

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2022/0840 |
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| Responsible Officer: | Maxwell Duncan |
| Land to be developed (Address): | Lot 1 DP 932637, 41 Pacific Parade MANLY NSW 2095 |
| Proposed Development: | Alterations and additions to a dwelling house including a swimming pool |
| Zoning: | Manly LEP2013 - Land zoned R1 General Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Dominic Roy Price |
| Applicant: | Anna Jane Williams |

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| Application Lodged: | 17/06/2022 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 29/06/2022 to 13/07/2022 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 1,821,500.00 |
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for alterations and additions to the existing dwelling house.

The works incorporate the following:

- Ground floor extension and alterations;
- First floor addition;
- Outdoor living area;
- Swimming pool;
- Associated landscaping;
- New driveway and access;
- 2 hardstand parking spaces; and
- Demolitions works.

AMENDED PLANS

Following a preliminary assessment of the application Council, Council raised concern with heritage and landscape aspects of the proposal. Amended plans were provided to Council on 12 December 2022. The changes proposed reduced the overall scale of the development including reducing the size of the first floor addition to ensure heritage concerns were addressed. The proposed development reduced the size and scale of the overall development renovation was not required in accordance with the Northern Beaches Council Community Participation Plan.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 4.1.2 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 - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

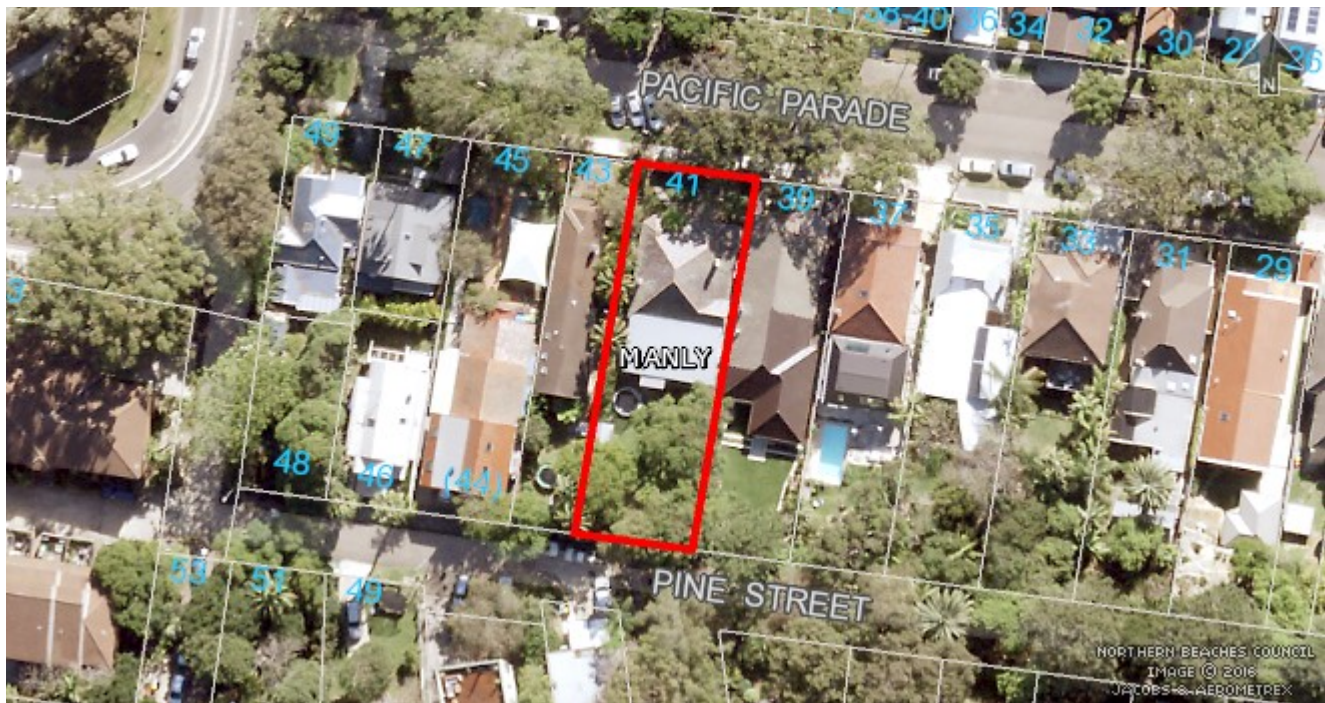
| | |
|-----------------------------------|---|
| Property Description: | Lot 1 DP 932637 , 41 Pacific Parade MANLY NSW 2095 |
| Detailed Site Description: | The lot is a rectangular shape, 15.24 metres (m) wide and 47.63m long and 725.6square metres (sqm) in area. It is located on the southern side of metres Pacific Parade. The site currently contains a single level bungalow with a slate hipped roof, rendered walls and timber fretwork and detailing to windows and the wrap around verandah to the north and east. A faceted bay protrudes to the north west section of the streetscape facade. Currently there are no parking spaces on site. |

A lean to is located at the rear of the dwelling, contained below a corrugated metal roof. The block slopes gently towards the front of the property, with the rear boundary bordering the junction of a cul-de-sac at the eastern end of Pine St and a pedestrian walkway leading to the east between Pacific Parade and Kangaroo Street above. Historical mapping photos show the original dwelling was situated on the site in 1943. The character and period of the dwelling is typical of original dwellings along Pacific Parade. A considerable number of these dwellings have been renovated with either rear or upper level additions. Newer dwellings are typically contained below pitched or sloping roof forms.

The interior of the existing dwelling shows evidence of being used historically as 2 separate dwellings. There are 2 entrance doors from the front verandah and 2 corridors running internally adjacent to one another. Openings between these hallways have been created so the dwelling is currently used as a single residence. Parking along the street is a mixture of open carports and garages built to the front boundary and hardstand parking spaces. There are currently 4 angled parking spaces immediately in front of the subject dwelling. Heritage listed trees located within the road surface impact on the availability of parking. Sandstone kerb and guttering is heritage listed within the street, however the kerb and guttering at the front of the subject site is constructed of concrete.

The dwelling to the east of the subject site at 39 Pacific Parade is a single level face brick dwelling with a sandstone base and tiled roof with 2 prominent gable roof forms facing the street. It has a hardstand parking space forward of the building line. The dwelling to the west at 43 Pacific Parade is on a narrower lot than the subject site and is a freestanding single level dwelling with a tiled hipped roof with a gable end facing the street, rendered walls and open porch. This dwelling has no off street parking.

Map:



SITE HISTORY

Historical site photos show the original building was already occupying the site in 1943.

Development Application No. DA2021/0393 for Demolition works including the retention of a portion of the existing building and the construction of two (2) semi-detached dwellings and swimming pools, including two (2) lot Torrens Title subdivision.(approved 19 July 2021)

Development application No. DA0030/2015 for alterations and additions for 2 on site hard stand parking spaces was approved by Manly Council on 8 July 2015. This application was subsequently modified in 2016 but the hard stand spaces were not created.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration | Comments |
|---|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | There are no current draft environmental planning instruments. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Manly Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021) | <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 have been addressed via a condition of consent. |

| Section 4.15 Matters for Consideration | Comments |
|--|---|
| | <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 documentation has been submitted.</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 heritage conservation.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 29/06/2022 to 13/07/2022 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>The development application is for alterations and additions to the existing dwelling, as described and illustrated in the Reports and Plans. A Landscape Plan and a Arboricultural Impact Assessment accompany the application and are assessed as part of this Landscape Referral. It is noted that the Landscape Plan only provides information of existing trees retained or removed, walling and stairs, paved and deck areas, garden areas, and lawn areas, without any other landscape design information, and this matter shall be discussed latter in the assessment.</p> <p>Council's Landscape Referral section have considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 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 Residential Development Controls including but not limited to 4.1.4 Setbacks (front, side and rear) and Building Separation, and 4.1.5 Open Space and Landscaping, and 4.1.5.2 (c) Minimum Tree Plantings where applicable <p>All the existing street trees along Pacific Parade are protected under Local Heritage item i191 of the Manly Local Environmental Plan, including the Camphor Laurel fronting the development site and identified as tree 18 in the Arboricultural Impact Assessment.</p> <p>Updated Plans are submitted in response to the previous Landscape Referral concerns and it is noted that the landscape area within the frontage is increased to enable planting including tree planting to be</p> |

| Internal Referral Body | Comments |
|---|---|
| | <p>established to soften the built form in consideration of Manly DCP control 4.1.4 Setbacks.</p> <p>It is noted that the proposed building extension and the proposed pool and outdoor living area with decking, paving and walling requires the removal of two existing trees identified in the Arboricultural Impact Assessment as tree 7 (Jacaranda) and tree 8 (Mango) however both as exempt species by species type (tree 7) or by height (tree 8) and no objections are therefore raised as under the DCP management or removal can proceed without Council consent. Additionally other existing trees within the front setback and part of the western side boundary are proposed for removal including tree 1 (Frangipani), tree 2 (Tree Fern), tree 3 (Pittosporum), and trees 5 and 6 (Kentia Palm), and removal of these mainly exempt species is unavoidable should the application be approved.</p> <p>The updated Landscape Plan includes an indication of additional planting to enhance the landscape setting including tree and other planting without any identification of selected species, and thus Landscape Referral shall provide imposed conditions for planting types and quantities.</p> |
| NECC (Development Engineering) | <p>1st Development Engineering referral response</p> <p>The applicant proposed a three spaces parking at the front boundary. It requires a modification to the line marking of the existing of on street parking space.</p> <p>It shall be referred to Council's Traffic section for assessment and comment.</p> <p>Development Engineering is unable to provide valid conditions and comments without the support of the amendment of the on street parking.</p> <p>Please refer back to Development Engineering after the assessment of our Traffic Section.</p> <p>2nd Development Engineering referral response</p> <p>The proposed parking is supported by our traffic section.</p> <p>Development Engineering has no objection to the application subject to the following condition of consent.</p> |
| NECC (Stormwater and Floodplain Engineering – Flood risk) | <p>The proposed development involves additions and alterations to an existing dwelling including new swimming pool. The front of the existing façade is to be retained. The proposed development is outside the 1% AEP extent.</p> <p>The proposed development generally complies with the flood controls in the DCP and LEP.</p> |
| Strategic and Place Planning (Heritage Officer) | HERITAGE COMMENTS |
| | Discussion of reason for referral |
| | <p>The proposal has been referred as it is within the vicinity of local heritage items, listed in Schedule 5 of Manly LEP 2013, being:</p> <p><i>Item 12 – All stone kerbs - Manly municipal area</i></p> |

| Internal Referral Body | Comments | | |
|------------------------|--|----|--|
| | Item 1191 - Street trees - Pacific Parade | | |
| | Details of heritage items affected | | |
| | Details of the heritage items as contained within the Northern Beaches inventory is as follows: Item 12 – All stone kerbs <u>Statement of significance:</u> Stone kerbs are heritage listed. <u>Physical description:</u> Sandstone kerbing to streets relating to paving and kerbing of streets in the nineteenth century. Mostly located within Manly Village area and adjacent lower slopes of Eastern Hill and Fairlight. Item 1191 - Street trees <u>Statement of significance:</u> Listed for its aesthetic importance to the streetscape. <u>Physical description:</u> Avenue planting of mixed tree species planted in carriageway. Species include Port Jackson Fig, Brush Box and Camphor Laurel. | | |
| | Other relevant heritage listings | | |
| | SEPP (Biodiversity and Conservation) 2021 | No | |
| | Australian Heritage Register | No | |
| | NSW State Heritage Register | No | |
| | National Trust of Aust (NSW) Register | No | |
| | RAIA Register of 20th Century Buildings of Significance | No | |
| | Other | No | |
| | Consideration of Application | | |
| | Background This application is for alterations and additions to the existing house including a new rear two storey extension and parking bay to the front of the property. The original application was referred to an external heritage advisor who could not support the proposal, on a number of grounds (see previous heritage referral comments for full details). The application was supported by a Heritage Impact Statement (HIS) by Damian O'Toole, dated April 2022. This HIS conceded that the dwelling had historic, aesthetic and representative value and also makes contribution to the streetscape, but also supported the acceptability of the proposal. A meeting was held with the applicants to discuss the concerns raised by the external heritage advisor, with a view to getting a more acceptable heritage response for the late Victorian cottage. Concept plans were submitted after this meeting however, there were still some heritage concerns with the proposal. As the late | | |

| Internal Referral Body | Comments |
|------------------------|--|
| | <p>Victorian cottage is not heritage listed, heritage was willing to let the proposal proceed based on the height being reduced by 500mm (as shown on the concept plans); changes to external materials and colours, deletion of curved elements on 1st floor addition and the reduction in the number of parking spaces from 3 to 2.</p> <p>In response to these comments, the applicant was willing to only concede to a reduction in the height of the rear addition by 200mm, however did agree to the use of a light coloured material for the rear addition and the reduction of the number of car spaces at the front of the property from 3 to 2. They did not agree to the deletion of the curved elements.</p> <p>Amended plans - December 2022 Amended plans dated 7/12/2022 (Rev C) were submitted on 12/12/2022 which incorporated this final position of the applicant, including the following amendments:</p> <ul style="list-style-type: none"> • reduction in the overall height of the rear addition by 200mm; • use of James Hardie Scyon cladding (vertical) in white for the rear addition; • reduction in car spaces from 3 to 2; • retention of curved walls in rear addition. <p>These amended plans have been reviewed. While heritage is still of the opinion that this proposal is not the optimal outcome for this late Victorian cottage, in view of its unlisted status, no objections are now raised.</p> <p>In relation to the heritage items in the vicinity, there will be no impact on the stone kerbs as the kerb adjacent to this property is not stone.</p> <p>In relation to the street trees, there is a heritage listed street tree (Camphor Laurel) outside the property in the road reserve, which will need to be protected at all times during construction. It is noted that Council's Landscape team have included a condition requiring that heritage trees be protected, including preparation of a Tree Protection Plan to outline how this is to be done. Therefore any impact upon the heritage street trees will be managed by this condition.</p> <p>Therefore, no objections are raised on heritage grounds, subject to the imposition of a number of conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013:</u> Is a Conservation Management Plan (CMP) Required? No Has a</p> |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>CMP been provided? N/A</p> <p>Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> |
| Traffic Engineer | <p>The proposal is for alterations and additions to an existing residence, including the construction of a driveway and offstreet parking area for three vehicles.</p> <p>The parking area plans are consistent with those approved under DA2021/0393 for the same address for a development involving a Torrens Title Subdivision to create 2 semi-detached dwellings at this address. When commenting on that DA, the three off street parking spaces were supported because although the work resulted in a loss of two on-street spaces there was a resultant nett gain of one parking space.</p> <p>The proposed parking changes are likewise supported for similar reasons.</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. |

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A451277_02 dated 21 March 2022).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Manly Local Environmental Plan 2013

| | |
|--|-----|
| 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 | 7.5m | - | Yes |
| Floor Space Ratio | FSR:0.6:1 (435.36sqm) | FSR: 0.46:1 (329sqm) | - | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|-------------------------------|------------------------------|
| 4.3 Height of buildings | Yes |
| 4.4 Floor space ratio | Yes |
| 5.8 Conversion of fire alarms | Yes |
| 5.21 Flood planning | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Stormwater management | Yes |
| 6.8 Landslide risk | Yes |
| 6.12 Essential services | Yes |

Manly Development Control Plan

Built Form Controls

| Built Form Controls - Site Area: 725.6sqm | Requirement | Proposed | % Variation* | Complies |
|---|--|-------------------------|--------------|----------|
| 4.1.2.1 Wall Height | East: 6.5m | 7.5m | - | Yes |
| | West: 6.5m | 7.1m | - | Yes |
| 4.1.2.2 Number of Storeys | 2 | 2 | - | Yes |
| 4.1.2.3 Roof Height | Height: 2.5m | 0.5m | - | No |
| | Pitch: maximum 35 degrees | <35 degrees | - | No |
| 4.1.4.1 Street Front Setbacks | Prevailing building line / 6m | Car Parking - 0m | 100% | No |
| 4.1.4.2 Side Setbacks and Secondary Street Frontages | 2.5m (based on eastern wall height) | First floor- 1.7m- 2.3m | 32% | No |
| | 2.36m (based on western wall height) | First floor 2.1m | 11.1% | No |
| | Windows: 3m | 1.72m-.2.3m | 42% | No |
| 4.1.4.4 Rear Setbacks | 8m | 4m | 50% | No |
| 4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS1/2/3/4 | Open space 55% of site area | 42% | 23% | No |
| | Open space above ground 25% of total open | <25% | - | Yes |
| 4.1.5.2 Landscaped Area | Landscaped area 35% of open space | 62% | - | Yes |
| | 3 native trees | 3 trees | - | Yes |
| 4.1.5.3 Private Open Space | 18sqm / 12sqm per dwelling | >18sqm | - | 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 | 6.9m | 11.2% | No |
| 4.1.9 Swimming Pools, Spas and Water Features | 1m height above ground | 0.3m | - | Yes |
| | 1m curtilage/1.5m water | Coping - | - | Yes |

| | | | | |
|-------------------------------|-------------------|---------------------|---|-----|
| | side/rear setback | 2.4m Pool - 2.6m | | |
| Schedule 3 Parking and Access | Dwelling 2 spaces | 2 spaces | - | Yes |

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 |
| 3.4.4 Other Nuisance (Odour, Fumes etc.) | Yes | Yes |
| 3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design) | Yes | Yes |
| 3.6 Accessibility | Yes | Yes |
| 3.7 Stormwater Management | Yes | Yes |
| 3.8 Waste Management | Yes | Yes |
| 3.9 Mechanical Plant Equipment | 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) | No | Yes |
| 4.1.3 Floor Space Ratio (FSR) | Yes | Yes |
| 4.1.4 Setbacks (front, side and rear) and Building Separation | No | Yes |
| 4.1.5 Open Space and Landscaping | No | Yes |
| 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities) | No | 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 |
| 5 Special Character Areas and Sites | Yes | Yes |
| 5.4.3 Flood Prone Land | Yes | Yes |

Detailed Assessment

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

Description of non-compliance

Clause 4.1.2.1 Wall Height of the DCP requires that the maximum permitted wall height is to be determined by the slope of the land under the wall. The proposal results in a minor numerically non-compliant wall height along the eastern and western elevation with proposed wall heights of between 7.1m - 7.5m, which deviate from the 6.5m wall height required by the control. As such, the eastern and western wall presents a variation of between 9.2% - 15.3% (0.6m - 1m).

Merit consideration

There are no underlying objectives of this control under which to consider the merits of this variation. This clause instead relies on the objectives for the Height of Buildings at clause 4.3 in the Manly LEP 2013. An assessment against these objectives is as follows:

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The proposal demonstrates compliance with the height of buildings development standard. The proposal includes an appropriate pitched roof form that is consistent with the topographic landscape and desired future streetscape character in the locality.

(b) to control the bulk and scale of buildings,

Comment:

The proposal is compliant with the floor space ratio development standard that demonstrates an acceptable bulk and scale. Furthermore, the proposal incorporates increased rear side setbacks to the first floor to mitigate any unreasonable bulk and scale.

(c) to minimise disruption to the following—

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
- (iii) views between public spaces (including the harbour and foreshores),*

Comment:

The proposal does not result in disruption to views to and from residential development and to and from public spaces.

(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The proposal is accompanied with shadow diagrams that demonstrate adequate solar access is provided to public and private open spaces and habitable rooms of adjacent dwellings.

(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

The subject site is not located in a recreation or environmental protection zone, therefore this objective is not relevant.

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

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

Description of non-compliance

Clause 4.1.4.2 of the Manly DCP requires development be setback at least 2.5m from the eastern side boundary and 2.36m from the western side boundary.

Clause 4.1.4.2 also requires windows from habitable rooms of dwellings that face the side boundary to be setback at least 1.72m - 2.3m from side boundaries.

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

West side setback- 1.7m- 2.3m (32% variation)

East side setback - 2.1m (11.1% variation)

Windows: 1.72m - 2.3m (42% variation)

Rear Setbacks: 4m (50% variation)

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 setback non-compliances apply to the rear additions which will have a negligible impact on the streetscape.

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 side boundary non-compliance does not directly attribute to unreasonable privacy and solar impacts on adjoining properties. No view impacts arise from the proposal. The proposal maintains appropriate building separation that is consistent with the street and streetscape envisaged by the MDCP

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

Comment:

The proposed setbacks allow a reasonable building footprint, compliant with the floor space ratio to provide for two functional dwellings for the site.

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 application proposes a compliant level of landscape open space. Landscaping is able to be provided down along both the front and rear of the dwelling to soften the built form and assist in privacy. There are adequate deep soil zones in the front and rear setbacks to provide suitable planting as shown in the landscape plan.

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

Comment:

The subject site is not located in a bushfire zone.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

Clause 4.1.5.1 of the MDCP requires at 55% of the site being total open space. The application proposes 42% of the site as total open space, non-compliant with the numeric control. This represents a 23% variation to the numeric control.

Merit consideration:

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

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

Comment:

The application does not propose the removal of any important landscape features (Trees, plants or rock formations).

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

Comment:

The proposed development provides suitable landscape open space on site, compliant with the numeric control.

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

Comment:

Amenity considerations including sunlight, privacy and views have been suitably mitigated to a reasonable standard as part of this application, despite the non-compliance with the numeric control.

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

Comment:

The proposed development provides ample soft open spaces for the purpose of onsite water infiltration to minimise stormwater runoff.

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

Comment:

The proposal is not likely to lead to a significant spread of weeds.

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

Comment:

The development will not affect any existing wildlife habitat and potential for wildlife corridors.

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.

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Description of non-compliance

Under Clause 4.1.6.1 of Manly Development Control Plan 2013, the maximum width of any garage, carport or hardstand area is not to exceed a width equal to 50 percent of the frontage, up to a maximum width of 6.2m.

The proposal presents a garage width of 6.9m, that is greater than the maximum width requirements, however is less than 50% of the frontage.

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 provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).

Comment:

The proposed development will allow for two (2) spaces for the dwelling house, consistent with the numeric control.

Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.

Comment:

Adequate on-site parking is provided, consistent with the numeric control.

Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.

Comment:

The proposal's design adequately provides two off-street carparking spaces that promotes efficient, safe, and convenient vehicular access.

Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.

Comment:

Subject to conditions of consent, imposed by Council's Development Engineer, the proposal is consistent with this control. The parking proposed to the front portion of the site limits excavation across the site

Objective 5) To ensure the width and number of footpath crossings is minimised.

Comment:

The property will use a single driveway and cross over to reduce the disruption to the existing footpaths.

Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.

Comment:

The driveway is limited to single width to allow for minimum parking requirements.

Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.

Comment:

The subject site is not located within an established town centre noted within the Manly DCP.

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.

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 inconsistent 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 \$18,215 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,821,500.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;

- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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 DA2022/0840 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 1 DP 932637, 41 Pacific Parade, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|-----------------|---------------------|
| Drawing No. | Dated | Prepared By |
| DA-100/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-111/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-112/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-121/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-122/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-130/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-200/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-210/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-220/ Revision C | 7 December 2022 | Your beautiful Home |
| | | |

| | | |
|--------------------|-----------------|---------------------|
| DA-230/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-301/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-302/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-303/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-305/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-400/ Revision C | 7 December 2022 | Your beautiful Home |
| DA-600 | October 2021 | Your beautiful Home |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|---------------|--------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Heritage Impact Statement | April 2022 | Damian O'Toole |
| White geotechnical group | 16 March 2022 | White geotechnical group |
| Basix Certificate No A451277_02 | 21 March 2022 | Efficient Living |
| Arboricultural Impact Assessment | 13 March 2022 | Hugh the 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 |
| DA/130 - Proposed Landscaping Plan | October 2021 | Your Beautiful Home |

| Waste Management Plan | | |
|------------------------------|--------------|--------------------|
| Drawing No/Title. | Dated | Prepared By |
| Waste Management Plan | 16 May 2022 | Anna Williams |

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 | Ausgrid Referral Response | N/A |

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

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

3. Prescribed Conditions

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

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

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

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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 an 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.

5. Parking Enclosure

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure accessibility is maintained.

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$18,215.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$1,821,500.00.

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

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

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

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

7. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

8. Heritage Listed Trees

The site contains / is adjacent to Heritage Listed Trees as identified in the Local Environmental Plan. Heritage Listed Trees are to be protected from damage during construction.

a) The following Heritage Listed Trees are located within the vicinity of the approved works:
i) all the existing street trees along Pacific Parade are protected under Local Heritage item i191,
ii) specifically the Camphor Laurel fronting the development property shall be protected and the works under b) i) and ii) below shall be conducted.

b) A Tree Protection Plan is to be prepared by an Arborist with minimum AQF Level 5 in arboriculture incorporating the following:

i) annotated photographs of the tree(s) trunk, branches and any exposed roots,
ii) tree protection measures in accordance with AS4970-Protection of Trees on Development Sites.

Reason: Protection of significant community assets.

9. Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Pacific Parad.

Details demonstrating compliance 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 the development.

10. Flooding

In order to protect property and occupants from flood risk the following is required:

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. Openings should be a minimum of 75mm x 75mm.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

11. Photographic Archival Record

A photographic archival record of the site is to be made of all existing buildings and structures (including interiors and exteriors and their setting), generally in accordance with the guidelines issued by Heritage NSW.

This record must be submitted to Council's Heritage Officer for approval prior to issue of a Construction Certificate. Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

The photographic record should be made using digital technology and should include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

12. Construction Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control

measure

- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

14. 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.

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.

15. 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.

16. 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 Certifier 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.

17. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

18. linemarking and signposting plan

That dimensioned signposting and linemarking plans be submitted for remarking of the angle parking bays between the proposed driveway at No.41 Pacific Parade and the street tree in front of No.45 Pacific Parade for approval by council's traffic engineer

Reason: to ensure compliance with standards (DACTRCPC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

19. Project Arborist

All the existing street trees along Pacific Parade are protected under Local Heritage item i191 of the Manly Local Environmental Plan, including the Camphor Laurel fronting the development site and identified as tree 18 in the Arboricultural Impact Assessment.

tree 4 - *Callistemon viminalis* located within No. 43 requires tree sensitive construction and supervision by a PA during any demolition or construction works.

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment or otherwise imposed, and in particular:

- i) excavation and construction works in the vicinity of tree 4 - *Callistemon viminalis* located within No. 43, requiring tree sensitive construction and supervision,
- ii) tree protection of the existing street tree identified as tree 18 - Camphor Laurel.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifier that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

20. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) trees numbered 1, 2, and 3,
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Exempt Species (by species type or by height) as listed in the Development Control Plan do not require Council consent for management or removal, and the following exempt species are identified in the Arboricultural Impact Assessment: trees numbered 5, 6, 7 and 8.

Reason: To enable authorised development works.

21. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

Reason: To ensure Work zones are monitored and installed correctly.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

22. 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,
- 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) or vi) 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 Principal Certifier,
- 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.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Principal Certifier must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) 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.

Reason: Tree and vegetation protection.

23. **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.

24. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

25. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

26. **Geotechnical Requirements**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

27. **Survey Certificate**

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

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

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

28. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 6.5 metres wide at kerb and 7.8 metres wide at boundary in accordance with Northern Beaches Council Driveway Profile Drawing- N 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.

29. Protection of heritage street tree

The heritage listed street tree (Camphor Laurel) in the road reserve adjacent to this property, is to be protected at all times during construction.

Reason: To ensure that the health of this heritage listed tree is not affected by any construction works.

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

30. Landscape Completion

Landscaping is to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:

- i) the nominated three trees (two in the front of one in the rear of the property) shall be selected from Northern Beaches Council's Native Plant Species Guide - Manly Ward, Manly DCP Schedule 4 - Part B - Native Tree Selection, or Council's Tree Guide,
- ii) all tree planting shall be a minimum pre-ordered planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees, planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iii) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

31. Condition of Retained Vegetation

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

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

Reason: Tree and vegetation protection.

32. **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.

33. **Signage and Linemarking – External**

The applicant is to install all signage and linemarking, as per any Roads Act approval. These works are to be completed prior to the issue of any Occupation Certificate

Reason: To ensure compliance with the Roads Act

34. **Geotechnical Certification Prior to Occupation Certificate**

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

35. **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.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

36. **Landscaping and structures adjoining vehicular access**

The applicant must ensure that any built structures and planting chosen for any land immediately adjacent to the driveway must not exceed a height of 1m

Reason: To maintain unobstructed sight distance for motorists to vehicles and pedestrians.

37. **Sight lines within carparks**

The required sight lines to pedestrians and other vehicles in and around the driveway's junction with the property boundary are not to be obstructed by landscaping or structures.

Reason: To maintain unobstructed sight distance to pedestrians.

38. **Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

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

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

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

Signed



Maxwell Duncan, Planner

The application is determined on 22/12/2022, under the delegated authority of:



Rodney Piggott, Manager Development Assessments