approved for removal.</p> <p><i>Planners comment:</i> A condition was included as part of this referral for screen planting along the northern, eastern and southern boundaries to maintain privacy. The works are proposed maintain reasonable levels of privacy to and from the subject site and adjoining properties. The proposed screening planting illustrated on the landscape plan may help further supplement privacy. As such, this condition has not been included as part of the final recommendation.</p>
NECC (Development Engineering)	Development Engineer has no objection to the application subject to the following condition of consent.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been

External Referral Body	Comments
	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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

### Division 2: Secondary dwellings

#### Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

**Note:** The standard instrument defines secondary dwelling as follows:

**"secondary dwelling means a self-contained dwelling that:**

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling."

#### Comment:

The proposed use is defined under MLEP 2013 as a secondary dwelling.

#### Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	<b>Consistent.</b> The site is located within the R2 Low Density Residential and, as such, the proposed use is permissible with consent under MLEP 2013.

Clause 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	<b>Consistent.</b> The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies.

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	There is only a single (principle) dwelling on the subject site as existing.
(3) A consent authority must not consent to development to which this Division applies unless:  (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and  (b) the total floor area of the secondary dwelling is no more than 60m <sup>2</sup> or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	a) The proposal is consistent with the Floor Space Ratio Development under Clause 4.4 of the Manly LEP.  b) The proposed floor area of the secondary dwelling is 59.75sqm
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:  (a) site area if:  (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres.	The site area is 794.3m <sup>2</sup> above the minimum 450m <sup>2</sup> requirement.



(b) parking if no additional parking is to be provided on the site.	
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**Note:** A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	<b>Consistent.</b> This application does not propose any subdivision of the existing allotment.

Conclusion

The proposal is consistent with all of the requirements under this SEPP, the proposal is acceptable in this circumstance.

**SEPP (Building Sustainability Index: BASIX) 2004**

Two BASIX certificates have been submitted with the application (see Certificate No. 906450S dated 6 March 2018 (Secondary dwelling) and Certificate No. A308755 dated 6 March 2018 (Principle dwelling)).

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

**SEPP (Infrastructure) 2007**

Ausgrid

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

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

Comment:

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

## Manly Local Environmental Plan 2013

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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.4m	N/A	Yes
Floor Space Ratio	FSR: 0.45:1 357.44m <sup>2</sup>	FSR: 0.32:1 253.15m <sup>2</sup>	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.22 Development for the purposes of secondary dwellings in certain residential and environment protection zones	Yes

## Manly Development Control Plan

### Built Form Controls

Built Form Controls - Site Area: 794.3m <sup>2</sup>	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	Principle dwelling South: 6.5m	5.85m	N/A	Yes
	Principle dwelling North: 6.5m	6.25m	N/A	Yes
	Secondary dwelling South: 6.5m	3.55m	N/A	Yes
	Secondary dwelling North: 6.5m	3.2m	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	Principle 1.98m	N/A	Yes

		Secondary dwelling: 1.67m		
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	8.1m, consistent with prevailing setback	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Principle dwelling South: 1.95m (based on wall height)	1.8m	7.7%	No
	Principle dwelling North 2.08m (based on wall height)	0-2.79m (New carport)	100%	No
	Secondary dwelling South 1.06m (based on wall height)	1.7m	N/A	Yes
	Secondary dwelling North: 1.29m (based on wall height)	1.5	N/A	Yes
	Windows: 3m	1.83- 2.79m	39%	No
4.1.4.4 Rear Setbacks	8m	3.2m	60%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS1/2/3/4	Open space 55% (436.9m <sup>2</sup> ) of site area	61% 487.3m <sup>2</sup>	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% (170.55m <sup>2</sup> ) of open space	69% (336.3m <sup>2</sup> )	N/A	Yes
	3 native trees	4 trees	N/A	Yes
4.1.5.3 Private Open Space	12sqm per dwelling	17sqm (secondary dwelling)	N/A	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	0.2m	N/A	Yes
	1m curtilage/1.5m water side/rear setback	3m from waters edge, 1.3m from coping.	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	Yes

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 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
3.3 Landscaping	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.3.1 Landscaping Design	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
4.1 Residential Development Controls	No	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes

#### Detailed Assessment

#### **3.4.1 Sunlight Access and Overshadowing**

##### Description of non-compliance

The proposed development is consistent with Clause 3.4.1 of the Manly

##### Merit consideration:

The development is considered against the underlying Objectives of the Control as follows:

*Objective 1) To provide equitable access to light and sunshine.*

##### Comment:

The proposed works will retain equitable access to light and sunshine for the subject site and adjoining properties.

*Objective 2) To allow adequate sunlight to penetrate:*

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

##### Comment:

##### *No. 34 Clontarf Street, Seaforth*

The proposed first floor addition will lead to increased shadowing to the private open space of No. 34 Clontarf Street at all hours between 9am and 3pm during the winter solstice. The shadowing throughout this time however is not unreasonable, with significant level of private open space retaining sunlight at all time throughout 9am- 3pm. Two thirds of existing sunlight is retained to the private open space. The

living room windows of No. 34 Clontarf Street, Seaforth are shadowed at 9am through to 12pm. While sunlight access to the the north facing windows is compromised, east and west facing living rooms windows will remain unaffected by the proposed works.

*No. 34A Clontarf Street, Seaforth*

No. 34A Clontarf Street benefits from being a battle-axe lot in this situation. The proposed shadowing impact resulting from the first floor addition is negligible. The proposed secondary dwelling will result in minor overshadowing to the private open space of the No.34A, with more than two thirds of sunlight access remaining at all times during the day (9am to 3pm).

*Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:*

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

Comment:

The proposed first floor has been modulated from the ground floor of the subject dwelling house to reduce the impacts of shadowing. The increased setback on the southern, eastern and western side helps reduce the bulk of the dwelling house.

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

### **3.4.2 Privacy and Security**

Description of non-compliance

The proposed development is consistent with Clause 3.4.2 of the Manly DCP.

Merit consideration:

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

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

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

Comment:

The proposed first floor addition do not overlook the adjoining windows or private open space of Nos. 34 and 38 Clontarf Street, Clontarf. The first floor windows are off bedrooms and Bathroom which have a less of a intense use than that off a living room. It is noted that both of the adjoining properties are

single storey dwelling houses.

The swimming pool and surrounding deck is proposed at ground floor level and setback from the adjoining properties appropriately, consistent with with the numeric control under the Manly DCP.

The proposed secondary dwelling located to the rear of the property is located at ground level and centred within the subject site to provide reasonable levels of physical separation between adjoining properties. The dwelling is setback 1.9m from the southern boundary and 2m from the northern boundary, consistent with the setback control. While the dwelling is only setback 3.2m from the rear boundary it is recognised that the dwelling is only at ground floor level, with no windows at a heightened elevation to overlook the rear property (No. 23 Fromelles Avenue).

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

Comment:

The first floor additions has been further setback from all side of the ground floor to allow for greater physical separation between properties, while still allowing for light and sunshine to penetrate the bedroom and living room windows on the first floor.

*Objective 3) To encourage awareness of neighbourhood security.*

Comment:

The proposal will retain a open frontage to allow for passive surveillance.

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.

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

Description of non-compliance

Clause 4.1.4.2 of the Manly DCP requires that development be setback at least 1.95m from the southern boundary and 2.08m from the north boundary. The proposed development is setback 0m-2.79m from the northern boundary and 1.8m from the southern boundary, non complaint with the numeric control. The proposed development proposes a 7.7% variation to the southern side setback and 100% variation to the northern side setback control.

Merit consideration:

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

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

Comment:

A two storey dwelling consistent with the front setback, building height and floor space ratio development controls is consistent with the desired spatial proportions 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:

Amenity impacts that result from the proposed development including privacy and overshadowing are not unreasonable. Both dwellings on site are setback (8m primary dwelling, 46m secondary dwelling) from the street so as to cause unreasonable impact upon the character of the street.

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

Comment:

The proposed carport is an extension of an existing non-compliance. Given the existing situation the siting of the carport is reasonable, as there is no reasonable alternate on site and there are no unreasonable impacts.

*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 is consistent with the numeric control for landscaped open space. No trees are proposed to be removed.

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

Comment:

The subject site is not located in a bush fire 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.

## **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**

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) *the dedication of land free of cost, or*
  - (b) *the payment of a monetary contribution,*
- or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

### **Comments:**

In this case, the proposed development is likely to increase the demand for public amenities and public services within the area. Accordingly, suitable conditions have been included within the recommendation requiring payment of a section 94 contribution of \$20,000.00 in line with Manly Section 94 Contributions Plan.

## **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 DA2018/0384 for Alterations and additions to the existing dwelling and construction of a secondary dwelling. on land at Lot 18 DP 13750, 36 Clontarf Street, SEAFORTH, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A03/ Site Plan	Revision A/ 18 May 2018	Home Constructionete
A04/ Demolition Plan and Roof Plan	Revision A/ 18 May 2018	Home Constructionete
A05/ Ground floor plan	Revision A/ 18 May 2018	Home Constructionete
A06/ First floor plan	Revision A/ 18 May 2018	Home Constructionete
A07/ Granny flat plan and sections	Revision A/ 18 May 2018	Home Constructionete
A08/ Sections and Sediment control plan	Revision A/ 18 May 2018	Home Constructionete
A09/ East and North Elevations	Revision A/ 18 May 2018	Home Constructionete
A10/ West and South Elevations	Revision A/ 18 May 2018	Home Constructionete

A11/ Granny flat elevations	Revision A/ 18 May 2018	Home Constructionete
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**Reports / Documentation – All recommendations and requirements contained within:  
Report No. / Page No. / Section No.**

Certificate number: 906450S

Certificate number: A308755

b) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A17/ Landscape Plan	Revision A/ 18 May 2018	Home Constructionete

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. (DACPLB01)

**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 (DACPLB09)

### 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. (DACPLB10)

## 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](http://www.northernbeaches.nsw.gov.au)).

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

### 5. Section 94 Contribution - Residential

A Section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development of secondary dwelling is \$ 20,000.00, being \$20,000.00 per additional dwelling. This contribution shall be paid to Council prior to the release of the Construction Certificate.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

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

### 6. 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 that the existing approved system can accommodate the additional flows or compliance with the Council's specification 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.

### 7. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

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

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 8. Tree protection

Tree protection measures shall be undertaken as follows:

- a) all trees and vegetation on site, located on adjoining properties, and located within the road reserves must be retained and protected, except where approved for removal, or where site trees are exempt trees under the relevant planning instruments or legislation.
- b) All demolition, excavation and construction works in the vicinity of existing trees shall be conducted under the supervision of the Project Arborist.
- c) all tree protection shall be in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4.
- d) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in
- e) all tree protection measures, are to be in place prior to the commencement, including protective
- f) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained.
- g) no tree roots greater than 50mm diameter are to be cut from protected trees unless authorized by a qualified Arborist on site.
- h) all structures are to bridge tree roots greater than 50mm diameter unless directed a qualified Arborist on site.
- i) should either or both h) and i) occur during site establishment and construction works, documentary details shall be submitted by the Arborist to the Certifying Authority.

Reason: Development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and protect the existing environmental amenity.

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. **Maintenance of 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. **Maintenance of Sediment**

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

## 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. **Landscaping**

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately.

13. **Required Tree Planting**

Details are to be provided of the existing or proposed native trees for the site which are typically expected to reach a height at maturity of 10 metres, to bring the proposal into compliance with Figure 37 of the Manly Development Control Plan 2013. A list of appropriate native trees for the Manly area may be obtained at Council's Customer Service desk and the Manly Council website. Details of new planting are to include appropriate siting and pot size (minimum of 25 litres) in accordance with section 2.1.3 of the Manly Development Control Plan 2013, and schedule 4, Part B, Native Tree Selection. Details are to be submitted with the Construction Certificate to the satisfaction of the Council/Accredited Certifier.

This property has an area of 728m approxamatly which would require three proposed trees to site.

*Reason: This is to ensure the planting of endemic trees back onto the site.*

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

14. **Landscape maintenance**

Landscaping is to be maintained in accordance with the approved Landscaping Drawing.

*Reason: This is to ensure that landscaping is maintained appropriately.*

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

**Signed**



**Maxwell Duncan, Planner**


The application is determined under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**







## ATTACHMENT A












Notification Plan	Title	Date
 2018/179365	Plan - Notification	16/03/2018

## ATTACHMENT B

Notification Document	Title	Date
 2018/185814	Notification Map	20/03/2018

## ATTACHMENT C

Reference Number	Document	Date
 2018/179374	Report - BASIX Certificate - A308755	13/03/2018
 2018/179378	Report - BASIX Certificate - Granny Flat - 906450S	13/03/2018
 2018/179384	Report - Energy Rating	13/03/2018
 2018/179388	Report - BASIX Requirement Summary - Granny Flat	13/03/2018
 2018/179408	Plans - Stormwater	13/03/2018
 2018/179393	Report - Waste Management	13/03/2018
 2018/179357	Plans - Survey	13/03/2018
 2018/179371	Report - Statement of Environmental Effects	13/03/2018
 2018/179353	Builders Quote	13/03/2018
 DA2018/0384	36 Clontarf Street SEAFORTH NSW 2092 - Development Application - Alterations and Additions	13/03/2018
 2018/171437	DA Acknowledgement Letter - Gueorgui Troharov	13/03/2018
 2018/179343	Development Application Form	13/03/2018
 2018/179346	Applicant Details	13/03/2018
 2018/179365	Plan - Notification	16/03/2018
 2018/179401	Plans - Certification of Shadow Diagrams with Plans	16/03/2018
 2018/179453	Schedule of Colours and Schedule	16/03/2018
 2018/179514	Plans - Master Set	16/03/2018
 2018/179512	Plans - External	16/03/2018
 2018/179513	Plans - Internal	16/03/2018
 2018/187705	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0384 - 36 Clontarf Street SEAFORTH NSW 2092-PR	20/03/2018
 2018/185814	Notification Map	20/03/2018
 2018/185861	Notification Letter - 11	20/03/2018
 2018/189634	DA Acknowledgement Letter (not integrated) - Gueorgui Troharov	21/03/2018
 2018/197595	Building Assessment Referral Response	26/03/2018
 2018/200233	Yellow Notification Sign For DA2018/0384 36 Clontarf Street Seaforth Is On Display As Per Instruction	26/03/2018
 2018/211054	Online Submission - Haley	02/04/2018
 2018/217114	Development query - DA2018/0384 36 Clontarf Street Seaforth - Would like reassurance that works will not impinge on privacy	04/04/2018

	2018/272648	Landscape Referral Response	03/05/2018
	2018/304300	Engineering Referral Response	20/05/2018
	2018/311196	DA Acknowledgement Letter (not integrated) - Gueorgui Troharov	23/05/2018
	2018/311206	Notification Letter - 11	23/05/2018
	2018/311530	Plans - Master Set - Revised	23/05/2018
	2018/311527	Plans - Shadow Diagrams - Revised	23/05/2018
	2018/311528	Plans - Landscape - Revised	23/05/2018
	2018/311529	Plans - External - Revised	23/05/2018
	2018/376927	Working Plans	20/06/2018
	2018/407534	delete	04/07/2018
	2018/407574	Stamped Plans	04/07/2018