

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/1459
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<b>Responsible Officer:</b>	Benjamin Price
<b>Land to be developed (Address):</b>	Lot 64 DP 7532, 10 Linkmead Avenue CLONTARF NSW 2093
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including a swimming pool
<b>Zoning:</b>	Manly LEP2013 - Land zoned E3 Environmental Management
<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>	Simon John Burchett Elena Burchett
<b>Applicant:</b>	Simon John Burchett Elena Burchett

<b>Application lodged:</b>	04/09/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	15/04/2019 to 29/04/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 1,342,250.00
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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 - 3.4.3 Maintenance of Views

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 - 4.1.9 Swimming Pools, Spas and Water Features

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 64 DP 7532 , 10 Linkmead Avenue CLONTARF NSW 2093
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern side of Linkmead Avenue.</p> <p>The site is irregular in shape with a frontage of 15.24m along Linkmead Avenue and an average depth of 65m. The site has a surveyed area of 1366m<sup>2</sup>.</p> <p>The site is located within the E3 Environmental Management zone and accommodates a two storey dwelling house.</p> <p>The site slopes from north to south and includes a crossfall of 26.6m.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by two and three 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 includes demolition works, alterations and additions to the existing dwelling, construction of a two car garage and a swimming pool. The proposed works will result in the following development:

### Ground Floor

- TV room, guest bedroom with ensuite laundry and open plan music, living, dining and kitchen with walk in pantry.
- Swimming pool and associated decking

### First Floor

- Bedroom 1 with attached deck, bedroom 2, bathroom and master bedroom with walk in robe and ensuite
- Two car garage and driveway

### Amended Plans

Amended plans were received on the 29 January 2019. The amended plans included changes to the roof form to minimise view loss. The amended plans were re-notified until the 29 April 2019.

## 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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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 matter has been addressed via a condition of consent.</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</p>

Section 4.15 Matters for Consideration'	Comments
	Certificate. This clause is not relevant to this application.
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) <b>Environmental Impact</b> 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) <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.

## BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application that included a certificate (prepared by Australian Bushfire Consulting Services, dated 2 July 2018) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

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

Name:	Address:

Name:	Address:
Mr Jonathan Philip Hoyle Mrs Kelli Anne Hoyle	14 Linkmead Avenue CLONTARF NSW 2093

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

- Loss of Light
- View loss
- Enclosure of Balcony

The matters raised within the submissions are addressed as follows:

- Loss of Light

Comment:

The submission raised concerns over the loss of sunlight.

The proposal has been assessed below with regard to the objectives of Clause 3.4.1 Sunlight Access and Overshadowing. In summary the assessment found that the development would not result in any unreasonable overshadowing. Please see below for further details.

- View Loss

Comment:

The submission raised concern over the loss of water views.

Amended plans were received on the 29 January 2019. The amended plans included changes to the roof form to minimise view loss. The resultant view loss of the proposed development has been assessed below with regard to clause 3.4.3 Maintenance of Views of the Manly DCP 2013 and the Views Planning Principle established in Tenacity Consulting v Warringah Council [2004] NSWLEC 140 at 25-29 by the NSW Land and Environment Court. In summary the proposal was found to maintain adequate view sharing within the locality. Please see below for further details.

- Enclosure of balcony

Comment:

The proposal does not include enclosure of the first floor balcony.

A submission was originally received from 12 Linkmead Avenue Clontarf. Following the re-notification of amended plans the submission was withdrawn.

## MEDIATION

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape component of the proposal is acceptable subject to the completion of landscaping as conditioned and the protection of existing trees and vegetation as recommended in the Arboricultural



Internal Referral Body	Comments
	<p>Impact Assessment.</p> <p>Council's Landscape section have assessed the application against the landscape controls of Manly DCP2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types.</p> <p><u>Planning Comments</u></p> <p>Councils Landscape Officer recommended the following condition</p> <p><i>"Landscaping is to be installed along the pool extent to soil pocket areas below the swimming pool, to incorporate at least seven (7) equally spaced locally native tall shrubs to attain a height of 3-4 metres at maturity, planted at a minimum of 200mm pot size.</i></p> <p><i>Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the conditions of consent.</i></p> <p><i>Reason: to ensure that the landscape treatments are installed to provide landscape amenity."</i></p> <p>The proposed pool is consistent with nearby development and will not result in any unreasonable visual impacts within the locality. The recommended condition also has the potential to disturb Aboriginal heritage. As such this condition has not been included in the recommendation.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against Manly LEP Clause 6.5 (Terrestrial Biodiversity). It is considered that the proposal is unlikely to result in a substantial impact to existing native vegetation or wildlife and can therefore comply with the control, subject to recommended conditions of consent.</p>
NECC (Coast and Catchments)	<p>The development has been assessed for Coastal impacts against Manly DCP, LEP and Sydney Regional Environment Plan (Sydney Harbour). The following documents were considered:</p> <p>Plans - master set Statement of Environmental Effects Geotechnical Report Hydraulic Plans</p> <p>The development is considered not to have significant impacts on the surrounding coastal environment and is supported subject to conditions.</p>
NECC (Development Engineering)	<p>Development Engineer has no objection to the application subject to the following condition of consent.</p>

External Referral Body	Comments

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	<p>An Aboriginal heritage due diligence assessment report was prepared for the proposal (by Associates Archaeology and Heritage, Dec 2017). The Aboriginal Heritage Office has reviewed this report and considers that it does not provide sufficient information regarding the Aboriginal site at the lower part of the property. There is little detailed description of the shelter despite the likelihood that the stairs will need replacing and the potential for other works and landscaping that could affect the site. It is also not clear whether the site has been recorded (ie site number, name and site details are not included). As such the AHO is not able to make an independent assessment on the information presented and cannot be sure that Aboriginal heritage issues have been fully considered.</p> <p>Given that an Aboriginal site is reported on the lot and the possibility of works (direct or indirect) affecting the site and sensitive area, the Aboriginal Heritage Office recommends the proponent submit an Aboriginal heritage site management report that can provide more detailed information about what the Aboriginal heritage site is and how it will be protected.</p> <p>The AHO would recommend that the management plan be prepared (endorsed by the Metropolitan Local Aboriginal Land Council) that details the following:</p> <ul style="list-style-type: none"> <li>• Mapping of site boundary and all archaeological features</li> <li>• Options for no-impact (no AHIP) development proposals (preferable), and minor impact (AHIP required) proposals (less preferable)</li> <li>• Construction phase procedures to ensure site protection and legal protection for workers (including inductions)</li> <li>• Landscaping phase procedures to ensure site protection (short and long term) and legal protection for workers (including inductions)</li> <li>• Ongoing maintenance provisions</li> <li>• Aboriginal heritage archaeological monitoring provisions and update to AHIMS following final works</li> <li>• Procedures to follow in the event of a disturbance to the site</li> </ul> <p><u>Planning Comments</u></p> <p>The fact that the proposed development is located over the existing disturbed area on the site and will not impact on the rock outcrops identified in the due diligence assessment was raised with the AHO. The AHO maintained concerns of potential indirect impacts throughout construction. After further discussions, it was agreed that the development could proceed, subject to conditions requiring that the aboriginal site is identified and protected throughout the construction. Suitable conditions have been 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. A324935\_02 dated 13 August 2018).

#### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The subject property is located within the Foreshores and Waterways Area therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), Clause 26 (relating to maintenance, protection and enhancement of views) and Clause 27 (relating to boat storage facilities) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

#### **SEPP (Coastal Management) 2018**

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

#### ***10 Development on certain land within coastal wetlands and littoral rainforests area***

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

Comment:

Not applicable.

## 11 Development on land in proximity to coastal wetlands or littoral rainforest

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

Comment:

Not applicable

## 12 Development on land within the coastal vulnerability area

*Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:*

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
  - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
  - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
  - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure*

that  
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future  
coastal  
hazards.

Comment:

Not applicable.

### 13 Development on land within the coastal environment area

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

Comment:

The proposal is for alterations and additions to the existing dwelling. The proposed alterations will not result in any significant adverse impacts on the matters raised in (a)-(g) above.

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

- will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposed alterations and additions are suitably designed and sited to avoid adverse impacts on the above mentioned items (a)-(g).

#### **14 Development on land within the coastal use area**

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
  - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
  - (iv) Aboriginal cultural heritage, practices and places,
  - (v) cultural and built environment heritage, and
- (b) is satisfied that:
- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
  - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed works are appropriately designed and sited to avoid any adverse impacts on the items mentioned in (1)(a)(i)-(v). The proposal is of a reasonable bulk scale and size within the locality. The proposal will not impact on the surrounding coastal environment.

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

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

Comment:

The proposal will not result in an increased risk of coastal hazards on the land or other land.

Conclusion

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

## Manly Local Environmental Plan 2013

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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.3m	N/A	Yes
Floor Space Ratio	FSR: 0.4:1 (546.4sqm)	FSR: 0.23:1 (326.5sqm)	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

## Manly Development Control Plan

### Built Form Controls

Built Form Controls - Site Area: 1366sqm	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	East: 7m (based on gradient 1:12)	6m	N/A	Yes
	West: 7.3m (based on gradient 1:7.5)	7.26m	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	2.26m	N/A	Yes
	Parapet Height: 0.6m	0.3m	N/A	Yes
4.1.4.1 Street Front Setbacks	6m	11.6m	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	<b>East</b> Dwelling 1.8m - 2m Garage 0.93m - 0.7m	<b>East</b> Dwelling Existing no change - 1.4m Garage 0.96m	Existing 30%	No
	<b>West</b>	<b>West</b>	Existing	No

	Dwelling 2m - 2.4m Driveway 0.55m - 1.2	Dwelling Existing 1.8m - 3.3 Driveway 0.86m	10% Driveway 28%	
	Windows: 3m	1.4m	53%	No
4.1.4.4 Rear Setbacks	8m	25m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area (819.6sqm)	73% (1000.1sqm)	N/A	Yes
	Open space above ground of total open space 25%	2.5% (24.9sqm)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% of open space	87%(876.1sqm)	N/A	Yes
	4 native trees	Nil proposed	100	No
4.1.5.3 Private Open Space	18sqm per dwelling	73.1sqm	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	6m	N/A	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	4.8m	100%	No
	Setback equal to height above ground East 1.3m - 4.6m West 1.2m - 1.5m	East 2.4m - 3.5m West 1.5m	23%	No
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:  $38/40 \times 100 = 95$  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
3.3.1 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
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
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	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

#### Detailed Assessment

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

#### Merit consideration:

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

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

#### Comment:

The proposed changes do not result in any significant increase to the height of the existing roof. The proposed garage is of a minimal height and the bridge is a lightweight mostly transparent structure. The proposal will not result in any significant increase to overshadowing within the locality. This is confirmed by the shadow diagrams submitted with the application. The proposal will maintain an equitable access to and sunshine within the locality.

*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:

As discussed above, the proposal will not result in any unreasonable impacts on the solar access of the neighbouring properties private open spaces or windows to habitable rooms.

*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 proposal will allow for adequate penetration of sunlight into the development site during the winter solstice. The proposal will not result in any unreasonable overshadowing of neighbouring properties.

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.

### **3.4.3 Maintenance of Views**

Merit consideration:

An assessment of the view loss has been undertaken in accordance with the Objectives of the clause and the Views Planning Principle established by the NSW Land and Environment Court.

*Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.*

Comment:

The proposal has been assessed below with regard to the Views Planning Principle established by the NSW Land and Environment Court. The assessment has found that the proposal will provide for appropriate view sharing within the locality.

*Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).*

An assessment of view loss has also been undertaken with reference to the Views Planning Principle established by the NSW Land and Environment Court as follows:

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Comment:

The views to be affected are from 12 and 14 Linkmead Avenue. The affected views are whole water views and include the land and water interface.

*The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be*

*relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

Comment:

The affected views from 12 Linkmead are gained from the living area including dining kitchen and attached terraces, entry, master bedroom and pool area from a standing and sitting overlooking the side boundary.

The views lost from 14 Linkmead are from the kitchen/living area and attached terrace overlooking the side boundary.

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20 percent if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

Comment:

12 Linkmead Avenue Clontarf

The property at 12 Linkmead Avenue will lose some views from the lounge room dining room kitchen and attached terraces looking over the side boundary. These rooms will however retain extensive water views including the land and water interface looking over the rear and side boundaries. The photographs below have been taken from the lounge room and dining room, Super-imposed in grey is the proposal.



View from the loungeroom of 12 Linkmead (source: View Assessment dated 20/03/2019, GSA Planning)



*View from the dining area of 12 Linkmead (source: View Assessment dated 20/03/2019, GSA Planning)*

The entry of this property will also lose some views looking over the roof of the subject site. However, this room will retain the majority of this view including the land and water interface.

The views from the master bedroom and the terrace overlooking the side boundary will also be disrupted. This level will retain some views overlooking the side boundary and extensive water views including the land and water interface overlooking the rear boundary.

Due to the extensive views retained, the impact of the proposed development is best described as minor.

#### 14 Linkmead Avenue Clontarf

The property at 14 Linkmead Avenue will retain extensive views looking over the side and rear boundaries from the affected rooms. This view loss is best described as negligible.





*Views retained from 14 Linkmead Avenue*

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Comment:

The part of the development that is causing the impact is the change in roof form. The proposed roof form will remain compliant with the maximum permitted building height in accordance with clause 4.3 Height of Buildings of the Manly LEP 2013. The development will retain the existing walls and is compliant with the rear setback control. The proposal is a complying proposal. The views retained by the affected properties are extensive and the proposed roof will afford a greater level of amenity to the subject site. The development is considered to be a reasonable development and the view impacts are at the most considered to be minor. Given the above, the proposal is acceptable and will maintain a reasonable level of view sharing within the locality.

*Objective 3) To minimise loss of views, including accumulated view loss ‘view creep’ whilst recognising development may take place in accordance with the other provisions of this Plan.*

Comment:

As discussed above the proposal will minimise the loss of views while allowing development in accordance with this plan.

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

The Manly DCP 2013 requires new windows be setback a minimum 3m from the side boundary. The proposal includes new windows within 3m of the side boundaries.

The Manly DCP 2013 requires buildings be setback 1/3 of the wall height. The existing walls of the dwelling are non-compliant with this control. The proposed driveway wall is also not compliant with this control.

##### Merit consideration:

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

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

##### Comment:

The proposed non-compliances will not be visually prominent from the street. As such it will not impact on the spatial proportions of the street, the street edge and the landscape character of the street. Further the proposal to demolish the street front garage will significantly enhance the street edge and the landscape character of the street.

*Objective 2) To ensure and enhance local amenity by:*

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

##### Comment:

The proposal is considered to ensure and enhance the local amenity for the following reasons:

- The proposal is designed to capture views to the south from the living areas. The windows facing the side boundary are on the ground floor and are not to any living areas. As such they will not result in any unreasonable overlooking.
- As discussed under Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP 2013, the proposal will maintain an equitable access to light and sunshine within the locality.



- The proposal has been assessed under Clause 3.4.3 Maintenance of Views of the Manly DCP 2013. The assessment found that the proposal would achieve acceptable view sharing within the locality.
- The proposal will not impact on the streetscape or the traffic conditions within the street.

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

Comment:

The proposed flexibility will not result in unreasonable impacts on the street or the amenity of the neighbouring properties. The proposed flexibility is satisfactory in this circumstance.

*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 provides sufficient areas to allow for deep soil plantings and enhance the natural features of the site.

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

Comment:

The proposal was accompanied by a bushfire report that provided appropriate recommendations to allow for the setbacks provided.

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

#### **4.1.5 Open Space and Landscaping**

Description of non-compliance

The Manly DCP 2013 requires 4 native trees, of the species specified to be planted on this site. The subject site includes a number of existing large trees. However, no species have been specified.

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 existing trees on the site provide a suitable canopy to the front of the property. The proposal does not include any works to the lower portion of the site. The requirement for additional tree plantings is not warranted under these circumstances. The proposed development will maintain the important landscape features of the site

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

Comment:

The proposal provides more than required soft landscaped areas and open space at ground level. As discussed above the requirement for additional tree plantings is not warranted in this circumstance.

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

Comment:

The proposal is of a suitable design to maintain and enhance the amenity on the site.

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

Comment:

The proposal will maximise the water infiltration on site with the extensive landscaped areas provided.

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

Comment:

The proposed development will not result in the spread of weeds.

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

Comment:

The existing vegetation on the site is suitable to maximise the wildlife habitat on the site.

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.

#### **4.1.9 Swimming Pools, Spas and Water Features**

Description of Non-compliance

The Manly DCP 2013 requires pools be a maximum of 1m above ground and setback from the boundaries equal to the height above ground. The proposal does not comply with these controls.

#### Merit Consideration

With regard to the consideration of the variation, the development is considered under the objectives of the control below.

*Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;*

#### Comment:

The proposed swimming pool is orientated to capture views to the south. Due to this orientation the proposed deck will not result in any unreasonable overlooking of the neighbouring properties. Furthermore the property to the east is screened by a dense hedge on that site.

*Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;*

#### Comment:

The proposal will not impact on the streetscape of the locality.

*Objective 3) To integrate landscaping; and*

#### Comment:

The proposal provides sufficient areas to incorporate landscaping into the design.

*Objective 4) To become an emergency water resource in bush fire prone areas.*

#### Comment:

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**

### **Manly Section 94 Development Contributions Plan**

S94 Contributions are not applicable to this application.

## CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1459 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 64 DP 7532, 10 Linkmead Avenue, CLONTARF, 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>
A01-00 Site/Site Analysis Plan - Rev A	26/01/2019	Utz Sanby Architecture

A01-01 Ground / First Floor Plan - Rev A	26/01/2019	Utz Sanby Architecture
A01-02 Elevations - Rev A	26/01/2019	Utz Sanby Architecture
A01-03 Section - Rev A	26/01/2019	Utz Sanby Architecture

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Aboriginal Cultural Heritage and Archaeological Advice	December 2017	Associates Archeology and Heritage
Arboricultural Impact Assessment Report	23 November 2017	Urban Arbor
Bushfire Assessment Report	2 July 2018	Australian Bushfire Consulting Services
Geotechnical Stability Assessment	18 July 2018	JK Geootechnics

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:

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

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

## 2. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and

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

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

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

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

Reason: Legislative Requirement

### 3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until



the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

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

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Security Bond**

A bond (determined from cost of works) of \$10,000 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.

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

### 5. **Stormwater Disposal**

Plans indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments, shall be submitted prior to the issue of the Construction Certificate. The plans must indicate the provision of an appropriate scour and erosion control device in accordance with Council's Manly Specification

for on site stormwater management 2003.

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

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

**6. Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure suitable vehicular access to private property

**7. 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.

**8. Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities);
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls;
- North point and scale.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

**9. Aboriginal Site**

The aboriginal site and potential areas in the "Lower Area" of the property, discussed in the Aboriginal Cultural Heritage and Archaeological Advice (Due Diligence) report, prepared by Associates Archaeology and Heritage, Dec 2017, are to be identified and mapped by a suitably qualified archaeological consultant. This site and potential areas are to be confirmed by the

Metropolitan Local Aboriginal Land Council.

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

Reason: To ensure Aboriginal Heritage Protection.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **10. 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.

### **11. Project Arborist**

- i) a Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works,
- ii) the Project Arborist is to oversee all tree protection measures and works adjacent to protected trees as outlined in the Arboricultural Impact Assessment, prepared by Urban Arbor, and dated 23 November 2018, and AS4970-2009 Protection of trees on development sites,
- iii) the Project Arborist shall be in attendance and supervise all works in the vicinity of T1 - *Syzygium paniculaum* and T2 - *Pittosporum undulatum*, with specific attention to Section 8 - Assessment of Construction Impacts, and the recommendations for the new driveway to be an elevated structure, suspended on piers,
- iv) the Project Arborist shall determine on-site the location of all piers, and shall provide details to the Certifying Authority including certification of compliance to this requirement,
- v) the Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

### **12. Installation and Maintenance of Sediment and Erosion Control**

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

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

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

### **13. 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.

**14. Vehicle Crossings**

The provision of one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 5 EL and specifications. 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.

**15. Tree and vegetation protection**

A) Existing trees and vegetation shall be retained as follows:

- i) all trees and vegetation within the site, nominated for retention, excluding exempt trees under the relevant planning instruments of legislation,
- ii) all other trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation,

B) Existing tree as nominated for removal (T4) is permitted based on the assessment of significance and the recommendations of the Arboricultural Impact Assessment, prepared by Urban Arbor, and dated 23 November 2018,

C) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and according to the Arboricultural Impact Assessment, inclusive of the recommendations in section 8. Assessment of Construction Impacts, section 11. Recommendations, section 12. Tree protection Requirements, and section 13. Construction Hold Points for Tree Protection,
- ii) any tree roots exposed during excavation with a diameter greater than 25mm within the TPZ must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,
- iii) 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,
- iv) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site,
- v) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vi) should either or both iv) and v) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures provided. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority.

Reason: to retain and protect significant planting on development and adjoining sites.

**16. Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

17. **Pollution Control**

Any excess materials such as cleaning paintbrushes, lacquers, and any water from cleaning tools must not enter the stormwater network and/or receiving waterways.

Reason: To ensure that building associated chemicals and pollutants don't enter the surrounding environment.

18. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the NSW Office of Environment and Heritage.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the OEH.

Reason: Aboriginal Heritage Protection. (DACAHE01)

19. **Protection of Aboriginal Site**

The aboriginal site is to be marked out and protected at all times during construction.

Reason: To ensure the protection of Aboriginal Heritage.

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

22. **Landscape maintenance**

All landscape components are to be maintained for the life of the development. A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

23. **Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the Biodiversity Conservation Act 2016.

Reason: preservation of environmental amenity.

24. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

**Reason:** Weed management.

25. **Dead or Injured Wildlife – Manly LEP Clause 6.5**

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



**Reason:** To mitigate potential impacts to native wildlife resulting from construction activity.

26. **Protection of Aboriginal Heritage**

No works are to impact the identified Aboriginal site or potential areas .

**Reason:** To ensure the protection of Aboriginal Heritage.

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

**Signed**



**Benjamin Price, Planner**

The application is determined on 14/05/2019, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**