

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2024/0091 |
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| Responsible Officer: | Dean Pattalis |
| Land to be developed (Address): | Lot 1 DP 175524, 45 Boyle Street BALGOWLAH NSW 2093 |
| Proposed Development: | Alterations and additions to a dwelling house including a swimming pool |
| Zoning: | Manly LEP2013 - Land zoned R1 General Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Delegation Level: | NBLPP |
| Land and Environment Court Action: | No |
| Owner: | Peter David Smith Helen Clare Wood |
| Applicant: | Peter David Smith |

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| Application Lodged: | 09/02/2024 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 19/02/2024 to 04/03/2024 |
| Advertised: | Not Advertised |
| Submissions Received: | 3 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 902,000.00 |
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EXECUTIVE SUMMARY

This development application is referred to the Panel as it seeks consent for alterations and additions to a dwelling house including a swimming pool which involves demolition to a heritage item.

Assessment issues included numerical built form non-compliances relating to rear setback and total open space which have been discussed within this report and considered acceptable on merit.

Concerns raised in the objections relating to stormwater management have been addressed within the

relevant section of this report which cites a supportive assessment from Council's Development Engineer.

This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for alterations and additions to an existing dwelling including the following works:

- Demolition works to the rear of the existing dwelling
- Rear extension of the existing dwelling consisting of new living, bathroom and kitchen spaces
- New alfresco and swimming pool area

Amended plans

Some minor reconfiguration changes to the proposal have occurred during the assessment process in response to referral requirements from Council's Heritage Officer, including a recess at the amenities section between the original cottage and the new rear addition.

Notification

In accordance with Council's Community Participation Plan, demolition of a building or tree identified as an item of environmental heritage is classified advertised development. However, the CPP also states that alterations and additions to this development type may be excluded from advertising due to the minor nature and impact of the proposal. A minor portion of the item is being demolished at the rear and it is a lean to extension-to the dwelling. Given the minor nature of the demolition works and impacts from the proposed works the application was only exhibited, not advertised under the authority of the CPP.

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 - 4.1.4 Setbacks (front, side and rear) and Building Separation
Manly Development Control Plan - 4.1.5 Open Space and Landscaping
Manly Development Control Plan - 4.1.10 Fencing
Manly Development Control Plan - Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles

SITE DESCRIPTION

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|-----------------------------------|---|
| Property Description: | Lot 1 DP 175524 , 45 Boyle Street BALGOWLAH NSW 2093 |
| Detailed Site Description: | <p>The subject allotment is described as 45 Boyle Street, Balgowlah, being Lot 1 in Deposited Plan 175524.</p> <p>The site is zoned R1 General Residential under Manly Local Environmental Plan 2013.</p> <p>The site is located on the western side of Boyle Street to the north of the intersection with Sydney Road.</p> <p>The site is rectangular in shape with a 11.07m frontage to Boyle Street and a depth of 45.415m. The property has existing vehicular access off Boyle Street.</p> <p>The site has a varying topography sloping from the south-east to the north-west.</p> <p>The existing building is a one storey residence with a metal roof.</p> <p>The existing house is listed as a heritage item of local significance.</p> |

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:

Pre-lodgement **SPLM2023/0006** was held on 5 January 2024 for stormwater management options for the proposed development of a single storey extension to the existing dwelling.

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 | There are no current draft environmental planning instruments. |
| 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 | <u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. |

| Section 4.15 Matters for Consideration | Comments |
|--|--|
| Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021) | <p>These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to referral requirements by Council's Heritage Officer.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |

| Section 4.15 Matters for Consideration | Comments |
|--|---|
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 19/02/2024 to 04/03/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

| Name: | Address: |
|----------------------------|------------------------------------|
| Mrs Anne Louise Blackstone | PO Box 180 SEAFORTH NSW 2092 |
| Mr Benjamin John Walstab | 51 Boyle Street BALGOWLAH NSW 2093 |
| Mr Neil Davis | 33 Boyle Street BALGOWLAH NSW 2093 |

Three (3) submissions have been received during the community notification period by the owners of 33, 49 and 51 Boyle Street, Balgowlah.

The issue raised by all submissions related to stormwater management impacts resulting from the proposed development.

Comment

Council's Development Engineer has undertaken an assessment of the application in this context. Council's engineer has advised that the proposal to discharge flows from the site utilising a large on-site detention system with a small orifice is in compliance with Section 5.5 of Council's Water Management for Development Policy.

Referral comments provided by Council's Engineer state that the proposed development is a low level property (cannot drain directly to Council's stormwater infrastructure in the street) and the absorption of stormwater is not feasible due to existing shallow bedrock. It is also noted that an easement refusal letter from the downstream property (not any of the objecting properties) has been provided.

Reference has also been made within the submissions to an inter-allotment drainage easement, however Council records and survey information indicate that 45 Boyle Street is not the beneficiary of a downstream drainage easement to convey flows from the site.

It is also noted that a Stormwater Pre-Lodgement Meeting (SPLM2023/0006) was held with Council's engineers for this application and the recommendations of the meeting have been suitably

incorporated into the proposed development.

The proposed on-site detention and level spreader design is therefore supported by Council's Engineer, subject to recommended conditions of consent which ensure compliance with the relevant Council and Australian standards and is in accordance with the Council Policy on Water Management for Development

REFERRALS

| Internal Referral Body | Comments |
|--------------------------------|--|
| Landscape Officer | <p>Supported</p> <p>Council's Landscape Referral section have considered the application against the Manly Local Environment Plan (MLEP), and the following Manly DCP 2013 (MDCP) controls (but not limited to): 3.3.1 Landscaping Design; 3.3.2 Preservation of Trees or Bushland Vegetation; and 4.1.5 Open Space and Landscaping, including 4.1.5.2 (c) Minimum Tree Plantings where applicable.</p> <p>A Arboricultural Impact Assessment (AIA) report and Landscape Plans are submitted and are assessed under the landscape referral. The AIA submits recommendations for tree removal based on the proposed development works and consent is required for prescribed trees. The Landscape Plans provide a landscape setting in response to the proposed development works including tree replacement planting.</p> <p>It is noted that the total open space requirements / landscape area are less than the MDCP controls and the Assessing Planning Officer shall assess and determine this matter. Landscape Referral note that landscape areas are included in the calculations that are steeping pavers that serve the function of pedestrian access and the proposed 'in-between' planting of groundcovers is therefore subject to physical impact and failure or otherwise complete removal, and additional proposed landscape areas to side boundaries will service utilities including air conditioning units and garbage and other storage realistically requiring hard paved surface treatment, such that these landscape areas will not satisfy the definition of landscape areas under MLEP: means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.</p> <p>Should the application be approved, Landscape Referral raise no concerns with the landscape outcomes as proposed in the Landscape Plans subject to conditions, and with conditions for tree and vegetation protection.</p> |
| NECC (Development Engineering) | <p>Supported</p> <p>The proposed development is on a Low Level Property. Vehicle crossing construction is not proposed. Absorption of stormwater is not feasible due to the shallow bedrock. An easement refusal letter from the downstream property was provided at PLM stage. An on-site</p> |

| Internal Referral Body | Comments | | |
|--|--|----|-----------------------|
| | detention and level spreader design has been submitted. This is supported subject to conditions. I have no further objections to the proposed development subject to the inclusion of the recommended engineering conditions of consent. | | |
| Strategic and Place Planning (Heritage Officer) | Supported | | |
| | HERITAGE COMMENTS | | |
| | Discussion of reason for referral | | |
| | The application has been referred to as the property is a Local Heritage item listed in Schedule 5 of Manly LEP 2013 as <i>Item 17 Houses 33-45 Boyle Street- Balgowlah</i> | | |
| | Details of heritage items affected | | |
| | Detail of the heritage items are affected by the proposal and contained within the heritage inventory as follows: <i>Item 17 Houses 33-45 Boyle Street- Balgowlah</i> <u>Statement of Significance</u> A group of seven stuccoed brick cottages. All cottages have gone various modifications. Small scale unified group of streetscape. | | |
| | <u>Physical Description</u> Group of seven stuccoed brick cottages with simple hipped iron roofs bearing 'rising sun' motif in timber vents. Some original elements extant - particularly No. 37. Elements include: vermiculated stone chimneys; timber posts and valences to front verandah; coloured glass panes on top sash front windows. All houses have undergone modifications, alterations and additions. | | |
| | Other relevant heritage listings | | |
| | SEPP (Biodiversity and Conservation) 2021 | No | Comment if applicable |
| | Australian Heritage Register | No | |
| | NSW State Heritage Register | No | |
| | National Trust of Aust (NSW) Register | No | |
| | RAIA Register of 20th Century Buildings of Significance | No | |
| | Other | No | |
| | Consideration of Application | | |
| The proposal includes internal alterations and additions to the rear of the property inclusive of the addition of an external alfresco area with BBQ ,Swimming pool, cabana and new landscaping. The proposal also involves the demolition of the later additions to the rear of the property. | | | |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>The proposal involves the demolition of the later additions to the rear of the property to be replaced with the new rear additions, which are proposed to be extended to the northern and southern side boundaries. It is noted that a skillion roof is proposed as a transition section between the original cottage and the new additions but this approach is not reflected on the proposed plans. Heritage recommends this transition section to be recessed from the side boundaries, to distinguish the original cottage and allow the interpretation of the original fabric and new additions.</p> <p>The works do not propose changes to the original cottage but the proposed extensions to the side boundaries are considered to be visible from the street and therefore impact the 'small-scale unified group of streetscape'.</p> <p>Revised comments - 20 May 2024</p> <p>Amended drawings, received on 16 May 2024, resolved some improvements, providing 300mm recess on the plans to the amenities section between the original cottage and the new rear addition. However, this recess must be followed on the low pitch section of the roof to allow the interpretation of the original building. This portion of the roof should not have any overhang in order to remain behind the main cottage, allowing a visual separation between the main cottage and the rear addition.</p> <p>Furthermore, the proposed narrow battened front fence is not supported and required to be a traditional picket fence to be complementary to the style and character of the group listed heritage cottages.</p> <p>Therefore, no objections are required on heritage grounds subject to the imposition of two conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> |

| External Referral Body | Comments |
|---|--|
| Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48 | 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. |

All, Environmental Planning Instruments (SEPPs 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 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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No.AAL-10784_02 dated 10 January 2024).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Manly Local Environmental Plan 2013

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|--|-----|
| 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 | 5.5m | - | Yes |
| Floor Space Ratio | FSR: 0.6:1 | FSR: 0.33:1 (163.27m ²) | - | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| 4.3 Height of buildings | Yes |
| 4.4 Floor space ratio | Yes |
| 4.5 Calculation of floor space ratio and site area | Yes |
| 5.10 Heritage conservation | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Stormwater management | Yes |
| 6.8 Landslide risk | Yes |

Manly Development Control Plan

Built Form Controls

| Built Form Controls - Site Area: 497.4m ² | Requirement | Proposed | % Variation* | Complies |
|--|----------------------------------|----------|--------------|----------|
| 4.1.2.1 Wall Height | N: 6.7m (based on gradient 1:30) | 3.1m | - | Yes |
| | S: 6.7m (based on gradient 1:30) | 2.75m | - | Yes |
| 4.1.2.2 Number of Storeys | 2 | 1 | - | Yes |
| 4.1.2.3 Roof Height | Height: 2.5m | 1.74m | - | Yes |
| | Parapet Height: 0.6m | Complies | - | Yes |
| | Pitch: maximum 35 degrees | Complies | - | Yes |
| 4.1.4.1 Street Front Setbacks | Prevailing building line / 6m | Existing | - | Yes |

| | | | | |
|---|--|--|-----------------|-------------------------|
| 4.1.4.2 Side Setbacks and Secondary Street Frontages | N: 1.02m (based on wall height) S: 0.91m (based on wall height) | 1.2m 1m | - - | Yes Yes |
| 4.1.4.4 Rear Setbacks | 8m | 6.6m (cabana) 10.3m (pool) 17.5m(dwelling) | 17.5% - - | No Yes Yes |
| 4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3 | Open space 55% of site area | 49.44% (245.9m2) | 10.11% | No |
| | Open space above ground 25% of total open space | Complies | - | Yes |
| 4.1.5.2 Landscaped Area | Landscaped area 35% of open space | 54.41% (133.8m2) | - | Yes |
| 4.1.5.3 Private Open Space | 18sqm | Complies | - | Yes |
| 4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas | Maximum 50% of frontage up to maximum 6.2m | Complies | - | Yes |
| 4.1.9 Swimming Pools, Spas and Water Features | 1m height above ground | Complies | - | Yes |
| | 1m curtilage/1.5m water side/rear setback | Complies | - | Yes |
| Schedule 3 Parking and Access | Dwelling 2 spaces | 1 space (existing) | 50% | No |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| 3.1 Streetscapes and Townscapes | Yes | Yes |
| 3.1.1 Streetscape (Residential areas) | Yes | Yes |
| 3.2 Heritage Considerations | 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 |
| 3.6 Accessibility | Yes | Yes |
| 3.7 Stormwater Management | Yes | Yes |
| 3.8 Waste Management | Yes | Yes |
| 4.1 Residential Development Controls | Yes | Yes |
| 4.1.1 Dwelling Density, Dwelling Size and Subdivision | Yes | Yes |
| 4.1.1.1 Residential Density and Dwelling Size | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height) | Yes | Yes |
| 4.1.3 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 |
| 4.1.9 Swimming Pools, Spas and Water Features | Yes | Yes |
| 4.1.10 Fencing | No | Yes |
| 4.4.5 Earthworks (Excavation and Filling) | Yes | Yes |
| Schedule 1 – Maps accompanying the DCP | Yes | Yes |
| Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles | No | Yes |

Detailed Assessment

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

Description of non-compliance

The proposed rear setback to the cabana is 6.6m, which does not comply with the control of 8m.

Despite the non-compliance, the cabana is considered to be a low-lying, lightweight structure that shall not unreasonably disturb the existing pattern of development in the rear setback area or adjoining amenity. The cabana is therefore considered to be a suitable enhancement to the proposed swimming pool and recreational decking area.

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 proposal will continue to maintain an appropriate visual relationship with the surrounding built environment.

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 works will not result in unreasonable additional overshadowing of adjoining properties or privacy concerns. The works are located to the rear of the property and shall not impact the streetscape. Overall, the proposal achieves this objective.

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

Comment:

Flexibility is afforded in this circumstance as the non-compliance shall not result in an incompatible visual presence in comparison to the existing arrangement.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposal does not result in an unreasonable landscape area outcome.

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

Comment:

The site is not bushfire prone.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

The control requires the site to consist of 55% total open space. The proposal achieves 49.44% (245.9m²) which is a variation of 10.11% to the numerical control.

Despite the numerical non-compliance, the proposal is considered to consist of adequate areas to

support recreational open space and deep soil planting. The proposal also complies numerically with the Landscaped Area control under subclause 4.1.5.2. Council's Landscape Officer has also reviewed the proposal and raised no objection to approval, subject to conditions.

The proposed areas of total open space are also considered to adequately support water filtration and minimise stormwater run-off. Council's Development Engineer has reviewed the application in this context and raised no objection to approval, subject to conditions.

The total open space arrangement in the front setback area is generally unchanged from existing and therefore shall result in a minimal impact upon the visual character of the streetscape.

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 results in a suitable extent of landscape features 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:

Although non-compliant the open space area consists of adequate landscaped areas to assist with water filtration and minimising stormwater runoff.

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

Comment:

The development is not expected to have any unreasonable impacts on sunlight, privacy and views enjoyed by surrounding properties.

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

Comment:

The proposal will provide for sufficient areas to assist with water filtration to minimise stormwater runoff.

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

Comment:

The proposal is not expected to result in the spread of weeds in private and public open spaces.

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

Comment:

Wildlife habitat and corridors will not be impacted by the proposed non-compliance.

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

4.1.10 Fencing

Description of non-compliance

The control states that freestanding walls and fences between the front street boundary and the building are to be no more than 1m high above ground level at any point.

The proposed front fence has a maximum height of 1.2m which, to a minor extent, does not comply with the control.

The minor non-compliance is considered to be a result of moderately sloping topography at this portion of the site, which the majority of the fence being compliant with the 1m control. Despite the non-compliance, there is considered to be an existing streetscape character of fence structures of a similar size, scale and finish.

The proposed fencing is not considered to unreasonably impact the heritage character of the site or streetscape. Council's Heritage Officer has reviewed the application and raised no objection to approval, subject to conditions.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control. The control relies upon the objectives of Clause 3.1 - Streetscapes and Townscapes within the Manly DCP 2013.

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

Comment:

The height of the fence will not be out of keeping with the streetscape character.

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

Comment:

As noted above, the proposal will be in keeping within the streetscape.

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

Comment:

The proposal is reasonable in this circumstance and therefore, a soft landscape alternative is not required in this instance.

Conclusion

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

Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles

Comment

The site currently accommodates one existing hardstand off-street parking space which does not comply with the requirements of the DCP (2 spaces). The existing off-street parking arrangement is unchanged by the proposal.

The proposed development is not considered to intensify the use of the site to an extent whereby the existing off-street parking arrangement shall be no longer viable. There is no increase in the number of bedrooms of the existing dwelling.

Therefore, given there is no change to the existing arrangement, the proposal is supported in this context.

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 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$9,020 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$902,000.

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 2021;
- 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

PLANNING CONCLUSION

This proposal, for alterations and additions to a dwelling house including a swimming pool has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to being sensitive development (development involving the demolition of a heritage item).

Assessment issues included numerical built form non-compliances relating to rear setback and total open space which have been discussed within this report and considered acceptable on merit.

Concerns raised in the objections relating to stormwater management have been addressed within the relevant section of this report which cites a supportive assessment from Council's Development Engineer.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2024/0091 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 1 DP 175524, 45 Boyle Street, BALGOWLAH, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

| Approved Plans | | | | |
|----------------|-----------------|---------------------|--------------------|--------------|
| Plan Number | Revision Number | Plan Title | Drawn By | Date of Plan |
| DA-02-01 | A | Site Plan | Hancock Architects | 15 May 2024 |
| DA-02-02 | A | Ground Floor Plan 1 | Hancock Architects | 15 May 2024 |
| DA-02-03 | A | Ground Floor Plan 2 | Hancock Architects | 15 May 2024 |
| DA-03-01 | A | Section A 1 | Hancock Architects | 15 May 2024 |
| DA-03-02 | A | Section A 2 | Hancock Architects | 15 May 2024 |
| DA-04-01 | A | Elevations | Hancock Architects | 15 May 2024 |
| DA-04-02 | A | Elevations | Hancock Architects | 15 May 2024 |
| DA-04-03 | A | Elevations | Hancock Architects | 15 May 2024 |
| DA-04-04 | A | Elevations | Hancock Architects | 15 May 2024 |
| DA-04-05 | A | Elevations | Hancock Architects | 15 May 2024 |

| | |
|------------------------------------|--|
| Approved Reports and Documentation | |
|------------------------------------|--|

| Document Title | Version Number | Prepared By | Date of Document |
|--|----------------|---------------------------|-------------------|
| Permeability Report | - | Rapid Geo | 16 September 2023 |
| Heritage Impact Statement | - | Sue Rosen Associates | August 2023 |
| Arboricultural Impact Assessment | 1 | Heartwood Tree Consulting | 15 August 2023 |
| Stormwater Plan (SW01-SW02, SE01 - SE02) | D | Hyve Designs | 12 January 2024 |
| Landscape Plan (LPL_1101 - LPL_1102) | 2 | Lone Pine | 29 August 2023 |
| Waste Management Plan | - | Peter Smith | 1 February 2024 |

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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 | Ausgrid Referral Response | 14 February 2024 |

(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 Certifier

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 Certifier 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 Certifier 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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.

- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
 - (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
 - (l) 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.
- (m) 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.
 - (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
 - (o) 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 2018
 - (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. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$9,020.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$902,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

6. Security Bond

A bond (determined from cost of works) of \$2,000 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 Certifier 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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. Tree Protection Plan

A Tree Protection Plan shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures for the Brushbox street tree located within the road reserve verge

The Tree Protection Plan shall be prepared by an Arborist with minimum AQF Level 5 in arboriculture, incorporating the following:

- i) location of tree protection fencing consisting of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, and aligned to with: back of kerb to existing footpath; and edge of existing driveway to meet the common boundary location in a south direction,
- ii) root protection in the form of mulching or boards within the tree protection zone, if deemed necessary,
- iii) trunk and branch protection within the tree protection zone, if deemed necessary,
- iv) notation that NO stockpile areas and materials storage is permitted within the road reserve verge,
- v) other general tree protection measures.

Reason: Street tree protection.

8. On-Site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Hyve Designs, job number 23095, dated 12.01.2024. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

9. Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to an on-site detention system and level spreader.

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

Reason: To ensure appropriate provision for disposal of stormwater management arising from

the development.

10. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

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 ensure no substance other than rainwater enters the stormwater system and waterways.

12. **Recessed roof**

The proposed low pitch roof should be recessed, as per the plans, without having any overhangs to remain behind the front building mass and allow a visual separation from the original main cottage. Details demonstrating compliance with this condition should be submitted to Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To respect the heritage item and allow the interpretation of the original cottage.

13. **Front fence**

The proposed narrow battened front fence is not supported and it is required to be a traditional picket fence to be complementary to the style and character of the group listed heritage cottages. Details demonstrating compliance with this condition should be submitted to Council's Heritage Advisor for approval prior to the issue of the Construction Certificate.

Reason: To respect and support the significance of the heritage item.

14. Compliance with standards (Demolition):

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 Council prior to the commencement of demolition works.

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

15. 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 Certifier prior to the issue of the Construction Certificate.

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

16. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

DURING BUILDING WORK

17. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree fronting the development site shall be protected in accordance with the approved Tree Protection Plan. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

18. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees and vegetation located on adjoining properties,
 - ii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendation of the approved Arboricultural Impact Assessment,
- ii) the following arboricultural requirements shall be adhered to unless authorised by an Arborist with minimum AQF level 5 qualifications: existing ground levels shall be maintained within the tree protection zone of trees to be retained; removal of existing tree roots at or >25mm (Ø) diameter is not permitted; 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; and structures are to bridge tree roots at or >25mm (Ø) diameter,
- iii) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- iv) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- v) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken as complaint to AS4970-2009 Protection of trees on development sites.

Reason: Tree and vegetation protection.

19. 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.

20. Removing, Handling and Disposing of Asbestos

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

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

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

21. Geotechnical Requirements

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

22. Demolition Works - Asbestos

Demolition works must be carried out in compliance with WorkCover Short Guide to Working

with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

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

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

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

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

23. Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

24. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

25. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plans, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plans, unless otherwise imposed by conditions,
- c) all tree planting shall be a minimum pre-ordered planting size of 75 litres; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more and from other trees, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,

- d) the proposed Rhipidolepis species shall not be planted and shall be substituted with a non self-spreading species of similar form and size,
- e) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

26. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

27. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

28. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil Engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention and level spreader as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate

operational standard.

29. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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 2018
- (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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

30. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plans and any conditions of consent.

The approved landscape area shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

31. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

32. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.