

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/1806
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<b>Responsible Officer:</b>	Catriona Shirley
<b>Land to be developed (Address):</b>	Lot 1 DP 345209, 30 Beatrice Street CLONTARF NSW 2093
<b>Proposed Development:</b>	Alterations and additions to a Dwelling House
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	George Jason Elias
<b>Applicant:</b>	George Jason Elias

<b>Application Lodged:</b>	07/10/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	19/10/2021 to 02/11/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 165,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

Complying Development Certificate Approval number **CDC/0141472-B** for a new two-storey dwelling with basement level garage was issued on 19 August 2021 by Buildcert Services Pty Ltd.

An amending Development Application has been submitted to seek approval for additional works.

The works as part of this approval include the following:

- New basement subfloor area that includes new retaining walls, associated drainage voids, lift shaft structure, plant room and internal stairs in the basement level.
- New swimming pool to be located on the Ground Floor level front terrace with associated privacy screens and planter trellis
- Minor window changes to the western elevation of the Ground Floor servicing the terrace area.

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils

Manly Local Environmental Plan 2013 - 6.8 Landslide risk

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.9 Mechanical Plant Equipment

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

Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 345209 , 30 Beatrice Street CLONTARF NSW 2093
<b>Detailed Site Description:</b>	<p>The site is legally described as Lot 1 DP 345209 and known as 30 Beatrice Street, Clontarf. The subject site is mapped within the R2 Low Density residential zone under Manly LEP 2014.</p> <p>The site is a battle-axe block with access from Beatrice Street. The site is regular in shape with a total size area of 897.8sqm. The shared vehicle access to the property is approximately 44.3m in length, with a rear setback of 19.455m.</p> <p>The site is currently under construction for a three level dwelling house. As a result, there is no canopy trees or environmental features on the site.</p>

This property is located in the Foreshore Scenic Protection Zone with views obtained from the subject site to Sydney Harbour over the dwelling houses towards the south-east.

Surrounding sites consist of multi-level dwelling houses, of varying ages, within landscaped settings.

The subject site also adjoins Balgowlah Heights Public School to the rear.

Map:



## SITE HISTORY

A search of Council's records has revealed the following relevant development applications:

- Development Application **DA2021/0436** for the alterations and additions to a dwelling house including swimming pool was withdrawn following Council's advice on appropriate approval paths of Complying Development Certificates amended by Development Applications. The advice provided has since been updated to reflect current judgments from the Land and Environment Court. As a result, the current development application has been submitted.

Pre-lodgement Meeting **PLM2020/0246** was held on 29/10/2020 for the alterations and additions to install an internal lift and an external new swimming pool. The notes from the meeting concluded that the proposal could be acceptable on its merits, subject to adequate information being provided. It was also advised that the applicant obtain legal and/or planning and/or certifiers advice in relation to amending a CDC via a DA and the fact that this approach is not encouraged or supported in principle, but it is understood that it technically can be done.

- Complying Development Certificate **CDC2021/0213** for a new two storey dwelling house was received by Council on the 16/03/2021.
- Modification Application **Mod2021/0195** for a modified CDC for a new two storey dwelling house was

received by Council on the 28 March 2021.

- Complying Development Application **CDC2021/0803** for the basement rainwater tank size & basement structural elements, ground floor external landings (north & east), internal room layouts, door and window changes was received by Council on the 19/08/2021.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Mainly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 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 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration	Comments
	<p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 19/10/2021 to 02/11/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS



External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable with no recommended conditions of consent.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

### SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1158402S\_09 dated 29 September 2021). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No.1158402S\_09 dated 29 September 2021).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	Pass
Thermal Comfort	Pass	Pass
Energy	50	Pass

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

### SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable with no recommended conditions of consent.

**Manly Local Environmental Plan 2013**

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	2.4m Swimming pool 3.6m - 4.0m Swimming pool/Privacy screen	-	Yes
Floor Space Ratio	FSR: 0.4:1 (359.12m <sup>2</sup> )	FSR: 0.37:1 (332sqm)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes

Clause	Compliance with Requirements
6.12 Essential services	Yes

#### Detailed Assessment

#### **6.1 Acid sulfate soils**

The site is identified as being partly within 'Class 5' on the Acid Sulfate Soils Map.

The proposed earthworks do not involve the required disturbance of soil to trigger an Asset Sulfate Soil Management Plan (ASSMP).

As a result, a ASSMP is not required.

In addition, the water table will also not be affected by the proposed works.

#### **6.8 Landslide risk**

A Geotechnical Investigation has been prepared by White Geotechnical Group, Reference No. J3287, dated 12 April 2021. This report and its recommendations are included within the applied conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposals excavation.

#### **Manly Development Control Plan**

##### Built Form Controls

Built Form Controls - Site Area: 897.8 sqm	Requirement	Proposed	% Variation*	Complies
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Battle axe allotment 4.2m from the western setback	30%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	Xm (based on wall height)	1.3m internal basement works from southern setback	-	Yes
4.1.4.4 Rear Setbacks	8m	9.4m internal basement works	-	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm	-	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	2.4m	140%	<b>No</b>
	1m curtilage/1.5m water side/rear setback	8m Southern Boundary 4.2m Western Boundary	-	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security		
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.7 Building Construction and Design	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 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

### Detailed Assessment

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

The DCP requirements and objectives, pursuant to Clause 3.1.1 Streetscape (Residential area), including sections 3.1.1.1 to 3.1.1.5, are addressed as follows:

#### Merit Assessment Comments:

The proposal is required to be consistent with Complementary Design and Visual Improvement design outcomes including streetscape considerations for setbacks, materials and built form. As outlined in the below assessment report, the internal works and built form of the new swimming pool are consistent

with the DCP objectives. The internal works will not be visually identifiable as they are within the existing footprint of the approved (via CDC) dwelling house, with no additional window or door openings.

The swimming pool is not visually identifiable from the streetscape due to the battle axe lot arrangement of the subject site. However, the use of natural materials for the privacy screening combined with a trellis planter address visual impact as you approach the built form from the shared vehicle access.

The swimming pool height is due to the chosen location within the approved (via CDC) front terrace, with the design, and use of natural materials and landscaping elements assisting to ensure no unreasonable impacts of bulk.

The elevated swimming pool is considered to be reasonable due to existing site conditions, and that the design does not dominate the public space of the street boundary /setback area and complements the existing character, including the multiple examples of swimming pools in surrounding sites in similar locations.

In consideration of the Beatrice Street frontage the elevated swimming pool presentation will be consistent with adjacent houses on the same side of the road as the subject site such as No. 22, 24 and No. 26 Beatrice Street. As a result, the proposal does not create an unreasonable impact on surrounding land and is consistent with the pattern of surrounding development on similar topography.

Having regard to the above assessment, and objectives of this clause it is concluded that subject to conditions the proposed development is consistent with the 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.

### **3.4.2 Privacy and Security**

#### Description of non-compliance

The proposal includes minor changes to the door openings on the ground floor servicing the terrace area. However there door openings are located well over 13m from the western boundary, and are not expected to created any unreasonable or additional privacy impacts.

The proposal includes the construction of a elevated swimming pool which is proposed to be located close to neighbouring western boundary and could have the potential for overlooking impacts.

As a result, a merit assessment has been undertaken below.

#### Merit consideration:

The development is considered against the underlying Objectives of the Clause 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.*

The proposal seeks to construct a swimming pool up to 2.4m in height, with western side setbacks of 4.1m to the curtilage, and 4.3m to the waters edge.

The elevation of the swimming pool and close location to the western boundary could have amenity impact in regards to overlooking. However, the location of the proposed swimming pool does not adjoin the western sites dwelling house, or any private open space areas. Rather the location is partly adjoining the rear setback area, and cabana. See photos 2 below.



**Photo 2:** View lines towards the western adjoining property.

Overlooking to the western rear site will be mitigated by the proposed 1.8m privacy screening, see Figure 1 below.



**Figure 1:** Privacy screening along the western edge of the terrace adjoining the proposed swimming pool.

The swimming pool has also been assessed with the requirements of clause 4.1.9 Swimming Pools, Spas, and water features and has demonstrated compliance with the control as detailed below.

The proposal is considered acceptable on merit and consistent with the objectives of the clause in this particular instance.

**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:**

The proposed location of the swimming pool within the approved (via CDC) terrace area and open style design continues to allow for access to light and air without resulting in unreasonable privacy outcomes, and while retaining suitable outlooks and views.

**Objective 3) To encourage awareness of neighbourhood security.**

Comment:

The development proposes open areas to allow passive surveillance and encouraging awareness of neighbourhood security.

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

### **3.9 Mechanical Plant Equipment**

The Manly DCP 2013 requires external mechanical plant systems (for pools, and the like) to be acoustically enclosed. A condition is imposed in the consent to ensure the proposal will not result in any unreasonable impacts on the acoustic privacy of the neighbouring property.

The plant room is located within the basement area of the development to ensure that future impacts from this plant equipment is not an issue.

As a result, the proposal complies with the requirements of the clause.

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

Description of non-compliance

Clause 4.1.4.1 of the Manly DCP requires development be setback at least from 6m from the property boundary. The subject site is a battle axe allotment, in that the western boundary, whilst not adjoining the street, for the purpose of this assessment will be treated as a front boundary.

The proposed dwelling house (approved via CDC) is setback 3.9m from the western boundary. The proposed swimming pool is setback 4.2m, representing a 30% variation to the numeric control.

The internal works as part of the proposal make no change to the previously approved building heights, setbacks, or window openings approved under CDC 2021/0213.

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 elevated swimming pool is to be located within the approved (via CDC) front terrace setback 4.1m from the western property boundary. The proposed swimming pool, and associated privacy screening is protected from the public domain and streetscape as it does not present to the street frontage due to its location behind another parcel of land. This means the very minor non-compliance to the north has no affect on the desired spatial proportions of the street, the street edge and the landscape character of the street.

*Objective 2) To ensure and enhance local amenity by:  
providing privacy;*

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

Comment:

The design of the swimming pool and associated privacy screening ensures privacy and solar access is maintained for both the subject site and the adjoining properties. There will be no view impacts and the proposal remains consistent with the residential density in the locality. The addition allows for the retention of the existing approved (via CDC) vehicular access and maintains the off-street parking arrangement on the site. There is no major impact on neighbouring solar access and the privacy screen is strategically placed to mediate privacy concerns.

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

Comment:

Flexibility in the application of the setback control is considered appropriate, as the swimming pool meets the maintains the existing approved (via CDC) setbacks on the site. The non-compliance will have very little impact in the future siting of buildings.

*Objective 4) To enhance and maintain natural features by:  
accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;  
ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and  
ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The proposal allows for the retention of previously approved (via CDC) landscaped areas, and private outdoor space. No tree removal is proposed.

*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.

#### **4.1.9 Swimming Pools, Spas and Water Features**

Description of non-compliance

Clause 4.1.9.1 requires swimming pools to be no more than 1m above the natural ground level. The



proposed swimming pool has a maximum height of 2.4m above the natural ground level therefore displaying a variation to the requirements of the control.

The control requires swimming pools be have a minimum setback to the side and rear boundaries of 1m to the curtilage and 1.5m to the water edge. The proposed water edge is setback of 4.1m to the western boundary and 4.3m from the curtilage to the western side boundary. This represents a variation to the requirements of the control.

As such, an assessment against the objectives is carried out below.

#### Merit consideration

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

*Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;*

#### Comment:

The swimming pool proposed wet edge and privacy screening treatment located along the western curtilage of the pool (which adjoins highest point above ground due to sloping topography) is minimal in width (1.0m), and 1.8m privacy screening will provide a visual buffer between the swimming pool area the neighbouring property to the west. Landscape trestle will also assist in providing appropriate levels of softening of the built form along the western edge of the terrace/swimming pool area when viewed from the western adjoining site.

The proposed swimming pool is located away from any habitable rooms of the northern neighbouring properties and is not likely to result in any unreasonable acoustic privacy impacts.

The pool plant has been conditioned to limit the associated noise to no more than 5dB (A) above the background level, which will minimise the impact of the filter noise on adjoining properties. Overall, the proposal meets this objective.

*Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality.*

#### Comment:

The swimming pool is located within the CDC approved front terrace of the dwelling house, and due to the battle axe configuration of the site the swimming pool will not be visually identifiable from the street, and will not unreasonably impact the streetscape. Many of the existing dwelling houses along this section of Beatrice Street have located the pools within the front setback areas to take advantage of the orientation towards the view lines of Sydney Harbour, for example No. 22, 24 and 26 Beatrice Street. The pool could be excavated into the site toward the rear to comply with the control, but this would not maximise the usability of the subject site, as the main living space for the dwelling will be the front terrace area. The location within the CDC approved terrace allows the retention of the landscaped area at the rear of the subject site to create viable areas of greenspace for the site.

The proposal will generally maintain compliant levels of landscaped area and open space area. The non-compliant height of the pool will not prevent significant planting being maintained within the northern side setbacks, nor eastern rear setback of the subject site which will allow the landscaped character of locality to be maintained.



The location of the proposed swimming pool will not be easily identifiable from Beatrice Street and the inclusion of a swimming pool in the section of the properties fronting Beatrice Street is an established characteristic in this locality. The pool is designed to appear as part of the house with natural materials utilised for the privacy screen is sympathetic and assists to integrate with the dwelling house structure.

*Objective 3) To integrate landscaping*

Comment:

Adequate landscaping areas were approved via the CDC approval for the dwelling house. It is not possible to provide additional landscaping into the western setback due to the approved driveway and hardstand area. However a trellis planter has been incorporated into the development in order to provide a visual landscape break in the built form.

As mentioned above, the highest point of the overall pool structure is visually screened by the proposed privacy screen, with the incorporation of the trellis planter allowing additional landscaping to screen, soften and visually display consistency with the surrounding neighbours and characteristics of the streetscape.

*Objective 4) To become an emergency water resource in bush fire prone areas.*

Comment:

The site is not bushfire prone.

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

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2021**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$ 825 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 165,000.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/1806 for Alterations and additions to a Dwelling House on land at Lot 1 DP 345209, 30 Beatrice Street, CLONTARF, 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 following:

(a) Complying Development Certificate CDC/0141472-B issued on 19 August 2021 by Buildcert Services Pty Ltd ("the CDC") is modified as shown within the red annotations to enable the development shown in the approved plans for this development consent to be constructed and integrated with the development approved by the CDC. The building construction details for the modified CDC are to be provided with the construction certificate plans and details for this consent.

#### b) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Roof/Site/Demolition Plan DA-01 Issue B	Sept 2021	Building Design and

		Drafting Services
Basement Floor Plan DA-02 Issue B	Sept 2021	Building Design and Drafting Services
Ground Floor Plan DA-03 Issue B	Sept 2021	Building Design and Drafting Services
First Floor Plan DA-04 Issue B	Sept 2021	Building Design and Drafting Services
Elevations DA-05 Issue B	Sept 2021	Building Design and Drafting Services
Sections DA-06 Issue B	Sept 2021	Building Design and Drafting Services
D&W window schedule Issue B	Sept 2021	Building Design and Drafting Services

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Basement Drainage Plan DA02 Rev. E	January 2021	NB Consulting Engineers
Ground, First Floor and Roof DA03 Rev.E	January 2021	NB Consulting Engineers
Stormwater Details DA04 Rev. E	January 2021	NB Consulting Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Investigation	12/4/2021	White Geotechnical Group

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

## 2. Prescribed Conditions

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

- (iii) stating that unauthorised entry to the work site is prohibited.  
Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

### 3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the

development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

## FEES / CHARGES / CONTRIBUTIONS

### 4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$825.00 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 2021. The monetary contribution is based on a development cost of \$165,000.00.



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

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

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

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

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

## **5. Security Bond**

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

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

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

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

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

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

## **6. Waste Management Plan**

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

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

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

**7. Compliance with Standards**

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

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

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

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**8. Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all structural elements, and the finished floor levels are in accordance with the approved plans.

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

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

**9. 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.

**10. Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

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

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

**11. 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**



**Catriona Shirley, Planner**

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



**Rodney Piggott, Manager Development Assessments**