

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0381
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Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 32 DP 758044, 17 Ernest Street BALGOWLAH HEIGHTS NSW 2093
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Grant Raymond Sippel Thuy Quynh Sippel
Applicant:	Grant Raymond Sippel

Application Lodged:	20/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	26/04/2021 to 10/05/2021
Advertised:	Not Advertised
Submissions Received:	6
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 650,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal is for alterations and additions to the existing dwelling resulting in:

Ground floor

- Bedrooms 1 & 2
- Guest bedroom
- Rumpus
- Bath & powder
- Laundry
- Covered patio

- Double garage

First floor

- Kitchen, Living & Dining
- Master Bedroom with Balcony, Ensuite & Robe
- Study
- Powder
- Covered deck

External

- New Driveway
- New Entry porch
- New Swimming Pool & associated decking
- Landscaping including stairs, planting & retaining walls

The following amendments to the proposal were made by the applicant during the assessment process:

- Revised roof pitch from 22 to 15 degrees, reducing the overall building height by 0.82m
- Lowered eastern ground floor garage wall by 1m to provide compliant side setback
- Increased eastern first floor side setback to 2.229m to comply with setback control
- Minor extension of master bedroom and subsequent reduction of the adjoining front balcony
- Minor changes to east and west-facing windows
- Minor changes to balcony/deck privacy screening
- New end wall with gas fireplace and cabinetry to eastern elevation of first floor rear deck
- Minor modifications to the existing front retaining wall to construct new widened driveway
- Minor modification to existing rear garden access steps and fill to create levelled rear lawn area

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 Local Environmental Plan 2013 - 6.2 Earthworks
 Manly Local Environmental Plan 2013 - 6.8 Landslide risk
 Manly Development Control Plan - 3.3.1 Landscaping Design
 Manly Development Control Plan - 3.3.2 Preservation of Trees or Bushland Vegetation
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 3.4.3 Maintenance of Views
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.7 First Floor and Roof Additions
 Manly Development Control Plan - 4.1.8 Development on Sloping Sites
 Manly Development Control Plan - 4.4.2 Alterations and Additions
 Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

Property Description:	Lot 32 DP 758044 , 17 Ernest Street BALGOWLAH HEIGHTS NSW 2093
Detailed Site Description:	<p>The subject site consists of one allotment located on the southern side of Ernest Street.</p> <p>The site is regular in shape with a frontage of 15.24m along Ernest Street and a depth of 39.305m. The site has a surveyed area of 594.4m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates an existing dwelling house.</p> <p>The site slopes 6.5m from southeast to northwest.</p> <p>The site contains eight (8) significant trees and a variety of smaller planted vegetation. A further seven (7) significant trees are located within the road reserve adjoining the front boundary of the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwellings.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (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	See discussion on “Notification & Submissions Received” in this

Section 4.15 Matters for Consideration'	Comments
submissions made in accordance with the EPA Act or EPA Regs	report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 26/04/2021 to 10/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 6 submission/s from:

Name:	Address:
Mrs Penelope Alice Coulter	15 Ernest Street BALGOWLAH HEIGHTS NSW 2093
Mr Brendon James Quinn Mrs Robyn Lesley Quinn	25 Curban Street BALGOWLAH HEIGHTS NSW 2093
Mrs Anita Catherine Christie	12 Ernest Street BALGOWLAH HEIGHTS NSW 2093
Mr Michael John Rumble	27 Curban Street BALGOWLAH HEIGHTS NSW 2093
Mr Dean Alexander Coulter	15 Ernest Street BALGOWLAH HEIGHTS NSW 2093
Mr Bill Tulloch	9 Barrabooka Street CLONTARF NSW 2093

The matters raised within the submissions are addressed as follows:

- Compliance with controls

Comment:

The proposal has been amended in order to improve the compliance of the development with regard to the controls. The amended design complies with both the height of buildings and FSR development standards. The proposed non-compliances are limited to the western first floor wall height and setback, and the front stair/porch setback. This report contains a detailed assessment of these non-compliances, which are considered to be reasonable and are supported.

- Amenity impacts - overshadowing, privacy, views/outlook, visual bulk & streetscape

Comment:

The amended proposal will not result in any unreasonable amenity impacts to adjoining properties. The northerly orientation of the sites facilitates the retention of sufficient sunlight access to the subject site and adjoining dwellings in accordance with the DCP control. It is noted that the west-facing kitchen, dining and family rooms windows at the western elevation of 15

Ernest Street will be impacted by the proposal. However, these windows are more vulnerable to overshadowing as they are located at ground floor level at the side elevation of the dwelling; and the impact is the result of a complying built form on the subject site.

The proposed dwelling is suitably designed for privacy with first floor highlight windows and balcony screening provided to the side boundaries. Given the minimal extent of privacy impacts anticipated to result from the proposal, the provision of 1.8m window sill heights and privacy screens is not warranted in this case.

The amended proposal will obscure some view lines over the subject site. However, the affected views are generally limited to nearby development and substantially filtered district views. The view impacts resulting from the development are acceptable and are supported. The minor front and side setback non-compliances do not result in any adverse visual bulk or streetscape impacts. The built form is also reduced by the existing and proposed planting within the front setback and the adjoining road reserve.

- Alterations and additions vs new dwelling

Comment:

Council raised concern regarding the classification of the proposal as alterations and additions, rather than as a new dwelling. The Applicant provided a detailed response to these concerns, which is considered to adequately demonstrate that the proposal is for alterations and additions. A detailed assessment against the relevant NSW LEC planning principle is completed under 4.4.2 Alterations and Additions.

- Front and side setbacks, front entry stair

Comment:

The proposed front entry stair and porch extend into the 6m front setback area. However, as discussed under 4.1.4 Setbacks, projections into the front setback may be permitted for structures including unenclosed balconies and roof eaves. The proposed western side setback breach is a maximum of 100mm for a length of 2.5m. These non-compliances are minor in extent and impact, and maintain consistency with the objectives of the setback control.

- New driveway, tree protection conditions, maintenance of trees in road reserve

Comment:

The proposal has been assessed in relation to the potential impacts on trees, including trees 2 & 6 on the adjoining property, and suitable tree protection conditions are included in the consent. The proposed Lily Pilly planting along the eastern boundary provides substantial screening and the removal of the existing concrete slab at the rear of the dwelling to facilitate additional planting is not necessary in this case. The trees proposed for removal within the road reserve are all assessed as being either low or very low landscape significance and tree retention value; and new native compensatory planting is proposed.

- Stormwater plan

Comment:

Council's Development Engineer has reviewed the proposal and raised no objection to the proposed stormwater plan. Conditions of consent are included to ensure compliance with Council's stormwater drainage policy.

- Dilapidation reports

Comment:

A condition of consent is included requiring the preparation of dilapidation reports in relation to the adjoining property at 15 Ernest Street.

- Reflectivity nuisance

Comment:

A condition of consent is included to ensure that roof materials/finishes are of a medium to dark colour range and minimise glare and reflectivity.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>This application is for the alterations and additions of an existing residential dwelling. Alterations include the minor demolition of internal walls and structures in order to alter the internal arrangement of the dwelling, with additions inclusive of a new double garage and swimming pool, with a new first floor to support a new kitchen, dining, and living area as well as master bedroom and balcony.</p> <p>Councils Landscape Referral section has considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls:</p> <ul style="list-style-type: none"> • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation • 4.1.5 Open Space and Landscaping <p><u>Original Comments - 29/04/2021</u></p> <p>The Arboricultural Impact Assessment provided with the application has identified a total of twenty one trees, with three of those trees located in the adjoining property to the east.</p> <p>Of the twenty one identified trees, eight have been proposed for removal. These eight trees, identified as Trees No. 11, 12, 13, 15, 16, 17, 18 and 19, have all been identified as exempt species, or exempt due to their heights, and therefore do not require Councils approval prior to being removed. It is worth noting that majority of these trees have been identified as having a low to very-low landscape significance and amenity value within the Arboricultural Impact Assessment.</p> <p>The proposed works are expected to encroach with the Tree protection Zone (TPZ) of Trees No. 1, located within the site, as well as Trees No. 2 and 6 on the adjoining property. It is noted that due to the presence of existing retaining walls at the front of the site, which are to be retained as part of this proposal, the actual impacts on these trees are expected to be much less than what is shown on plan. Any negative impacts towards both the short and long-term health and vitality of these trees would not be supported. The retention of these three trees, as well as all other trees noted as retained, is vital to satisfy control 3.3.2, as key objectives of this control include "to protect and enhance the urban forest of the Northern Beaches", as well as "to protect and enhance the scenic value and character that trees and or bushland vegetation provide".</p>

Internal Referral Body	Comments
	<p>Concern is raised regarding the limited new planting proposed, particularly in relation to privacy at the rear of the property. As the proposed works largely remove existing vegetation in the rear of the property, there is opportunity for overlooking to become an issue. For this reason it is recommended that additional screen planting be proposed with the rear yard around the boundary to ensure this privacy concern is addressed. As a new swimming pool is proposed, this is particularly important. The addition of this screening vegetation is necessary to comply with condition 3.3.1 and 4.1.5, as key objectives of these controls include "to encourage appropriate tree planting and maintenance of existing vegetation", as well as "to maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area".</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the addition of screen planting to alleviate privacy concerns.</p> <p><u>Updated Comments - 01/06/2021</u></p> <p>Following previous comments in support of the application, concern had been raised by the applicant regarding the unsafe and sometime hazardous driveway entry/exit. Due to the large retaining walls, existing street trees and in some cases the presence of parked cars, the visibility out of the driveway can often be dangerous. As a result, modified Architectural and Landscape Plans have been provided which indicate the removal and reconstruction of a small portion of the retaining wall in order to accommodate a wider driveway footprint that seeks to facilitate greater visibility when existing the property.</p> <p>As a result of this widening, a number of existing trees are required to be removed. The existing screen planting on top of this retaining wall currently provides valuable screening, as well as built form mitigation, both of which are vital to satisfy controls 3.3.2 and 4.1.5. As a large number of these trees shall be retained, with additional compensatory planting as proposed on the Landscape Plans to replace those removed, the built form is sufficiently screened and softened, hence satisfying these controls.</p> <p>No further concern is raised with the proposed works, and is supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the amended Landscape Plan.</p>
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following condition of consent.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid 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

External Referral Body	Comments
	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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A417877 dated 24 May 2021).

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid with suitable conditions recommended.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m	N/A	Yes
Floor Space Ratio	0.45:1 267.45m ²	0.449:1 266.9m ²	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Detailed Assessment

6.2 Earthworks

The proposed earthworks will not result in any adverse impacts to the subject site, adjoining properties or the natural environment and are considered to achieve the objectives of this control.

6.8 Landslide risk

The site is mapped as Landslip Area G4. Given the area and depth of the proposed earthworks, no geotechnical investigation is considered necessary in this case.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 594.4m ²	Requirement	Proposed	Complies
4.1.2.1 Wall Height	East: 7.2m (gradient 1:9)	GF: 2.8m	Yes
		FF: 6.6.15m	Yes
	West: 7m	GF: 4.2m	Yes

	(gradient 1:12)	FF: 7.18m	No
4.1.2.2 Number of Storeys	2	2	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.8m	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Stair / Porch : 3.1m / 5.71m	No
		Dwelling: 7.5m	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	E GF: 0.93m	0.98m	Yes
	E FF: 2.205m	2.229m	Yes
	W GF: 1.4m	1.2m	No (existing)
	W FF: 2.4m	1.44m - 2.3m	No
4.1.4.4 Rear Setbacks	8m	12.551m	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area 326.92m ²	60.5% 359.4m ²	Yes
	Open space above ground 25% of total open space	10.2%	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space 125.8m ²	58.8% 211.4m ²	Yes
4.1.5.3 Private Open Space	18m ²	> 18m ²	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	5.8m	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	0.9m	Yes
	1m curtilage side/rear setback	3m	Yes
	1.5m water side/rear setback	3.7m	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.3.1 Landscaping Design

The proposed landscape design is supported, subject to the recommended conditions of consent.

3.3.2 Preservation of Trees or Bushland Vegetation

Council's Landscape Officer raised no objection to the proposed tree removal, subject to the recommended conditions of consent.

3.4.1 Sunlight Access and Overshadowing

Compliance with control

19 Ernest Street

There is moderate additional overshadowing of the east-facing windows and rear yard of No. 19 at 9am and throughout the morning. There is negligible impact after 12pm.

15 Ernest Street

At 12pm and through the afternoon until 3pm there will be moderate additional overshadowing of the rear yard of No. 15. There will also be additional impact to the west-facing windows to the kitchen, dining & family rooms, which are vulnerable to overshadowing by virtue of their location at ground floor level facing towards a side boundary. Despite the impact to the western windows, sunlight access will be maintained to the front (north-facing) living and dining room windows throughout the day.

There is minor impact to the rear setbacks of Nos. 23 and 25 Curban Street at 9am.

Given the northerly orientation of the subject site and adjoining properties, a compliant level of sunlight access will be maintained to living and private open spaces areas throughout the day, in accordance with this control.

3.4.2 Privacy and Security

Compliance with control

The proposed east-facing first floor windows are highlight windows to a bedroom, robe, ensuite and study. The living areas are located to the western side of the first floor and contain only one west-facing highlight window. The remaining first floor glazing is orientated to the front and rear elevations.

The front balcony is to a master bedroom, is limited in size and usability, and incorporates a 1.6m privacy screen for a length of 1.5m along the eastern elevation. This privacy screen orientates the balcony towards the north and limits overlooking/viewing of No. 15 to the east. The first floor rear deck is suitably set back and screened at the eastern and western elevations. In addition to the proposed 12.6m rear setback, the proposed screen planting at the rear boundary provides a supplementary privacy measure between the subject site and 25 Curban Street.

Based on the above assessment the proposal is considered to maintain adequate privacy between the subject site and surrounding properties, and achieves consistency with the objectives of the control.

3.4.3 Maintenance of Views

Merit consideration:

The development is considered against the Objectives of the Control:

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

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

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

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

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

Comment:

25 Curban Street

The available views from No. 25 are district views of Balgowlah to the north over the subject site. The views are partial as they are heavily filtered by existing developments and vegetation, particularly the large gum tree located on the northern side of Ernest Street opposite the subject site.

27 Curban Street

The available views from No. 27 are district views of Balgowlah to the northwest over the subject site.

Despite being partially filtered by the screen vegetation in the foreground, the views are elevated above the living level views from No. 25 and are generally whole views.

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

Comment:

25 Curban Street

The affected view from No. 25 is across a rear boundary from the lower floor living areas and adjoining balcony. The view is obtained from a sitting and standing position. The same or greater views would also be available from the upper level master bedroom.

27 Curban Street

The affected view is across a side and rear boundary from the upper floor living area and adjoining balcony. The view is obtained from a sitting and standing position.



Photo 1. Views from 25 Curban Street to the north/northwest.



Photo 2. Views from 25 Curban Street to the northeast.



Photo 3. Views from 27 Curban Street to the northwest.

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

Comment:

25 Curban Street

The impact of the proposal is generally limited to filtered views of existing developments and vegetation to the north of the subject site. As discussed above, the large gum tree obscures a large proportion of the potential district views and, given the value of the views the impact is considered to be minor-moderate.

27 Curban Street

The living level of No. 27 is elevated above that of No. 25 and obtains views over the subject site from a greater angle. The majority of the proposed dwelling will likely be obscured by the existing boundary screen planting between Nos. 25 & 27. The view impact will generally be limited to existing developments and vegetation beyond/below the subject site and 17 Ernest Street, and the impact is considered to be minor.

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

Comment:

The proposal is non-compliant in relation to wall height and side setback at the western elevation. The location of these breaches at the front (northwestern) corner of the dwelling are such that they will not cause any material additional view loss beyond that resulting from the roof form and the complying portion of the western elevation. The front setback breach relates to the ground floor stair and porch and will not impact any views. The development is fully compliant with the building height and FSR development standards, and with the remaining DCP built form controls.

Given the level of compliance of the proposed dwelling and the value of the views to be affected, the resulting minor-moderate impact is considered to be acceptable in this case.

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.

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Merit consideration

The proposed western wall height of up to 7.18m is non-compliant with the 7m control for a length of 1.5m. Given the minimal dimensions of the non-compliant portion of wall, the breach does not unreasonably impact the streetscape or adjoining properties, and will maintain consistency with the relevant building height objectives under LEP Clause 4.3.

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

Description of non-compliance

The proposal includes a 3.1m front setback to the front entry stair and a 5.71m setback to the porch, resulting in non-compliance with the 6m control. Despite this technical non-compliance, Clause 4.1.4.1 (d) allows for projections into the front setback for certain structures including unenclosed balconies and roof eaves, where there is no adverse impact to the streetscape or adjoining properties. Given the location of the breach and the lack of any resulting visual or amenity impacts, the porch and stair are considered to be acceptable under this control and achieve consistency with the relevant objectives as discussed below.

The proposed western first floor wall setback of 2.3m breaches the side setback control by a maximum of 100mm for a length of 2.5m at the front corner of the dwelling. The breach is minor in extent and will not unreasonably impact the adjoining property or the streetscape.

The western side setback non-compliance at the ground floor level relates to the existing wall and remains unchanged.

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 contributes positively to the streetscape, maintaining the spatial proportions and landscape character of the street.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposed development will result in no unreasonable impacts in relation to privacy, sunlight assess, views, streetscape character or traffic conditions.

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

Comment:

The proposal generally retains the siting of the existing dwelling.

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 includes appropriate deep soil zones and planting, including native species.

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

Comment:

N/A

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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.

4.1.7 First Floor and Roof Additions

Compliance with control

- a) The proposed first floor addition is generally consistent with the architectural style and roof form of the existing dwelling. The first floor walls are generally set back beyond those of the ground floor.
- b) The proposal retains the existing scale and character of the surrounding streetscape, which consists predominantly of two-storey dwellings with pitched roofs. The development will not degrade the amenity of surrounding properties or the streetscape.

4.1.8 Development on Sloping Sites

The site is mapped as Landslip Area G4 and the proposed excavation works are generally limited to the footprint of the garage and swimming pool. No geotechnical investigation is considered necessary in this case.

4.4.2 Alterations and Additions

Clause 4.4.2 of MDCP 2013 prescribes that if alterations and additions involve demolition of more than half the building, then the development will be assessed as new work and the controls will apply to both existing and new parts of the resultant building. The control provides that the extent of demolition is calculated as a proportion of the existing external fabric being demolished.

However, this simply numeric approach is not endorsed by the NSW LEC, and the Demolition Planning Principle developed in *Coorey v Municipality of Hunters Hill* is the guiding document in this regard.

A qualitative and quantitative assessment of the subject application is provided below.

Qualitative Issues

- *How is the appearance of the existing building changed when viewed from public places?*

Comment:

The building line of the existing dwelling is retained at the western side of the frontage, with the large front window removed to provide a new entry and windows. The existing carport is to be demolished to make way for a new double garage in the same location. A new first floor addition is also proposed. The existing pitched roof is repeated over the proposed addition.

- *To what extent, if any, will existing landscaping be removed and how will that affect the setting of the building when viewed from public places?*

Comment:

Several small lawn areas within the front setback area will be removed to accommodate the proposed dwelling entry stair/porch and reconstructed driveway and retaining walls. Several low value trees will also be removed from the front setback and the adjoining road reserve. The removal of landscaping will not significantly affect the setting of the dwelling, and the proposed landscape plan includes compensatory native planting to mitigate visual impacts. The proposed swimming pool will result in the removal of an existing lawn/garden area within the rear yard, but will not affect the appearance of the building from any public places.

- *To what extent, if any, will the proposal impact on a heritage item, the curtilage of a heritage item or a heritage conservation area?*

Comment:

The proposal does not impact upon any heritage item or heritage conservation area.

- *What additional structures, if any, in the curtilage of the existing building will be demolished or altered if the proposal is approved?*

Comment:

The proposal includes the demolition of the existing carport and replacement with a new double carport, and the reconstruction of the existing ground floor rear patio.

- *To what is the extent, if any, of any proposed change to the use of the building?*

Comment:

The proposal maintains the use of the building as a dwelling house.

- *To what extent, if any, will the proposed development result in any change to the streetscape in which the building is located?*

Comment:

The proposed first floor addition will result in a change to the streetscape. However, it should be noted that the existing streetscape is characterised by two and three-storey dwellings.

- *To what extent, if any, are the existing access arrangements for the building proposed to be altered?*

Comment:

The existing site access is altered by the construction of a wider driveway utilising the existing crossover. The new driveway will also allow for improved pedestrian access to the new entry at the front of the dwelling.

- *To what extent, if any, will the outlook from within the existing building be altered as a consequence the proposed development?*

Comment:

The outlook from within the existing building will remain unchanged, with the exception of new outlooks available from within the new first floor addition.

- *Is the proposed demolition so extensive to cause that which remains to lose the characteristics of the form of the existing structure?*

Comment:

Despite the extent of the proposed demolition shown on the plans, the characteristics and architectural style of the existing structure will be largely retained. The plans indicate extensive demolition of the external walls of the dwelling, however, this demolition is largely for the purpose of blocking up existing windows or creating new window openings. The greater proportion of the demolition works actually relate to the carport, rear patio and some internal dwelling walls. The roof form over the ground floor is retained and the roof tiles replaced with new Colorbond sheeting over the existing roof frames. The existing pitched roof form is maintained for the proposed first floor addition.

Quantitative Issues

- *To what extent is the site coverage proposed to be changed?*

Comment:

The proposed dwelling additions are contained within the existing building footprint with the exception of the new entry porch and the first floor rear deck.

- *To what extent are any existing non-compliances with numerical controls either increased or diminished by the proposal?*

Comment:

The existing western ground floor wall is non-compliant with the side setback control, and the first floor addition will also breach setback control at the front of the western elevation.

- *To what extent is the building envelope proposed to be changed?*

Comment:

The building envelope is increased as a result of the first floor addition.

- *To what extent are boundary setbacks proposed to be changed?*

Comment:

The proposed garage siting results in a marginally increase to the eastern side setback increase in comparison to the existing carport. The proposed front porch and rear deck result in reduced front and rear setbacks.

- *To what extent will the present numerical degree of landscaping on the site be changed?*

Comment:

The proposal results in a reduction to landscaped area from 249.4m² 211.4m².

- *To what extent will the existing floor space ratio be altered?*

Comment:

The proposal increases the FSR of the development from 0.21:1 (122.4m²) to 0.449:1 (266.9m²). The majority of this additional floor space is attributable to the proposed first floor.

- *To what extent will there be changes to the roof form?*

Comment:

The proposal maintains a pitched roof form consistent with that of the existing dwelling, with the addition of gable elements over the front porch and at first floor level.

- *To what extent will there be alterations to car parking/garaging on the site and/or within the building?*

Comment:

As discussed above, the proposal includes the demolition of the existing carport and the construction of a new double garage in the same location.

- *To what extent is the existing landform proposed to be changed by cut and/or fill to give effect to the proposed development?*

Comment:

The proposal is largely designed within the existing topography of the site, which has been subject to significant previous alteration. The proposed excavation works are relatively minor and are limited to the garage, swimming pool and driveway footprints. Minor fill works are also proposed to the rear of the swimming pool.

- *What relationship does the proportion of the retained building bear to the proposed new development?*

Comment:

The proposal will largely retain the footprint and external walls of the existing dwelling. The floor and ceiling structures are also retained, in addition to a significant proportion of the internal walls. The proposal seeks to demolish the existing carport, rear patio, various internal walls and the majority of the ground floor roof structure. It is considered that the proposal will retain more of the existing dwelling than that which is proposed to be demolished.

Conclusion

The proposal will result in considerable changes on the ground, however in this instance, enough of the existing building is to be retained such that the proposal is considered to be reasonably characterised as alterations and additions.

4.4.5 Earthworks (Excavation and Filling)

Compliance with control

The proposal includes excavation works for the construction of the garage and swimming pool, and for the reconstruction of the driveway at the front of the site and within the road reserve. The proposed fill works within the rear setback are limited in area and will not exceed 1m in depth.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$6,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$650,000.

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 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 DA2021/0381 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 32 DP 758044, 17 Ernest Street, 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

DA01 Site Plan	Rev. A, 27 May 2021	Lifestyle Home Designs
DA02 Existing Floor Plan / Demolition Plan	Rev. A, 27 May 2021	Lifestyle Home Designs
DA03 Proposed Floor Plans	Rev. A, 27 May 2021	Lifestyle Home Designs
DA04 Elevations	Rev. A, 27 May 2021	Lifestyle Home Designs
DA05 Sections	Rev. A, 27 May 2021	Lifestyle Home Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A417877	24 May 2021	Lifestyle Home Designs
Arboricultural Impact Assessment Report	Rev. A, 17 March 2021	Joanne Willis Consultant Arborist

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

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
1 Landscape Planting Plan	Issue A, 27 May 2021	Woodside Plants & Design
2 Landscape Notes	Issue B, 27 May 2021	Woodside Plants & Design

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	26 April 2021

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

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

3. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged

during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

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

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 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 7.12 Contributions Plan 2019

A monetary contribution of \$6,500.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$650,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

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 Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

7. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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. Vehicle Crossings Application

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

11. Waste Management Plan

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

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

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

12. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties: 15 Ernest Street, Balgowlah Heights

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. Protection of Rock and Sites of Significance

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

16. 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 trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) 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,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) 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 Australian Standard 4970-2009 Protection of Trees on Development Sites,

- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 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,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) 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 Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property 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.

Reason: Tree and vegetation protection.

17. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

18. **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.

19. **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.

20. **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 Certifying Authority.

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

21. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.75 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/4 EH and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

22. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved amended Landscape Plan.

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

Reason: Environmental amenity.

23. **Stormwater Disposal**

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

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

24. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

25. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

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

26. 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 Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

27. Undesirable Trees

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other Undesirable Trees identified by Council, must not be planted on the site for the life of the

development.

In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.

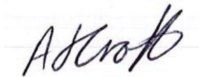
28. **Screen Planting**

In accordance with the proposed landscape plan, the selected rear boundary planting is to be capable of achieving a minimum height of 3m, and shall be maintained so as not to exceed a height of 4m above ground level at the rear boundary.

Reason: To ensure adequate privacy while maintaining views over the subject site.

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

Signed



Adam Croft, Planner

The application is determined on 11/06/2021, under the delegated authority of:



Anna Williams, Manager Development Assessments