

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0859
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 22 DP 6100, 82 Birkley Road MANLY NSW 2095
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Anthony Brian Hawkins Renee Kirsten Hawkins
Applicant:	Renee Kirsten Hawkins

Application Lodged:	12/08/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/08/2019 to 02/09/2019
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 147,500.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the existing dwelling at No. 82 Birkley Road. The works comprise of;

- Demolishing the existing study,
- Constructing a double garage with uncovered terrace above,
- Constructing a new driveway and crossing,
- Altering existing footpath,
- Constructing a front fence and entry,
- Affiliated landscaping works.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

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

Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

Property Description:	Lot 22 DP 6100 , 82 Birkley Road MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of 1 allotment located on the eastern side of Birkley road.</p> <p>The site is regular in shape with a frontage of 12.19m along Peacock Street and a depth of 30.48m. The site has a surveyed area of 366.7m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single storey dwelling.</p> <p>The site relatively flat by nature.</p> <p>The site has a front and rear garden with landscaping. The site does not contain any canopy trees nor does it contain any endangered species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by 1 and 2 storey residential dwellings.

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.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	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 2000 (EP&A Regulation 2000)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental

Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>A new garage is proposed at the boundary in this development. The proposed garage level is RL 37.04 which is lower than the gutter level on Birkley Street (southern side of the property). In this regard, the garage level shall be increased slightly. A special condition has been placed to address the issue.</p> <p>As such, Development Engineering has no objection to the application subject to the following condition of consent.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A352493 dated 04 July

2019).

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	Complies
Height of Buildings:	8.5m	3.5m	Yes
Floor Space Ratio	FSR: 0.6 : 1	0.5 : 1 (182.8sqm)	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes

Clause	Compliance with Requirements
4.5 Calculation of floor space ratio and site area	Yes
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
6.12 Essential services	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 366.7sqm	Requirement	Proposed	% Variation*	Complies
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Nil	100%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	0.83m (Based on a wall height of 2.78m) - North	Nil	100%	No
	0.59m (Based on a wall height of 1.96m) - South	Nil (Masonry Wall) 5.85m (Garage)	100%	Yes* (Variation)
4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2	8m (rear boundary)	Works contained within the front setback	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	31% (115.78sqm)	43.64%	No
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	44.51% (51.53sqm)	N/A	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	84.9sqm	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	52.50% (6.4m)	3.23%	No
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.6 Energy efficiency/conservation requirements for non-residential developments	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 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	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.10 Fencing	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	No	Yes

Detailed Assessment

3.1.1 Streetscape (Residential areas)

The proposed garage has a nil front setback. Council's minimum front setback control is 6.0m. Notwithstanding, when assessing comparable developments within the immediate vicinity, it is displayed that such structures have been positioned beyond the minimum front setback control of 6.0m, in particular Nos. 76, 80, 84, and 86 Birkley Road. Additionally, the proposed facade of the garage and front boundary wall, will include a sandstone finish, which skilfully integrate's the development within the established streetscape. Further, the proposal's facade will include garden beds and planter boxes to break down the visual impact of the development when viewed form the street. Overall, the proposed garage will be compatible within the localised streetscape, as it reasonably maintains the visual continuity between surrounding buildings and car parking structures.

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

Description of non-compliance

The proposed garage has a nil front setback. Council's minimum front setback control is 6.0m.

The northern wall of the proposed garage has a nil side setback. Council's minimum northern side setback control is 0.83m.

Merit consideration:

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

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

Comment:

The proposed front setback area will include a well designed garage, garden beds, and an uncovered terrace. When assessing comparable developments within the immediate vicinity, it is displayed that such structures have been positioned beyond the minimum front setback control of 6.0m, in particular Nos. Nos. 76, 80, 84, and 86 Birkley Road. The proposed design of the garage ensures that the selected materials and detailing is consistent with the associated dwelling and streetscape. The reduced front setback will not unreasonably affect the visual quality of the surrounding streetscape, as the proposal will incorporate sandstone finishes and landscaping to soften the appearance of the development.

Overall, the proposed garage will be compatible within the localised streetscape, as it reasonably maintains the visual continuity between surrounding buildings and landscape elements.

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 garage has a maximum height of 3.0m and has a nil northern side setback. The garage will not include any windows on the northern elevation. In addition, the uncovered terrace that will sit above the garage, will include a 1.2m high timber screen, which will run along the northern side boundary for the length of the proposed terrace. The proposal will not create any unreasonable privacy impacts to adjoining properties, nor will it overshadow the private open space of adjacent properties. Additionally, the proposal will not result in the loss of any views. The location of the proposed carport is constrained by the topography of the subject site and the placement of the existing dwelling, however it is consistent with other comparable structures within the immediate vicinity. In addition, the development will provide two off-street carparking spaces, which will promote the facilitation of safe and adequate traffic conditions within the localised area.

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

Comment:

The location of the proposed garage is constrained by the topography of the subject site and the placement of the existing dwelling, however it is consistent with other comparable structures within the immediate vicinity. It is considered that the proposal will reasonably promote flexibility in the siting of buildings.

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 complies with Council's landscaping control through providing 43.64% (51.53sqm) of the total open space area towards landscaped area. The proposal will include garden beds and planter boxes to provide additional visual interest to the streetscape. In addition, the works do not involve the removal of any native vegetation. Overall, the site will reasonably enhance and maintain the site's natural features.

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

Comment:

The site is not bushfire affected.

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.

4.1.5 Open Space and Landscaping

Description of non-compliance

The minimum requirement for total open space for the site is 55% of site area. The site provides 31% (115.78sqm) of site area, towards the total open space. The proposed development does not alter the existing level of open space on the site. It is expected to improve the usability of elevated open space on the site.

Merit consideration:

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

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

Comment:

The proposal involves constructing a double garage with an uncovered terrace above, which will be connected to the existing dwelling. The works also involve demolishing the existing study and constructing a new front entrance. Currently, the front setback area contains a grassed area, which is enclosed by a 1.8m high cement render front boundary fence. The proposal does not involve the removal of any endangered or native species. In addition, the proposal complies with Council's landscaping control, through providing 43.64% (51.53sqm) of the total open space area towards landscaped area. Overall, it is considered that the proposal maintains adequate areas within the site for sufficient landscaping.

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

Comment:

Substantial landscaping is retained on the subject site at ground level, through providing 43.64% (51.53sqm) of the total open space area towards landscaped area, which is consistent with the numeric control. In addition, no trees on the subject site or surrounding private and public space are proposed to be removed.

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

Comment:

The proposed garage has a maximum height of 3.0m. The proposal will not create any unreasonable privacy impacts to adjoining properties, nor will it overshadow the private open space of adjacent properties. Additionally, the proposal will not result in the loss of any views. The location of the proposed carport is constrained by the topography of the subject site and the placement of the existing dwelling, however it is consistent with other comparable structures within the immediate vicinity. Overall, the proposal will not result in any unreasonable impacts on the amenity of the site, streetscape and surrounding areas.

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

minimise stormwater runoff.

Comment:

The proposal will sufficiently minimise stormwater run-off. This is contributed to by the compliant amount of landscaped area on the site.

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

Comment:

The proposal does not provide for any noxious weeds and provides vegetation to surround the site to limit opportunity for weeds to access the site.

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

Comment:

The proposal will provide adequate landscaping to maximise wildlife habitat consistent with the constraints of the site.

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

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

Description of non-compliance

The proposed width of the carparking structure is 6.4m, which equates to 52.50% of the site's frontage.

The control requires carparking structures to have a maximum width equating to 50% of the site's frontage.

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 provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).

Comment:

The proposed garage will provide two off-street parking spaces, which complies with Council's parking requirements for dwelling houses. The proposed spaces will be easily accessible from the street. Additionally, the design of the proposed carport adequately integrates the development within the established streetscape. Overall, it is considered that the proposal will reasonably provide accessible and adequate parking on site relative to the type of development and the locality for all users.

Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.

Comment:

The proposed garage will provide two off-street parking spaces, which complies with Council's parking requirements for dwelling houses. Therefore, the proposal will reasonably reduce the demand for on-street carparking within the immediate vicinity.

Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.

Comment:

The proposal's design adequately provides two off-street carparking spaces that promote efficient, safe, and convenient vehicular access.

Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.

Comment:

The proposal does not require significant levels of excavation. Additionally, the recommendations included within the submitted Geotechnical report have been included within this report to ensure that the works will not jeopardise the stability of the subject site nor will it disrupt ground water flows.

Objective 5) To ensure the width and number of footpath crossings is minimised.

Comment:

The proposed driveway crossing provides an adequate size access for two cars to the proposed garage, to ensure width and number of footpath crossings is minimised.

Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.

Comment:

The proposed front setback area will include a well designed garage, garden beds, and an uncovered terrace. The proposal does include the removal of an existing grassed area, however this does not contain any endangered or native species. The proposal still provides substantial areas for landscaping throughout the site. Overall, the proposal will provide adequate off-street parking, while reasonably maintaining visual continuity between surrounding buildings and landscape elements.

Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.

Comment:

This clause does not apply, as the subject site is zoned R2 Low Density Residential.

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.

4.4.5 Earthworks (Excavation and Filling)

Description of Non-compliance

The Manly DCP 2013 limits excavation to generally 1m below natural ground level. The proposed garage requires excavation of up to 2.1m, with some of the works being carried within 0.9m from the northern side boundary.

Merit Consideration

With regard to the consideration of the variation, the development is considered under the objective of the control below:

Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:

- Limiting excavation, "cut and fill" and other earthworks;
- Discouraging the alteration of the natural flow of ground and surface water;
- Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and
- Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.

Comment:

The non-compliant excavation is limited within the front setback. Imposed conditions, will ensure that a dilapidation survey/report is carried prior to the commencement of any works, to examine the physical condition of the existing dwelling house and associated structures at No. 84 Birkley Road. Further, post-construction assessments will be made to evaluate if any damages were caused by the works. In addition, a geotechnical report was submitted with the application to ensure no unreasonable impacts due to the excavation and fill. The proposal is consistent with this objective.

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

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$ 738 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 147,500.

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 DA2019/0859 for Alterations and additions to a dwelling house on land at Lot 22 DP 6100, 82 Birkley Road, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp
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Drawing No.	Dated	Prepared By
DA02 - RevA	05 July 2019	Action Plans
DA05 - RevA	05 July 2019	Action Plans
DA06 - RevA	05 July 2019	Action Plans
DA07 - RevA	05 July 2019	Action Plans
DA08 - RevA	05 July 2019	Action Plans
DA09 - RevA	05 July 2019	Action Plans

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report	9 July 2019	Ascent Geotechnical Consulting

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	7 September 2019	Anthony and Renee Hawkins

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

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

2. Prescribed Conditions

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

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable

cover to any spa containing water and is to be consistent with the following;

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

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

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

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$737.50 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$147,500.00.

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

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

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

at www.northernbeaches.nsw.gov.au

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

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

5. **Security Bond**

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

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

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

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

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

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

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

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

7. **Garage Level**

The proposed garage level shall not be lower than RL 37.15m.

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

Reason: To facilitate suitable vehicular access to private sites.

8. **Amendments to the approved plans**

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

- The privacy screen on the northern edge of the terrace is to have a maximum height of 1.2m above the finished level of the terrace (RL 39.540).

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

Reason: To ensure the development minimises impacts upon the streetscape.

9. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

10. **Compliance with Standards**

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

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

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

11. **Sydney Water "Tap In"**

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

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

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

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

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

12. **Pre-Construction Dilapidation Report**

A pre-construction / demolition Dilapidation Survey of No. 84 Birkley Road is to be prepared by a suitably qualified person, to record the physical condition of the existing dwelling and associated structures, prior to the commencement of works.

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

Reason: Protection of neighbouring properties.

13. **Damages Caused By Works**

Any damage to adjoining properties recorded within the dilapidation report, must be rectified and paid for by the owners of No. 82 Birkley Road.

Proof of payment must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of neighbouring properties.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **Public Liability Insurance - Works on Public Land**

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **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.

16. **Vehicle Crossings**

The provision of one vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and specifications. The existing footpath along Birkley Road shall be adjusted to match the new crossing level. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

17. **Waste Management During Development**

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

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

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

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

18. **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.

19. **Reinstatement of Kerb**

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces

20. **Post-Construction Dilapidation Report**

A post-construction Dilapidation Survey of No. 84 Birkley Road is to be prepared by a suitably qualified person, in order to determine if the physical condition of the existing dwelling and associated structures, has been damaged by the works.

The post construction dilapidation report must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of neighbouring properties.

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

Signed



Kye Miles, Planner

The application is determined on 16/10/2019, under the delegated authority of:



Steven Findlay, Manager Development Assessments