

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0915
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Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 4 DP 249261, 4 Laura Street SEAFORTH NSW 2092
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Marcelle Carr
Applicant:	Amanda Elboz

Application Lodged:	14/08/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/08/2020 to 04/09/2020
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 74,728.00
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PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to the existing dwelling including the demolition of an existing pergola and construction of a new pergola and associated outdoor living and entertainment structures adjacent to the eastern boundary.

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 - 3.4.2 Privacy and Security

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

SITE DESCRIPTION

Property Description:	Lot 4 DP 249261 , 4 Laura Street SEAFORTH NSW 2092
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Laura Street.</p> <p>The site is irregular in shape with a frontage of 4.875m along Laura Street and a depth of 55.1m. The site has a surveyed area of 976.2m².</p> <p>The site is located within the E3 Environmental Management zone and accommodates a four-storey residential dwelling with a number of ancillary structures including a large courtyard area with swimming pool at the rear of the dwelling, terraced gardens and multiple timber decks towards the foreshore and a timber jetty. Parts of the site is under construction subject to development consent DA148/2014 and subsequent modifications.</p> <p>The site falls approx. 21m from the front boundary towards the foreshore. The site falls steeply by approx. 9.5m from the southern side of the swimming pool area to the foreshore.</p> <p>The site contains a number of natural environment elements, including rock outcrops and the foreshore frontage. The site does not contain any significant canopy trees, but has a number of garden areas between the rear courtyard and foreshore. This area is currently under construction.</p> <p>Detailed Description of Adjoining/Surrounding</p>

Development

Adjoining and surrounding development is characterised by low density residential dwellings with ancillary structures and outbuildings, including swimming pools, jetties and boatsheds.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Application **DA198/2010** for alterations and additions to an existing dwelling including second floor addition, new roof and extend garage was approved on 28/09/2010 by the Manly Council Development Assessment Unit.

Application **DA148/2014** for alterations and additions to an existing dwelling including new masonry sea wall and retaining walls to replace existing timber logs, new timber stairs, new decks, new decked landings, new walkways and increasing the depth of the existing boatshed was approved on 25/02/2015 by the Manly Council Development Assessment Unit.

Application **BC2019/0071** for changes from DA198/2010 to lower ground floor, ground floor, first floor and second floor was approved on 20/09/2019.

Application **Mod2019/0241** for modification of Development Consent DA148/2014 granted for alterations and additions to an existing dwelling including a sea wall was approved on 18/12/2019 by the Development Determination Panel.

Application **DA2020/0586** for alterations and additions to a dwelling house was approved on 08/09/2020 by the Development Determination Panel.

Application **Mod2020/0393** for modification of development consent DA148/2014 granted for alterations

and additions to an existing dwelling including a sea wall is under assessment at time of this application's determination.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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&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. No additional information was requested in this case.</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</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 21/08/2020 to 04/09/2020 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:
Sarah McNeilly	Address Unknown

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

- Owners consent
- Bulk and scale
- Side setbacks
- Height
- Views
- Solar access
- Privacy
- Landscaping
- Stormwater

The matters raised within the submissions are addressed as follows:

- *Concern is raised that the proposed development includes the removal of a fence within the boundary of 3 Laura Street and advises consent is not granted for the fence to be removed.*

Comment:

The development consent does not approve the construction or removal of any structure on an adjacent lot. A condition is included to require a boundary identification survey be undertaken prior to the issue of a construction certificate to identify the exact boundary locations and positions of existing structures.

- *Concern is raised that the bulk and scale of the proposed development will unreasonably impact upon the amenity of the dwelling at 3 Laura Street and inconsistent with the objectives of MDCP.*

Comment:

While the proposed pergola and wall along the eastern boundary have a nil setback and effectively increase the height of the wall by 900mm, the bulk and scale of the development is not considered to unreasonably impact upon the general amenity of the dwelling at 3 Laura Street as its internal living spaces and outdoor private open space are generally orientated towards the south and east. Due to this orientation and the lack of substantial window openings along the western elevation, the bulk and scale of the proposed development is not expected to be readily perceived by occupants of the dwelling at 3 Laura Street.

- *Concern is raised that the proposed nil setback of the development to the eastern boundary will unreasonably impact upon the amenity of the dwelling at 3 Laura Street and inconsistent with the objectives of MDCP.*

Comment:

Detailed assessment of the proposed development in accordance with Council's setback requirements is included in this report under Part 4.1.4 of the MDCP.

- *Concern is raised that height of the proposed development will be visually imposing on the dwelling at 3 Laura Street and reduce solar access.*

Comment:

While the proposed pergola and boundary wall has a nil setback to the eastern boundary, the height of the proposed structures are numerically compliant with Council's development controls. It is considered the proposed development is unlikely to create an additional visual imposition on the dwelling at 3 Laura Street due to the existing wall along the eastern boundary. The dwelling at 3 Laura Street is generally orientated towards the south and east with no living room window openings along the western elevation. Adequate levels of solar access is maintained to 3 Laura Street.

As such, the height of the proposed development is considered to be acceptable.

- *Concern is raised that the proposed development will impact upon views of Middle Harbour enjoyed by 3 Laura Street.*

Comment:

Detailed assessment of the proposed development in accordance with Council's maintenance of view requirements is included in this report under Part 3.4.3 of the MDCP.

- *Concern is raised that the proposed development will unreasonably impact upon the solar access of the dwelling at 3 Laura Street.*

Comment:

Part 3.4.1 of the MDCP outlines solar access requirements for development. The control requires one third of the existing sunlight accessing the private open space of adjacent properties between 9am and 3pm on 21 June to be maintained and that at least 4 hours of direct solar access be maintained to windows and glazed doors to living rooms of adjacent dwellings be maintained between 9am and 3pm on 21 June. No reduction in solar access is permitted where existing windows enjoy less than the minimum number of sunlight hours specified above.

It is considered the proposed development demonstrates consistency with the solar access requirements. The proposed development is not expected to significantly alter the existing level of overshadowing caused by existing structures, such as the wall along the eastern boundary. Any additional overshadowing caused by the proposed pergola will not impact upon windows to the living rooms or outdoor private open space of the dwelling at 3 Laura Street.

As such, the proposed development is consistent with the requirements and objectives of the solar access provisions of MDCP.

- *Concern is raised that the proposed alteration to the stairway will lead to unreasonable levels of privacy impact to 3 Laura Street.*

Comment:

Detailed assessment of the proposed development in accordance with Council's privacy requirements is included in this report under Part 3.4.2 of the MDCP.

- *Concern is raised that the proposed development will result in a reduction in landscaped area that can be utilised to provide privacy between properties and that existing areas of landscaping along the shared boundary of 3 Laura Street are maintained.*

Comment:

Detailed assessment of the proposed development in accordance with Council's open space and landscaping requirements is included in this report under Part 4.1.5 of the MDCP.

- *Concern is raised that the proposed development may impact upon existing stormwater disposal functions along the shared boundary with 3 Laura Street.*

Comment:

Adequate stormwater management has been demonstrated by the applicant.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against Manly Local Environmental Plan 2013 cl. 6.5 Terrestrial biodiversity and State Environmental Planning Policy (Coastal Management) cl 13 Development on land within the coastal environment area.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact, including the integrity and resilience of the ecological environment, native vegetation and fauna and their habitats.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP.</p> <p>The application has also been assessed using Northern Beaches SREP assessment template.</p>

Internal Referral Body	Comments
	<p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13 (coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Space Landscape Design Pty. Ltd. dated July 2020, the DA satisfies requirements under Clause 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005 Harbour Foreshores & Waterways Area</p> <p>The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 2, Clause 14 and Part 3, Division 2 apply in assessing this DA.</p> <p>On internal assessment and as assessed in the submitted Statement</p>

Internal Referral Body	Comments
	<p>of Environmental Effects (SEE) report prepared by Space Landscape Design Pty. Ltd. dated July 2020, it is determined that the Planning Principles and Matters for Consideration of the Area have been met.</p> <p>The subject site is located within/adjacent to the W6 (Scenic Waters – Active Use) Zones.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Space Landscape Design Pty. Ltd. dated July 2020, it is determined that the objectives and assessment criteria of the zone have been met.</p> <p>Manly LEP 2013 and Manly DCP</p> <p>Foreshores Scenic Protection Area Management The subject site is also shown to be as “Manly Foreshores Scenic Protection Area” on Council’s Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Space Landscape Design Pty. Ltd. dated July 2020, the DA satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013.</p> <p>As such, it is considered that the application does comply with the requirements of the Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013.</p> <p>Development on Foreshore Area</p> <p>The subject site is also shown to be as “Manly Foreshores Area” on Council’s Area “within the foreshore building line Map” in Manly LEP 2013. Hence, Part 6, Clause 6.10 –Limited development on foreshore</p>

Internal Referral Body	Comments
	<p>area of the Manly LEP 2013 applies for any development within the foreshore area.</p> <p>None of the proposed developments are located on the foreshores area.</p>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, 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 (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 who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Consideration and assessment of the proposal in accordance of the provisions of the SREP is included in the Coast and Catchments referral comments.

SEPP (Coastal Management) 2018

Consideration and assessment of the proposal in accordance of the requirements of the CM SEPP is included in the Coast and Catchments referral comments.

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	5.7m	N/A	Yes
Floor Space Ratio	0.4:1	No change	N/A	As existing

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.3A Special height provisions	Yes
4.4 Floor space ratio	Yes

Clause	Compliance with Requirements
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: 976.2m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	E: 7.3m (based on gradient 1:7.5)	2.0m	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line	No change to existing setback	N/A	N/A
4.1.4.2 Side Setbacks and Secondary Street Frontages	0.66m (based on wall height)	Nil	100%	No
4.1.4.5 Foreshore Building Lines and Foreshore Area	Above FSBL	Above FSBL	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area	57% (562.5m ²)	3.9%	As existing
4.1.5.2 Landscaped Area	Landscaped area 40% of open space	18.5% (104m ²)	81.5%	No
4.1.5.3 Private Open Space	18m ² per dwelling	>18m ²	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	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
3.6 Accessibility	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
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
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

Description of non-compliance

An objection has raised concern the proposed development will impact upon the privacy of the dwelling at 3 Laura Street.

Merit consideration:

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

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

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

Comment:

The proposed development is expected to improve the level of privacy between dwellings. The existing

uncovered outdoor private open space of the subject site along the eastern boundary is to be covered by the proposed pergola. This is expected to limit the potential of overlooking from the upper floor of the dwelling at 3 Laura Street into the private open space of the subject site. The pergola is also expected to act as a partial acoustic treatment of the private open space of the subject site adjacent to the eastern boundary. Privacy screening is proposed between the top of the existing wall along the eastern boundary and the underside of the pergola roof and the top landing of the new stairway to the first floor balcony. This will limit direct viewing from and into windows and the private open space of the dwelling at 3 Laura Street.

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

Comment:

The proposed privacy elements are not expected to cause unreasonable impact to view corridors and solar access of adjacent dwellings

Objective 3) To encourage awareness of neighbourhood security.

Comment:

Adequate levels of neighbourhood security are maintained.

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 s1.3 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:

The development is considered against the Objectives of the Control:

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

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).

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.

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

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 view corridor that has the potential to be impacted by the proposed development is of Middle Harbour towards the west when viewed from the dwelling at 3 Laura Street. This dwelling also enjoys whole views of Middle Harbour and Mosman towards the south and east. These views will not be impacted by the proposed development.

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 view that is claimed to be impacted is obtained across a side boundary. The view towards the west is only able to be achieved from the upper floor of the dwelling at 3 Laura Street. The primary internal living space of this dwelling is orientated towards the south and east where the view corridor will not be impacted by the proposed development.

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:

As the proposed development is located immediately adjacent to the common boundary with 3 Laura Street, the extent of view impact is expected to be negligible. Other view corridors towards the south and east will not be impacted by the proposed development.

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:

While the proposed development demonstrates some numerically non-compliant elements, these elements are not expected to unreasonably impact upon the majority of views enjoyed by the dwelling at 3 Laura Street.

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 s1.3 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

4.1.4.2 Side setbacks and secondary street frontages

Setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.

As such, the minimum side setback requirement for the proposed walls and pergola is 0.66m. The walls and pergola are proposed with a nil setback to the eastern side boundary.

It is noted there is an existing wall along part of the eastern boundary with a nil setback. This wall is to remain and the supports for the pergola mounted to the wall.

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 development is unable to be directly viewed from the street. No impact to the existing streetscape character is expected.

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 expected to generally improve amenity between dwellings by covering a larger area of the existing private open space of the subject site than the existing conditions. The proposed pergola is expected to limit visual and acoustic privacy impacts between dwellings. Existing view corridors are not expected to be unreasonably impacted by the proposed development.

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

Comment:

The proposed development is generally located within existing built areas.

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:

While the proposed development removes a small area of landscaped space between the property boundary and the wall along the northeast-facing portion of the eastern boundary, new landscaped areas are proposed to be provided to improve the amenity of the private open space of the dwelling. No significant trees or vegetation is required to be removed to facilitate the proposed development.

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

Comment:

N/A

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 s1.3 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

4.1.5.1 Minimum Residential Total Open Space Requirements

The site is located in Area OS4, meaning a minimum total open space of 60% of site area.

The proposed total open space for the site is approx. 57.6% of site area (562.5m²).

4.1.5.2 Landscaped Area

The site is located in Area OS4, meaning a minimum landscaped area of 40% of the proposed total open space.

The proposed landscaped area is 104m², representing 18.5% of the proposed total open space.

Merit consideration:

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

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

Comment:

The proposal does not involve the removal of trees or significant landscape features on 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 proposed development will result in a very small area of existing landscaped area being built upon. This area is offset elsewhere within the site and the overall landscaped area on the site is increased.

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

Comment:

Amenity considerations including sunlight access, privacy and views have all been considered as part of this application, with no unreasonable impacts upon the subject site or neighbouring properties. The established streetscape character is not likely to be impacted by the proposed works.

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

Comment:

No significant change to onsite water infiltration is expected. The amount of stormwater runoff is expected to be generally consistent with the existing conditions. Stormwater runoff from new built structures is to be conveyed into the existing stormwater disposal system.

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

Comment:

The proposal does not include the introduction of any weeds.

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

Comment:

The proposal is not expected to have unreasonable impact upon wildlife habitat or 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 s1.3 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 affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of 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 DA2020/0915 for Alterations and additions to a dwelling house on land at Lot 4 DP 249261, 4 Laura 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
DA-01 Rev B	16/07/2020	Space Landscape Designs
DA-03 Rev B	16/07/2020	Space Landscape Designs
DA-04 Rev B	16/07/2020	Space Landscape Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation (Ref: J2839)	03/08/2020	White Geotechnical Group

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
DA-05 Rev A	14/07/2020	Space Landscape Designs

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	24/07/2020	Space Landscape Designs

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. Compliance with Other Department, Authority or Service Requirements

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

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Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	08/09/2020

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

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

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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.

4. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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

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 are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

Signed



Nick Keeler, Planner

The application is determined on 25/09/2020, under the delegated authority of:



Tony Collier, Acting Development Assessment Manager