



## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0296
----------------------------	-------------

<b>Responsible Officer:</b>	Thomas Burns
<b>Land to be developed (Address):</b>	Lot 13 DP 758044, 4 Dobroyd Road BALGOWLAH HEIGHTS NSW 2093
<b>Proposed Development:</b>	Construction of a fence and retaining walls
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Jagdeep Singh Sarai Baljinder Kaur Sarai
<b>Applicant:</b>	Paul Norman

<b>Application Lodged:</b>	23/03/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	07/04/2020 to 25/04/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 81,000.00
---------------------------------	--------------

### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for the construction of retaining walls, fencing and associated landscaping works.

### ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;

- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

Manly Development Control Plan - 3.3.2 Preservation of Trees or Bushland Vegetation

Manly Development Control Plan - 3.8 Waste Management

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.1.8 Development on Sloping Sites

Manly Development Control Plan - 4.1.10 Fencing

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

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 13 DP 758044 , 4 Dobroyd Road BALGOWLAH HEIGHTS NSW 2093
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the corner of Dobroyd Road and Beaconview Street in Balgowlah Heights. Vehicular and pedestrian access is currently provided via Beaconview Street.</p> <p>The site is irregular in shape with five (5) boundaries and has a maximum depth of 30.48m along the northern boundary. The site has a surveyed area of 663.7sqm.</p> <p>The site is located within the R2 Low Density Residential zone pursuant to the MLEP 2013 and accomodates a two (2) storey detached dwelling house and a swimming pool within the rear yard that is currently under construction.</p> <p>The site is currently devoid of any significant vegetation or landscaping and contains retaining walls that run contiguous to the western, southern and eastern boundaries.</p> <p>The site experiences a fall of approximately 2.8m that slopes from the south-eastern corner to the north-western corner. Much of the slope occurs along the southern boundary, considering the site topography has been modified from recent construction works.</p> <p>The site is not identified within a flood prone area, however is identified on the 'Manly Bush Fire Prone Land Map 2010'.</p> <p>The site is identified on the SREP Sydney Harbour Catchment 2005 Map.</p> <p>The site does not contain a heritage item, is not located within a heritage conservation area and is not located within the vicinity of a heritage item.</p> <p>The site is not burdened by or benefit from any easements or restrictions.</p>

### Detailed Description of Adjoining and Surrounding Development

Adjoining and surrounding development consists of one (1) and two (2) storey detached dwelling houses, comprising a variety of architectural styles.

Map:



### SITE HISTORY

The site has been used for residential purposes for a significant period of time. A search of Council's records has revealed the following relevant history:

- Complying Development Certificate **CDC2018/1156** for demolition of existing dwelling and outbuildings approved by Silver Certifiers on 01 November 2018;
- Complying Development Certificate **CDC2018/1157** for proposed construction of a new two storey dwelling approved by Silver Certifiers on 14 November 2018;
- Complying Development Certificate **CDC2018/1273** for construction of a swimming pool approved by Silver Certifiers on 23 November 2018;
- Complying Development Certificate **CDC2019/0003** for construction of retaining walls approved by Silver Certifiers on 12 December 2018; and
- Development Application **DA2019/1347** for earthworks and fencing rejected by Council on 13 January 2020.

It is noted that an Interim or Final Occupation Certificate has not been issued for the approvals listed above.

### Site Visits

A site visit was undertaken at the subject site on 16 April 2020.

### 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 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 2013 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans depicting the existing fence structures on the site.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Protection Planning & Assessment Services, dated 09 December 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

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

Name:	Address:
Mr Cary Lynn Granger	1 Dobroyd Road BALGOWLAH HEIGHTS NSW 2093

One (1) submission was received by the occupants of 1 Dobroyd Road (opposite the site on the southern side of Dobroyd Road). The occupants offered full support to the proposed development, with no concerns being raised.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application proposes the construction of residential fencing, retaining walls and associated works.</p> <p>The landscape component of the proposal is acceptable subject to the protection of existing trees and vegetation within adjoining properties and within the road verge, and the completion of landscaping.</p> <p>Council's Landscape section have assessed the application against the landscape controls of Manly DCP 2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types, including 4.1.1.2 Residential Land Subdivision, and 4.4.8 Subdivision.</p> <p>A Landscape Plan inclusive of the design details for fencing and retaining walls, prepared by Right Angle Design &amp; Design is submitted with the application. No planting details are provided on the plans, and this information shall be provided at Construction Certificate stage.</p> <p>No Arboricultural Impact Assessment is provided as no significant existing trees are present within the site. Conditions of consent shall be applied to ensure that the existing large Gum located on the boundary of 2 Beaconview St and the road verge is protected during the works.</p>
NECC (Development Engineering)	The proposed works will modify the level of the existing nature strip in Dobroyd Road by removing the existing planter in this area which is acceptable. No objection to approval, subject to conditions as recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The application was referred to Ausgrid and a response was provided on 22 April 2020, granting consent to the application subject to conditions. The recommended conditions have been included as part of the recommended conditions 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

The application was referred to Ausgrid and a response was provided on 22 April 2020, granting consent to the application subject to conditions. The recommended conditions have been included as part of the recommended conditions of consent.

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

The subject property is located within the Sydney Harbour Catchment, therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was considered necessary.

#### 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	2.61m (fencing)	-	Yes
Floor Space Ratio	FSR: 0.45:1	No change to FSR	N/A	N/A

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

### Manly Development Control Plan

#### Built Form Controls

Built Form Controls - Site Area: 663.7sqm	Requirement	Proposed	% Variation*	Complies
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% (365.04sqm) of site area	54.33% (360.6sqm)	1.22%	No
	Open space above ground 25% (90.15sqm) of total open space	<25%	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% (126.21sqm) of open space	64.48% (232.5sqm)	-	Yes
	3 native trees	1 trees	66.67%	No
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm	-	Yes

#### \*Notes:

1. 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).

2. Considering the proposed development only comprises fencing, retaining walls and associated soft landscaping, the proposal is only assessed against the MDCP 2013 built form controls that are applicable for such works.

### 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
3.4.3 Maintenance of Views	Yes	Yes
3.8 Waste Management	No	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.10 Fencing	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.4.5 Earthworks (Excavation and Filling)	No	Yes

### Detailed Assessment

#### **3.1.1 Streetscape (Residential areas)**

The proposal comprises a fence along the secondary frontage (Dobroyd Road). Accordingly, the proposal is considered against the requirements within Clause 3.1.1.2 of the MDCP 2013.

##### Clause 3.1.1.2 - Front Fences and Gates

Front fences within the locality comprise a range of different heights and construction materials. In this regard, the timber paling fence will not conflict with the local character of the area. The fence structure itself is 1.8m high, which sits 2.61m above the existing ground level due to the fill that's required for the development. In considering the application of a 1.8m fence along a street frontage, it is considered that the fence will be excessive in presentation and detract from the streetscape, noting that Clause 4.1.10 of the MDCP 2013 typically permits a maximum 1m high fence along the street frontage. However, considering a portion of the occupant's private open space will be located along the secondary frontage, a variation to the 1m requirement will be necessary to ensure that a reasonable level of privacy is maintained for the occupants of the site. Noting that the private open space will be sited below street level, this assessment concludes that a 1.5m high fence will be appropriate for the site, given the structure will allow for a reasonable level of privacy to be maintained, whilst also ensuring the structure does not dominate the street frontage along Dobroyd Road. Therefore, a suitable condition has been imposed with this consent requiring the fence to be amended to height no more than 1.5m above the finished ground level (RL 73.5), which will be 2.31m above the existing ground level. Subject to compliance with this condition, the proposal will complement the streetscape and enable a reasonable level of privacy to be maintained.

#### **3.3.2 Preservation of Trees or Bushland Vegetation**

Council's Landscape Officer has imposed suitable conditions that relate to tree protection.

#### **3.8 Waste Management**

A Waste Management Plan was not submitted with this application. Accordingly, a suitable condition has been included with this consent requiring the applicant to submit a detailed Waste Management Plan to the Certifying Authority prior to the issue of a Construction Certificate. Subject to compliance with the conditions of consent, the application will comply with the requirements of this control.

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

##### Description of non-compliance

Clause 4.1.5 of the MDCP 2013 requires at least 55% (365.04sqm) of the site area to be total open space (TOS). To be included as TOS, the assessment considers outdoor areas with minimum dimensions of 3m x 3m, with a minimum unbroken area of 12sqm. Areas associated with carparking and vehicular access area excluded from the calculations. The proposed TOS equates to 54.33% of the site area, which represents a 1.22% variation from the prescribed control.

Furthermore, the control also requires at least three (3) trees to be planted on site. The site will only contain one (1) tree, which contravenes this requirement.

##### Merit Assessment

With regard to the consideration for a variation, the proposed 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 will not necessitate the removal of native trees and vegetation.

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

Comment:

The proposal complies with the numerical requirement for landscaped open space. The site will contain sufficient dimensions for open space within the property that will service the needs of the occupants. Such areas comprise a swimming pool, alfresco area, paved areas and landscaped open space. Furthermore, suitable conditions have been imposed with this consent requiring two (2) additional native trees to be planted on site, thereby ensuring compliance with 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:

Considering the proposal relates to retaining walls, fencing and landscaping, no significant overshadowing impacts are anticipated to arise as a consequence of the development. Furthermore, the development will not exacerbate any unreasonable privacy impacts, nor will it give rise to unreasonable view loss.

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

Comment:

The landscaping dimensions on site area appropriate and will assist with stormwater infiltration on site, thereby reducing stormwater runoff.

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

Comment:

The proposed development will not lead to a significant spread of weeds.

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

Comment:

The existing and proposed landscaping treatments on site are sufficient and will serve as potential wildlife habitat.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit, subject to conditions.

#### **4.1.8 Development on Sloping Sites**

The proposed development requires excavation up to 1.25m below the natural ground level. Considering the site is not identified within a hazardous geotechnical landslide area, a Geotechnical Report will not be necessary for this level of excavation.

#### **4.1.10 Fencing**

##### Description of non-compliance

Clause 4.1.10 of the MDCP 2013 requires fencing along street frontages to be constructed to a maximum height of 1m above the existing ground level. The maximum height of the fence is 2.61m (1.8m high fence structure) above the existing ground level, which conflicts with the 1m requirement.

#### Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the underlying objectives of the control. The control relies upon the objectives specified within Clause 3.1 of the MDCP 2013.

*Objective 1) To minimise any negative visual impacts of walls, fences and carparking on the street frontage.*

As noted in the section of the report relating to Clause 3.1.1 of the MDCP 2013, the 1.8m high structure will be excessive in presentation and detract from the streetscape. To alleviate this concern, a suitable condition has been imposed with this consent requiring the fence to be amended to height no more than 1.5m above the finished ground level (RL 73.5), which will be 2.31m above the existing ground level. The reduced fence height will still allow for a reasonable level of privacy to be maintained along the secondary frontage.

*Objective 2) To ensure development is generally viewed from the street complements the identified streetscape.*

#### Comment:

The proposed fence, as amended by condition, will ensure the development compliments the streetscape.

*Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.*

#### Comment:

The proposed fence, as amended by condition, will be appropriate for the site, considering it will not detract from the streetscape and still allow for a reasonable level of privacy to be maintained.

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the application is supported on merit, subject to conditions.

### **4.4.5 Earthworks (Excavation and Filling)**

#### Description of non-compliance

Clause 4.4.5 of the MDCP 2013 limits excavation to generally 1m below the natural ground level. The proposed development requires excavation up to 1.25m, which is contrary to the control.

#### Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the underlying objectives of the control as follows:

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

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

#### Comment:

Whilst the proposal comprises retaining walls, the natural topography of the site will still maintain a fall away from the southern boundary. In this regard, the proposal is not expected to drastically alter the natural flow of ground and surface water. Suitable conditions will be imposed as part of this consent to minimise the migration of sediments during construction works. Furthermore, additional planting will be incorporated to soften the visual impacts of the retaining walls.

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the application is supported on merit.

## **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**

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 DA2020/0296 for Construction of a

fence and retaining walls on land at Lot 13 DP 758044, 4 Dobroyd Road, BALGOWLAH HEIGHTS, 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
F1 Revision A - SITE PLAN / SITE ANALYSIS PLAN	01 May 2020	Right Angle Design & Drafting Pty Ltd
F2 - ELEVATIONS AT FRONT FENCE	October 2019	Right Angle Design & Drafting Pty Ltd
F3 - SECTIONS	October 2019	Right Angle Design & Drafting Pty Ltd
F5 - SEDIMENT CONTROL PLAN	October 2019	Right Angle Design & Drafting Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Attack Level Risk Assessment	09 December 2019	Bushfire Protection Planning & Assessment Services

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. 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:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	22 April 2020

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

#### 5. **All Works within Property Boundaries**

The applicant is to ensure that all works are located wholly within the property boundaries.

Reason: To ensure structures do not encroach into adjoining properties or public land.

### FEES / CHARGES / CONTRIBUTIONS

#### 6. **Security Bond**

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

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

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

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

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

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

#### 7. **Amendments to the approved plans**

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

- The fence along the Dobroyd Road frontage is to be reduced to a maximum height no greater than 1.5m above the finished ground level (RL 73.5).

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 the streetscape.

**8. Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

**9. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

**10. Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Manly Development Control Plan 2013 and Northern Beaches Council's Waste Management Guidelines.

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.

**11. Amended Landscape Plans**

Amended Landscape Plans shall be issued to the Certifying Authority at Construction Certificate stage to include the following details on the Landscape Plan F4 prepared by Right Angle Design & Drafting:

- i) details are to be provided of the proposed native trees for the site which are typically expected to reach a height at maturity of 10 metres, to bring the proposal into compliance with Figure 37 of the Manly Development Control Plan 2013. Details of new planting are to include appropriate siting and pot size (minimum of 75 litres) in accordance with section 2.1.3 of the Manly Development Control Plan 2013, and schedule 4, Part B, Native Tree Selection.
- ii) garden planters as shown on the plans shall include shrub planting capable of attaining 2 metres in height at maturity, planted no more than 1m intervals, and installed at a 300mm container size,
- iii) all proposed planting shall be nominated within the plans,
- iv) the shrub selection must not contain self-seeding species such as *Rhaphiolepis*, *Poa* and others.



Certification shall be provided to the Certifying Authority that these amendments have been documented.

Reason: provide landscape amenity to soften the built form and provide landscape amenity.

## 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. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At completion of the fence structure to ensure the height is in accordance with the levels approved by this consent.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

### 14. Installation and Maintenance of Sediment Control

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

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

### 15. Tree and vegetation protection

a) Existing trees and vegetation shall be retained and protected, including:

i) all trees and vegetation within the site not approved for removal, excluding exempt vegetation under the relevant planning instruments of legislation,

ii) all trees and vegetation located on adjoining properties, and in particular the existing large Gum located at the boundary of 2 Beaconview St and Council's road verge,

iii) all road reserve trees and vegetation.

b) Tree protection shall be generally undertaken as follows:

i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,

ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,

iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,

iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,

v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by

a AQF Level 5 Project Arborist on site,  
vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,  
viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,  
ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,  
x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,  
xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373 -2009 Pruning of Amenity Trees.

c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

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

**16. 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 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**

**17. Landscape completion**

Landscaping is to be implemented in accordance with the approved Amended Landscape Plans.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the amended landscape plans, and any relevant condition of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

**18. Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

**19. Removal of All Temporary Structures/Materials and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management.

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

**20. Landscape maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

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

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

**Signed**

**Thomas Burns, Planner**

The application is determined on 01/05/2020, under the delegated authority of:



**Matthew Edmonds, Manager Development Assessments**