

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1781
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Responsible Officer:	Simon Ferguson Tuor
Land to be developed (Address):	Lot 45 DP 1066986, 1 Magnolia Lane SEAFORTH NSW 2092
Proposed Development:	Construction of a secondary dwelling
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:	Helena Frketic
Applicant:	Ian Cubitt's Classic Home Improvements Pty Ltd

Application Lodged:	12/12/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	18/12/2023 to 23/01/2024
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 211,640.66
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for construction of a secondary dwelling at the rear of the site.

There is no tree removal proposed.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

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

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

SITE DESCRIPTION

Property Description:	Lot 45 DP 1066986 , 1 Magnolia Lane SEAFORTH NSW 2092
Detailed Site Description:	<p>The subject site consists of one allotment located at the northern end of Magnolia Lane and west of Wakehurst Parkway.</p> <p>The site is regular in shape with a frontage of 15.43m along Wakehurst Parkway and a depth of 35.7m. The site has a surveyed area of 550.9m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single storey residence and small shed at the rear.</p> <p>The site is relatively flat.</p> <p>The site contains grassed areas, shrubs and hedges.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one and two storey dwellings of varying architectural styles.</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.

Application History

A request for further information letter (RFI) was sent to the applicant on 27 February 2024, however, Council received bounce back emails stating that the email did not reach the applicant.

The assessing officer contacted the owner who informed that the applicant's company had gone into administration and the applicant could not be contacted.

The RFI letter was sent to the owner of the property in 29 March 2024 and requested the following:

- Arboricultural Impact Assessment
- Amended plans to resolve privacy impacts.

Council contacted the owner on numerous occasions via phone calls and emails in order to help navigate the circumstances whereby they could not get in contact with the listed applicant. Given the extenuating circumstances, it was advised that if the owner was able to contact the NSW Planning Portal and change themselves to the listed applicant, we could grant a two week extension to the RFI due date.

The assessing officer asked for an update via email on Thursday 14 March 2024, yet no response was received.

The assessing officer asked for another update via email on Wednesday 21 March 2024, however, no

response was received.

It is considered that sufficient time and opportunities have been provided for the requested information.

Therefore, the proposal proceeds in its current form with a recommendation of refusal.

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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters would 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 an arborist report and privacy.</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 would have 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 would have been addressed via a condition of</p>

Section 4.15 Matters for Consideration	Comments
	consent. <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.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	Due to a lack of documentation the application was not able to be properly assessed. In this regard, the development, as proposed, is not considered to be 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 18/12/2023 to 23/01/2024 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<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):</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, including 4.1.5.2 (c) Minimum Tree Plantings where applicable <p>The existing site does not contain any landscape or natural features of note and no prescribed trees are found upon the property. The proposed secondary dwelling is in proximity to existing trees within adjoining property. No Arboricultural Impact Assessment is submitted as listed under Council's DA Lodgement Requirements.</p> <p>It is noted that the extent of encroachment may be minor and tree protection measures may be utilised to ensure tree protection of neighbouring trees within 5 metres of any proposed development works. It the applicant's responsibility to provide the listed information under the DA Lodgement Requirements, and in this instance an arboricultural investigation and report shall be submitted with particular reference to identifying tree protection measures such as fencing and ground protection to be installed to protect neighbouring tree(s), and Landscape Referral are able to continue the assessment upon receipt of this information</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.
Roads and Maritime Service - Roads Act 1993, s138 (Non-integrated)	<p>A request for consideration of the development application was submitted to Transport for NSW (TfNSW) through the NSW Planning Portal on 15 December 2023 .TfNSW returned this request for the following reason/s:</p> <p><i>No civil works or structures are proposed on Wakehurst Parkway. As such, no referral is required to TfNSW under s138 of the Roads Act. Given the minor nature of this development there is no statutory requirement to refer this DA to TfNSW.</i></p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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. 1376116S dated 14 November 2023).

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

SEPP (Housing) 2021

Part 1 – Secondary Dwellings

Clause 52 – Development may be carried out with consent	
Standard	Compliance/Comment
<p>(2) Development consent must not be granted for development to which this Part applies unless—</p> <p>(a) No dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and</p> <p>(b) The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and</p> <p>(c) The total floor area of the secondary dwelling is:</p> <ul style="list-style-type: none"> (i) no more than 60m², or (ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument - the greater floor area. 	<p>Complies. Proposed secondary dwelling has internal floor area of 57.4sqm.</p>

Clause 53 – Non-discretionary development standards—the Act, s 4.15	
Standard	Compliance/Comment
<p>(a) For a detached secondary dwelling - a minimum site area of 450m².</p>	<p>The total site area is 550.9m².</p>

(b) The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	Complies.
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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

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
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Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	4m	N/A	Yes
Floor Space Ratio	FSR: 0.45:1	FSR: 0.35:1	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes
6.22 Development for the purposes of secondary dwellings in certain residential and environment protection zones	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 550.9sqm	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	W: 6.5m (based on gradient 0)	3.3m	N/A	Yes
	E: 6.5m (based on gradient 0)	3.3m	N/A	Yes
	N: 6.5m (based on gradient 0)	3m	N/A	Yes
	S: 6.5m (based on gradient 0)	3m	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	unaltered	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	(N) 1m (based on wall height)	1m	N/A	Yes
	(S) 1m (based on wall height)	1m	N/A	Yes
	Windows: 3m	1m	66%	No
4.1.4.4 Rear Setbacks	8m	3.6m	55%	No
4.1.5.1 Minimum Residential Total Open Space Requirements	Open space 55% of site area	58%	N/A	Yes

Residential Open Space Area: OS3				
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	44%	N/A	Yes
	3 native trees	0 trees	N/A	No
4.1.5.3 Private Open Space	12sqm (proposed secondary dwelling)	30sqm	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	No	No
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	No	No
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	No
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.3.2 Preservation of Trees or Bushland Vegetation

Description of non-compliance

The proposed secondary dwelling is in close proximity to a large tree located within the adjoining property to the north.

Council's Landscaping Officer requested an Arboricultural Impact Assessment, as required by Council's DA Lodgment Requirements (trees within 5 metres of any proposed development works). This request was conveyed to the owner within the RFI sent on 29 February 2023.

No Arboricultural Impact Assessment and no correspondence requesting an extension to the RFI has been received. As such, the application is assessed on the information provided to date.

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 protect and enhance the urban forest of the Northern Beaches.

Comment: Without the provision of an Arboricultural Impact Assessment, Council is unable to determine if the proposal will protect and enhance the urban forest of the Northern Beaches.

Objective 2) To effectively manage the risks that come with an established urban forest through professional management of trees.

Comment: Without the provision of an Arboricultural Impact Assessment, Council is unable to determine if the proposal has managed the risks associated with the large tree on adjoining property to the north.

Objective 3) To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.

Comment: The proposed would likely comply with this objective.

Objective 4) To protect and enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.

Comment: Without the provision of an Arboricultural Impact Assessment, Council is unable to determine if the proposal would protect or enhance vegetation habitat for native plant and animal species.

Objective 5) To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long term.

Comment: Without the provision of an Arboricultural Impact Assessment, Council is unable to determine if the proposal would promote the retaining of trees.

Objective 6) To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.

Comment: Without the provision of an Arboricultural Impact Assessment, Council is unable to determine if the proposal would protect and enhance the scenic value and character of the locality.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is not supported in this particular circumstance. This forms a reason for refusal.

3.4.2 Privacy and Security

Description of non-compliance

The proposed secondary dwelling is sited 3.6m from the rear boundary and the finished floor level of the living area and Bedroom 2 is raised 0.8m above existing ground level at the southern boundary. This siting of the proposal within the rear setback, combined with 2.1m high sliding glass doors and a large bedroom window means there are overlooking impacts for the neighbours to the rear.

The privacy concerns were raised by Council in a request for further information (RFI) letter sent to the owner, dated 29 February 2023.

No amended plans have been received and no correspondence requesting an extension to the RFI has been received. As such, the application is assessed on the information provided to date.

Merit consideration:

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

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

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

Comment:

The proposed secondary dwelling is setback 3.6m from the rear boundary. There are large glass doors from the main living area of the secondary dwelling and a window that look towards the private open space areas of the dwelling house to the rear. The proposed design of the secondary dwelling means that the finished floor level is elevated 0.8m above existing ground level at the boundary and there would be overlooking impacts. The design does not include screen planting, privacy screens or translucent glazing. Hence, it does not minimise the loss of privacy to adjacent and nearby development and does not satisfy this objective.

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

Comment:

As above, the proposal has not been designed in a way that balances outlook and views from habitable rooms and private open space. Privacy is not increased for adjoining neighbours, but rather it is impacted.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal will not compromise neighbourhood security or casual surveillance.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of MLEP 2013 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 not supported, in this particular circumstance. This matter forms a reason for refusal.

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

Description of non-compliance

Clause 4.1.4.4 of the MDCP requires any part of a building and the rear boundary must not be less than 8m.

The proposed secondary dwelling is setback 3.6m from the rear boundary.

Had amended plans been submitted in response to Council's RFI, the variation sought to the rear setback non-compliance may have been supported when considered against the objectives of the control. However, given that no amended plans were provided to address the privacy concerns raised by Council, the application is assessed on merit on the information that has been provided to date.

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposed rear boundary setback non-compliance will not alter or impact the existing streetscape presentation.

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 orientates living room doors, a bedroom window and private open spaces in close (non-compliant) proximity to the rear boundary. The proposed development does not adequately ensure or enhance amenity by providing suitable privacy (acoustic or visual) to adjoining sites. The proposed development does not result in any unreasonable view loss, and does not result in undesirable traffic conditions.

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

Comment:

The proposed development is not designed to allow for suitable flexibility in design of adjacent sites, in that the amenity (privacy) of adjoining sites would be compromised by the proposed development.

Objective 4) To enhance and maintain natural features by:

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

Comment:

Without the provision of the requested Arboricultural Impact Assessment, Council cannot be certain that the proposal would not impact on native vegetation and native trees. The subject sites does not included any open space land, national park or bushland.

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

Comment:

Not applicable

Having regard to the above assessment, it is concluded that the proposed development is inconsistent 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 not supported, in this particular circumstance. This is a reason for refusal.

4.1.5 Open Space and Landscaping

Description of non-compliance

4.1.5.2 Landscaped Area (c) provides the minimum tree planting required at the site.

The site is required to have a minimum of 3 existing established native trees or new native trees. The site does not contain any trees that meet this requirement and the proposal does not include any plantings.

The site, however, is compliant with the total open space requirements and Landscaped area as a percentage of total open space. Hence, it is likely that if Council's Landscape Officer were in receipt of the requested Arboricultural Impact Assessment, then they may have been able to support the proposal subject to conditions including tree planting conditions.

A full merit assessment is not required in this instance, as this non-compliance is not forming a reason for refusal.

Were Council in receipt of all requested documentation, it is likely that the proposal (subject to conditions) would have satisfied the objectives of the clause.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

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 \$2,116 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$211,641.

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, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent 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 EPs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2023/1781 for the Construction of a secondary dwelling on land at Lot 45 DP 1066986,1 Magnolia Lane, SEAFORTH, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.
2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.3.2 Preservation of Trees or Bushland Vegetation of the Manly Development Control Plan.
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.4.2 Privacy and Security of the Manly Development Control Plan .
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1.4 Setbacks (front, side and rear) and Building Separation of the Manly Development Control Plan.

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

Signed



Simon Ferguson Tuor, Planner

The application is determined on 22/03/2024, under the delegated authority of:



Rodney Piggott, Manager Development Assessments