

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1135
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot C DP 90826, 18 Jenner Street SEAFORTH NSW 2092
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Matthew Grant Rae Catherine Mary Rae
Applicant:	Matthew Grant Rae Catherine Mary Rae

Application Lodged:	16/10/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	28/10/2019 to 11/11/2019
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 488,100.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the following alterations and additions to an existing residential dwelling:

Ground Floor:

- Carport forward of the dwelling
- Additional windows and doors
- New entry-way with associated stairs and verandah
- Verandah to the rear of the dwelling
- Cabana

First Floor:

- Eastern and Western side elevation annexes
- Bay windows to the southern elevation

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 - 3.8 Waste Management
- 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

SITE DESCRIPTION

Property Description:	Lot C DP 90826 , 18 Jenner Street SEAFORTH NSW 2092
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Jenner Street.</p> <p>The site is regular in shape with a frontage of 13.5m along Jenner Street and a depth of 56.1m. The site has a surveyed area of 748.6m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates one (1) and two (2) storey residential dwelling.</p> <p>The site has a southerly orientation and is located on a</p>

slope of approximately 8.8m falling from the north-western corner towards the street frontage.

The site has canopy trees located within the rear setback between the pool and rear boundary line. Hedging is located along the eastern and western side boundaries in both the front and rear setback. An area of turf is located forward of the building line, as well as within the rear setback.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by one (1) and two (2) storey 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.

A site visit to 18 Jenner Street was conducted on 6 November 2019, with the owner present.

A site visit to 16 Jenner Street was conducted on 25 November 2019, with the owner present, to inspect potential impacts to the neighbouring property as a result of the proposed development at 18 Jenner Street.

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)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to shadow diagrams to reflect existing and proposed shadows.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>

Section 4.15 Matters for Consideration'	Comments
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 process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Jonathan James Baxter Mrs Clare Marie Baxter	16 Jenner Street SEAFORTH NSW 2092
Mr Lindsay Keith Smith Hoori Smith	20 Jenner Street SEAFORTH NSW 2092

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

- Solar Access

- Front Fence
- Demolition Works
- Trade Vehicles
- Location of cabana along side boundary

The matters raised within the submissions are addressed as follows:

- **Solar Access**

Comment:

The owners of 16 Jenner Street have raised concerns with regards to the proposed alterations and additions impacting upon the solar access to their internal subterranean rumpus/kids play room. Shadow diagrams were provided with this application, however the diagrams failed to show existing shadows. Council requested the applicant provide amended shadow diagrams to review the potential impact to the solar access as a result of the proposed development. Amended plans were provided on 4 November 2019.

Upon review of the amended shadow diagrams it was noted the original shadow diagrams incorrectly plotted the solar movement.

It is noted that the subterranean room in question at 16 Jenner Street currently experiences a loss of direct solar access from 2pm onwards on June 21. The proposed alterations and additions on the subject site will maintain this solar access, and as such the proposed development achieves solar access to 16 Jenner Street between 12noon and 2pm. Therefore, compliance is achieved with the minimum 2 hours requirement under *Clause 3.4.1 Sunlight Access and Overshadowing* of MDCP.

A further discussion on solar access can be found under *3.4.1 Sunlight Access and Overshadowing* of this report.

- **Front Fence**

Comment:

Concern has been raised by the owners of 16 Jenner Street with regards to the proposed front fence. The plans do not clearly show whether the proposed front fence will be attached the existing brick all on 16 Jenner Street. The owners of 16 Jenner Street do not consent to the proposed fence being attached, and as such, without owners consent Council cannot approve the front fence if it is to be attached, therefore a condition of consent has been recommended to ensure the proposed front fence remains wholly within the site of 18 Jenner Street and does not physically attach to or encroach upon 16 Jenner Street and 20 Jenner Street.

Additionally, should the application be approved, a condition of consent will be recommended to ensure the applicant engages a registered surveyor to conduct a boundary survey to ensure the fence does not encroach over the allotment boundary of 18 Jenner Street.

- **Demolition Works**

Comment:

The owners of 16 Jenner Street have requested that they are notified well in advance of any demolition works due to noise pollution impacting upon their day to day amenity. This is a matter to be discussed between neighbours as this is not a Council or planning issue.

- **Trade Vehicles**

Comment:

The owners of 16 Jenner Street and 20 Jenner Street have raised concerns with regards to

trade vehicles impacting upon the egress and entering of their site. They have requested that trade vehicles, as much as possible, are located on the property of 18 Jenner Street throughout development. Again, this is a matter to be discussed between neighbours as this is not a Council or planning issue.

- **Location of Cabana along the western boundary**

Comment:

The owners of 20 Jenner Street have raised concern with regards to the close proximity of the proposed cabana along the western side boundary. They are concerned the closeness will prohibit future maintenance of the existing rock retaining wall with timber fence above the retaining wall. A condition of consent has been recommended to setback the cabana 0.9m from the western side boundary to ensure minimal amenity impact to the adjoining property.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The plans indicate removal of 1 x <i>Callistemon</i> sp. to provide for separate pedestrian access into the site. The tree appears to be exempt via its height being less than 5 m. No objections are raised to approval subject to conditions.
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following condition of consent.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A358354 on 16 September 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	% Variation	Complies
Height of Buildings:	8.5m	8.3m	N/A	Yes

Floor Space Ratio	FSR: 0.4:1	FSR: 0.2:1	N/A	Yes
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Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes

Mainly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 748.2m ²	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings	1	N/A	Yes
	Dwelling Size: 90m ²	155.3m ²	N/A	Yes
4.1.2.1 Wall Height	E: 7.1m (based on gradient 1:10)	6.3m	N/A	Yes
	W: 7.2m (based on gradient 1:9)	6.3m	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.3m	N/A	Yes
	Pitch: maximum 35 degrees	15 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	6m	6.7m	N/A	Yes
4.1.4.2 Side Setbacks	2.1m (based on wall height) (western boundary)	Western Boundary		
		Ground Level: Cabana 0.4m	80%	No
		Carport 1.0m	52%	No
		Verandah 1.1m	47%	No
			N/A	Yes
		Upper Level: Annex 2.3m		
		Eastern Boundary	57%	No
	2.1m (based on wall height)	Ground Level:	52%	No

	(eastern boundary)	Front Verandah 0.9m Rear Verandah 1.0 <i>Upper Level:</i> Annex 2.3m	N/A	Yes
	Windows: 3m	Western Elevation <i>Ground Level</i> 1.2m <i>Upper Level</i> 2.3m Eastern Elevation <i>Upper Level</i> 2.3m	60% 23% 23%	No No No
4.1.4.4 Rear Setbacks	8m	12.3m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area (448.9m ²)	69% (516.2m ²)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% of open space (179.5m ²)	49.5% (255.9m ²)	N/A	Yes
	3 native trees	2 trees (existing)	66.6%	No
4.1.5.3 Private Open Space	18m ²	>18m ²	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	4.0m (28%)	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ 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
3.4 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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	No	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.10 Fencing	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes
Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

The original proposed shadow diagrams provided by the applicant reflect an incorrect solar movement (sun moving west to east). Amended plans were provided to reflect the correct solar movement (east to west) and the existing shadows. The owners of 16 Jenner Street were initially provided with the incorrect shadow diagrams and as such have raised concerns with regards to the proposed development impacting upon the solar access to their internal living area.

However, the amended shadow diagrams show the existing and proposed shadows cast (from an east to west perspective). An additional minor shadow is cast to the subterranean room of 16 Jenner Street as a result of the proposed rear verandah (not the first floor additions), however this is reflected from

2pm onwards.

The proposed development achieves compliance with the minimum solar access requirements under this control with regards to *3.4.1.1 Overshadowing Adjoining Open Space* and *3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties*.

3.8 Waste Management

A Northern Beaches Council Waste Management Plan was not submitted with this application. Should this application be approved, conditions of consent will be included to ensure a Northern Beaches Council Waste Management Plan is prepared prior to the issue of the Construction Certificate, compliance with this plan is required during development, and prior to the issue of an Occupation Certificate the certifying authority must be satisfied that all waste and builders' materials have been reused, or removed from the site appropriately and in accordance with the Waste Management Plan submitted.

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

Description of non-compliance

4.1.4.2 Side Setbacks and Secondary Street Frontages

This control requires side setbacks to be one third of the proposed wall height. Therefore, the proposed side setback for both the western and eastern elevations is 2.1m.

Western Side Boundary

The proposed carport, cabana and rear verandah do not achieve compliance with the minimum side setback requirement. Representing variations of 52%, 80% and 47%, respectively.

Eastern Side Boundary

The proposed front and rear verandahs do not achieve compliance with the minimum side setback requirement. Representing variations of 57% and 52%, respectively.

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 additions along both the western and eastern elevations are maintaining the buildings existing side setbacks, therefore maintaining the existing streetscape.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*

- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The proposed development is unlikely to impact upon the privacy and other amenities of the adjoining properties. Concern was raised by the home owners of 16 Jenner Street regarding potential lack of solar access - this has been addressed in this report under Section 3.4.1 Sunlight Access and Overshadowing. No views will be impacted as a result of the development, and the existing streetscape will remain and be enhanced by the provision of a front white picket fence with vehicle and pedestrian access points.

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

Comment:

No unreasonable amenity impacts will arise as a result of the proposed development.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposed works are located over already existing hardstand surfaces, with the exception of the pedestrian pathway and gate which requires the removal of one (1) native tree. However, Council's Landscape Officer has reviewed this application and provided a condition of consent to ensure one (1) native tree is planted within the front yard as replacement planting.

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

Comment:

The subject site is not located within bush fire prone land, therefore this objective is irrelevant.

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

4.1.5.2 Landscaped Area (c) Minimum Tree Plantings

This control requires three (3) native trees to be planted on the site. The site currently has two (2) native trees. Council's Landscape Officer has reviewed this application and determined that compliance with this control is required and as such as recommended a condition of consent to include planting one (1) tree capable of attaining a minimum height of 5m at maturity within the front yard.

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:

One (1) tree is proposed to be removed to make way for the new pedestrian path within the front yard. However, a condition of consent has been recommended to ensure a replacement tree is planted within the front setback. No other significant landscape features are proposed to be removed as a result of the proposed development.

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 proposed development achieves compliance with the minimum landscaped area requirements under this control.

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 development is unlikely to impact upon the amenity of the site, the streetscape and surrounding properties.

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

Comment:

The proposed development achieves compliance with the minimum landscaped area requirements, and as such water infiltration to the water table and the minimisation of stormwater runoff is achieved as a result of the proposed development.

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

Comment:

The proposed development is unlikely to result in the spread of weeds and the degradation of private

and public open space.

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

Comment:

The majority of the vegetation and trees located on the site are proposed to be retained, and as such wildlife habitat and potential wildlife corridors are unlikely to be impacted. The provision of one (1) additional tree located in the front yard will enhance wildlife habitat and wildlife corridors.

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

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 \$4,881 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$488,100.

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 DA2019/1135 for Alterations and additions to a dwelling house on land at Lot C DP 90826, 18 Jenner Street, SEAFORTH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A101 Site Plan	1 November 2019	Blue Sky Building Designs
A103 Demolition Plan	1 November 2019	Blue Sky Building Designs
A104 Garage & Fence Floor Plan	1 November 2019	Blue Sky Building Designs
A105 Ground Floor Plan	1 November 2019	Blue Sky Building Designs
A106 First Floor Plan	1 November 2019	Blue Sky Building Designs
A107 North & South Elevations	1 November 2019	Blue Sky Building Designs
A108 East & West Elevations	1 November 2019	Blue Sky Building Designs
A109 Section 1-1, 2-2 & Cabana Section 3-3	1 November 2019	Blue Sky Building Designs

Engineering Plans		
Drawing No.	Dated	Prepared By

A112 Sediment Control & Waste Management Plan	1 November 2019	Blue Sky Building Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate A358354	16 September 2019	Blue Sky Building Designs

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

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 \$4,881.00 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 \$488,100.00.

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**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003.

Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the 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. **Amendments to the approved plans**

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

- The proposed cabana is to be setback 0.9m from the western side boundary.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

8. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

9. **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.

10. **Boundary Survey**

A Boundary Survey is to be conducted of the subject site prior to the issue of a Construction Certificate. The Boundary Survey is to be prepared and signed by a registered surveyor.

Reason: to ensure the proposed works are contained wholly within the subject site.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. **Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with local planning controls and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. **Road Reserve**

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

Reason: Public Safety.

13. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act
- o Work Health and Safety Regulation

- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)]
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

14. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

15. **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

16. **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.

17. **Required Planting**

Trees shall be planted in accordance with the following schedule:

Minimum No. of Trees Required.	Species	Location	Minimum Pot Size
1	Tree capable of attaining a minimum height of 5 metres at maturity	Front yard	200mm

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

Reason: To maintain environmental amenity.


18. **Finished works**

All works are to be contained wholly within the property boundaries of 18 Jenner Street, Seaforth.

Reason: To ensure there is no impact upon neighbouring properties.

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

Signed



Megan Surtees, Planner

The application is determined on 29/11/2019, under the delegated authority of:



Rebecca Englund, Acting Development Assessment Manager