

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1305
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	lot 11 DP 1026519 Maritime Lic 30002506, 39 Seaforth Crescent SEAFORTH NSW 2092 lot 11 DP 1026519 Maritime Lic 30002506, 39 Seaforth Crescent SEAFORTH NSW 2092
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned C3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Ronald Shaw Thomson Pamela Robertson-Gregg
Applicant:	Space Landscape Designs Pty Ltd

Application Lodged:	11/08/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	23/08/2022 to 06/09/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 210,980.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for alterations and additions to a dwelling house pursuant to the *Manly Local Environmental Plan 2013* (MLEP 2013), including the following:

- reconstruction of the existing incline passenger lift,
- elevated timber walkways,
- construction of a cabana, and
- associated landscaping works to create terraced garden areas.

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 - Zone C3 Environmental Management

Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area

Manly Local Environmental Plan 2013 - 6.10 Limited development on foreshore area

Manly Development Control Plan - 3.4.2 Privacy and Security

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

Manly Development Control Plan - 5.4.1 Foreshore Scenic Protection Area

SITE DESCRIPTION

Property Description:	lot 11 DP 1026519 Maritime Lic 30002506 , 39 Seaforth Crescent SEAFORTH NSW 2092 lot 11 DP 1026519 Maritime Lic 30002506 , 39 Seaforth Crescent SEAFORTH NSW 2092
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Seaforth Crescent.</p> <p>The site is irregular in shape with a frontage of 25.17m along Seaforth Crescent and a maximum depth of 76.3m. The site has a surveyed area of 1,307m².</p> <p>The site is located within the C3 Environmental Management zone and accommodates a three storey dwelling. An attached garage is located on the west of the dwelling and the existing swimming pool is located at the rear of the dwelling on the lower ground floor terrace. An existing incline passenger lift is located along the eastern</p>

elevation of the subject site.

The site falls approximately 40m from the north to the foreshore at the south. The slope falls across the property at an average angle of 30 degrees to the waterfront.

The site contains rock outcrops, lawn areas, mature trees, garden beds and a range of low lying and medium lying shrubs. There are no details of any threatened species on the subject site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by predominately large multi level single detached dwellings oriented to the south to maximise water views.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- **DA0535/2004** for alterations and additions including construction of new swimming pool was approved on 21 January 2005 by Council staff.
- **DA2022/0808** for construction of a spa was approved on 15 August 2022 by Council staff. A Construction Certificate (CC2022/1064) and Notice of Commencement (NOC2022/1061) were submitted to Council for this Development Consent.
- **DA2022/0936** for alterations and additions to a dwelling house was granted deferred commencement approval by Council's Development Determination Panel (DDP) on 12 October 2022. Following satisfaction of the deferred commencement condition, a Construction Certificate

(CC2022/1224) and Notice of Commencement (NOC2022/1219) was submitted to Council for this Development Consent.

- **BC2022/0226** for the construction of authorized works relating to non-structural partitions and infill flooring to the dwelling house. This was approved on 26 October 2022 by Council staff. This Building Certificate was a requirement under the deferred commencement approval of DA2022/0936.

APPLICATION HISTORY

Additional information was requested in relation to Floor Space Ratio (FSR), location of the Foreshore Building Line (FBL) applicable to the subject site and amendments to the architectural plans to show the FBL and provide more detail for the new incline passenger lift cab. This information was requested by Council through a Request for Further Information (RFI) letter on 8 November 2022. The requested information was provided to Council, via the NSW Planning Portal, on 23 November 2022. As the modified works were of a lesser or reduced environmental impact, in accordance with Council's Community Participation Plan (CPP), the modified application is not required to be re-notified.

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	Mainly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Floor Space Ratio (FSR), location of the Foreshore Building Line (FBL) applicable to the subject site and amendments to the architectural plans to show the FBL and provide more detail for the new incline passenger lift cab. This information was requested by Council through a Request for Further Information (RFI) letter on 8 November 2022. The requested</p>

Section 4.15 Matters for Consideration	Comments
	<p>information was provided to Council, via the NSW Planning Portal, on 23 November 2022. As the modified works were of a lesser or reduced environmental impact, in accordance with Council's Community Participation Plan (CPP), the modified application is not required to be re-notified.</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 clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (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 23/08/2022 to 06/09/2022 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Colco Consulting Pty Ltd	29 A Amiens Road CLONTARF NSW 2093

The following issues were raised in the submissions:

- Bulk and scale of the proposed built form, including the visual and amenity impacts when viewed from waterway and adjoining properties
- Negative impact upon the foreshore area
- Non-compliant landscaped area
- Tree and vegetation removal

The above issues are addressed as follows:

- **Bulk and scale of the proposed built form, including the visual and amenity impacts when viewed from waterway and adjoining properties**

The submissions raised concerns that the proposed cabana is excessive in size, and the elevated decks will result in an unacceptable built form when viewed from adjoining private properties and Middle Harbour, thus resulting in an inappropriate development within the environmentally sensitive land with minimal regard to the amenity for adjoining properties. Of particular concern is how the roof form of the cabana will impact upon neighbouring properties, particularly because the removal of vegetation throughout the site will not visually minimise the contrast between the built and natural environment. Coupled with the multiple non-compliances (including removal of vegetation and trees), the proposal will create adverse visual and amenity impacts that are not commensurate or consistent with adjoining and nearby properties that front Middle Harbour. Further concerns are raised that the visual appearance will be unacceptable when viewed from Middle Harbour.

Comment:

For the reasons detailed throughout the assessment report, the proposed development is considered appropriate for the subject site. The proposed additional landscaping, and the recommended condition for replacement tree planting, will ensure the proposed built form is visually obscured when viewed from Middle Harbour and adjoining/nearby properties. It is noted that maximum height of the proposed cabana is 3.64 metres at its highest point, and is visually obscured from the existing retaining wall.

- **Negative impact upon the foreshore area**

The submissions raised concerns that, based on the non-compliances of the built form and failure to meet the relevant planning objectives, the proposed development will negatively impact upon the Foreshore Scenic Protection Area to which the development is sited.

Comment:

It is noted that the subject site is bound by the requirements prescribed within Clause 6.9 Foreshore scenic protection area and Clause 6.10 Limited development on foreshore area of the *MLEP 2013*. A detailed assessment of the proposed development against those requirements has been undertaken, and can be found within the relevant sections of this report.

The assessment has found that the proposed development has satisfied the requirements of Clause 6.9 and Clause 6.10 of the *MLEP 2013*.

- **Non-compliant landscaped area**

The submissions raised concerns that the proposed calculations shown on the architectural plans (particularly drawing no. DA-02 Rev B 'Landscape Open Space Calculations') for the landscaped open space are incorrect and have not been calculated in accordance with the requirements detailed in the Manly Development Control Plan (MDCP). The submission requests Council undertake its own assessment for the landscaped open space calculations.

Comment:

An assessment of the proposed development has been undertaken, this includes calculating the total open space and landscaped open space (as well as other relevant built form controls within the MDCP and applicable clauses of the *Manly Local Environmental Plan 2013 [MLEP 2013]*).

This assessment has found the proposed development achieves compliance with both 4.1.5.1 Minimum Residential Total Open Space Requirements and 4.1.5.2 Landscaped Area.

- **Tree and vegetation removal**

*The submissions raised concerns that the proposed development includes removal of a number of trees to facilitate the cabana and incline passenger lift extension. Ultimately resulting in an acceptable visual appearance when the subject site is viewed from adjoining properties and Middle Harbour, and thus failing to meet the requirements as prescribed within the relevant clauses of the *MLEP 2013*, and not maximizing the retention of existing vegetation (such as trees and habitat). Concern is also raised that the removal of vegetation throughout the site will create an unnecessary visual change to the landform of the subject site, and impacting upon the foreshore when viewed from Middle Harbour.*

Comment:

The proposed development has been assessed against the relevant clauses of the *MLEP 2013* and the assessment has found the proposal to be acceptable in the context of the subject site and immediate locality of Seaforth. Furthermore, Council's Landscape Officer and Bushland and Biodiversity Officer have reviewed the proposed development, neither of which have raised concern with regards to the proposed development, subject to recommended conditions. It shall be noted that one such condition requires the replacement planting of one (1) tree (to be chosen from Northern Beaches Council's Native Plant Species Guide - Manly Ward).

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposed works are external works consisting of: modification of existing inclinator to include removal of two landings and construction of two new landings; demolish existing shed and replace with new storeroom and cabana; construction of new stone clad concrete block retaining walls to replace existing unstable rock walls; construct new decks; and removal of a tree and palm.</p> <p>Council's Landscape Referral section have considered the application against the zone C3 Environmental Management objectives of Manly Local Environment Plan, and the following Manly DCP 2013 controls (but not limited to):</p> <ul style="list-style-type: none"> • DCP section 3: General Principles of Development, including but not limited to clauses 3.3.1 Landscape Design, and 3.3.2 Preservation of Trees and Bushland Vegetation, • DCP section 4: Development Controls and Development Types, including but not limited to clauses 4.1.5 Open Space and Landscaping. <p>The landscape outcome of the zone C3 Environmental Management objectives include protection and management of the ecological and aesthetic landscape values, protection of tree canopies to maintain the natural scenic qualities of the foreshore, revegetate and rehabilitate the foreshore, and ensure that the bulk and scale of development integrates with the natural environment.</p> <p>A Landscape Plan accompanies the application and is assessed as part of this Landscape Referral. The existing tree and palm are exempt species and thus be managed or removed without Council consent.</p> <p>The existing landscape setting is predominately retained, and additional landscape hard and soft works are proposed including: screen planting is proposed along the boundary adjacent to new turf and deck area: and planters with screen under croft areas of the decks and stairs.</p> <p>Landscape Referral raise no concerns.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against Manly LEP Clause 6.5 Terrestrial Biodiversity and State Environmental Planning Policy (Resilience and Hazards) 2021 clause 2.10 Development on land within the coastal environment area.</p> <p>The proposed works require removal of two exempt trees, and includes areas of cut and fill, new retaining wall and landscape works. The works require limited removal of native vegetation or wildlife habitat. The proposal is therefore considered to comply with the applicable biodiversity control and is designed, sited and will be</p>

Internal Referral Body	Comments
	managed to avoid an adverse impact to the local environment.
NECC (Coast and Catchments)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; • Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005; • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.12); and • Relevant LEP and DCP clauses. <p>The application meets the requirements of the relevant Environmental Planning Instruments and policies.</p> <p>The application is supported subject to conditions:</p> <ul style="list-style-type: none"> • Installation and maintenance of erosion and sediment controls (prior to commencement)
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021; • Northern Beaches Water Management for Development Policy; and • Relevant LEP and DCP clauses. <p>Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p> <p>On assessment, the application meets the requirements of the relevant Environmental Planning Instruments and policies relating to waterways, riparian areas, and groundwater.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This application has been referred as the site has frontage to Middle Harbour which is subject to a local heritage listing - Item I1 - Harbour foreshores, listed in Schedule 5 of Manly Local Environmental Plan 2013. In this instance, it appears that the subject site is not affected by the heritage listing as mapped, however as the lot has frontage to a harbour foreshore, it is implied that it is affected by this heritage listing.</p>
	Details of heritage items affected
	<p>Details of this heritage item, as contained within the Heritage Inventory are:</p> <p>Item I1 - Harbour foreshores</p> <p><u>Statement of Significance</u></p> <p>Natural landscape type - Aesthetic.</p> <p><u>Physical Description</u></p> <p>Length of foreshore including natural and built elements of the landscape. Rocky sandstone ledgers, beaches, mud flats and sandstone retaining walls and timber structures.</p>

Internal Referral Body	Comments		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	Comment if applicable
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	<p>This application proposes landscaping and other works on the lower portion of this site. The work includes replacement of inclinator landing stops, a cabana building, as well as decks, pathways, retaining walls and landscaping, providing access from the upper parts of the site to the foreshore and the existing jetty. No works are proposed to the foreshore area or to any of the structures on the foreshore. As a result, there will be no impact upon the heritage listed foreshore.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions required.</p> <p><u>Consider against the provisions of CL5.10 of MLEP 2013:</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? N/A</p>		
	Further Comments		
	Nil		

External Referral Body	Comments
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p>

External Referral Body	Comments
	Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

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 (Biodiversity and Conservation) 2021

The subject property is located within the Sydney Harbour Catchment therefore the provisions of Part 6.3 Foreshores and Waterways Area apply to this development.

Division 3 Development in Foreshores and Waterways Area

6.28 General

(1) In deciding whether to grant development consent to development in the Foreshores and Waterways Area, the consent authority must consider the following—

(a) whether the development is consistent with the following principles—

(i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good,

(ii) the public good has precedence over the private good,

(iii) the protection of the natural assets of Sydney Harbour has precedence over all other interests,

(b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,

(c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,

(d) whether the development promotes water-dependent land uses over other land uses,

- (e) whether the development will minimise risk to the development from rising sea levels or changing flood patterns as a result of climate change,*
- (f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,*
- (g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,*
- (h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.*

Comment:

The subject site is located within the Sydney Harbour Foreshores and Waterways Area. As such, the assessment of this application has considered the above. As the proposed development is sited entirely within the property boundaries of the subject site, the proposal will not have an adverse impact upon the functioning (both commercial and recreational), public use and public enjoyment of Sydney Harbour. Further, as no works are sited seaward of the mean high water mark, there is unlikely to be any unreasonable or adverse impacts upon the terrestrial and aquatic species, populations and ecological communities of Sydney Harbour, or alter natural watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.

The proposal is considered to be consistent with the above requirements as prescribed within SEPP (Biodiversity and Conservation) 2021.

(2) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—

- (a) having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites,*
- (b) if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,*
- (c) if the development is for or in relation to industrial or commercial maritime purposes—public access that does not interfere with the purposes will be provided and maintained to and along the foreshore,*
- (d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,*
- (e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from—*
 - (i) the Foreshores and Waterways Area, and*
 - (ii) public places, landmarks and heritage items.*

Comment:

The subject site is located within the Sydney Harbour Foreshores and Waterways Area. As such, the assessment of this application has considered the above and is satisfied the proposal can achieve these requirements, as follows. As the proposed development is sited entirely within the property boundaries, and is sited on private residential land, it is unlikely to impact upon the character and functions of a working harbour. The subject site does not adjoin land used for industrial or commercial maritime purposes, and therefore the requirements relating to industrial and commercial maritime purposes are not for consideration under this development application. The subject site benefits from

vehicular access along Seaforth Crescent and, as such, constant reliance upon boat access to the subject site is unlikely, and thus minimising excessive traffic congestion along the waterway and foreshore area. As detailed elsewhere in this report, the proposed development is commensurate with residential land uses adjoining and nearby to the subject site. In this instance, the foreshores and waterways area will be enhanced, protected and maintained.

The proposal is satisfactory when considered against the matters for consideration as prescribed within SEPP (Biodiversity and Conservation) 2021.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and has not raised any issues and is satisfied the proposal can meet the requirements of this Clause.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that

impact.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and has not raised any issues and is satisfied the proposal can meet the requirements of this Clause.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse
 - ii) impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and has not raised any issues and is satisfied the proposal can meet the requirements of this Clause.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and is satisfied the proposal will not increase the risk of coastal hazards.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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	3.64m	N/A	Yes
Special height provisions	RL 41.58	RL 41.57 (Existing)	N/A	Yes
Floor Space Ratio	FSR: 0.4:1 (522.8m ²)	FSR: 0.39:1 (511.1m ²) (based on approved dwelling house in addition to gross floor area of bathroom & storage space in cabana). Less than 0.4:1 when the existing dwelling is considered.	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.3A Special height provisions	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes

Clause	Compliance with Requirements
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes

Detailed Assessment

Zone C3 Environmental Management

1. Objectives of Zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*

Comment:

The proposal seeks to formalise the rear yard of the subject site to become a more appropriate external private open space for the occupants of the subject site. The proposed development has been reviewed by internal referrals and assessed against the relevant controls within the Manly DCP and Manly LEP, noting that the proposal can be supported, subject to relevant conditions that will ensure the appropriate protection, management and, where necessary, restoration of areas of special ecological, scientific, cultural or aesthetic values.

- To provide for a limited range of development that does not have an adverse effect on those values.*

Comment:

The proposed development is limited in that it requires minor ground disturbance which means it is unlikely the proposal will have an adverse effect on any of the abovementioned values.

- To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*

Comment:

The proposed cabana is sited outside of the foreshore area, however the incline passenger lift, landing 3 and pathways are sited within the foreshore area, landward of the mean high water mark. One (1) tree is proposed for removal as a result of landing 3, and a palm tree is proposed for removal to facilitate the proposed cabana. Council's Landscape Officer has reviewed the proposed development, and noted the removal of these trees. Appropriate conditions have been recommended to ensure replacement planting throughout the site to off-set the removal of these trees. Notwithstanding the low impact residential ancillary use that the proposed cabana provides, the proposed 'new timber deck' RL12.88 shall be removed and replaced with a canopy tree in accordance with a recommended condition, and Council's native species list. As conditioned, the proposal will ensure tree canopies can be facilitated on site, thus ensuring the proposed built form does not dominate the natural scenic qualities of the foreshore area.

- To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*

Comment:

As above, the proposal includes the removal of two (2) trees. Recommended conditions will ensure replacement planting to off-set the removal of these trees. Compliance with the recommended conditions will ensure that the impact upon the foreshore is minimal, as well as

ensuring there is minimal net loss of natural vegetation throughout the site.

- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*

Comment:

The immediate foreshore is unlikely to be impacted by the proposed development as the final landing of the incline passenger lift (landing 3), and the associated pathway) is located 3.76 metres - 5.11 metres from the mean high water mark. As, regenerative works to the foreshore area is not required, in this instance. Further, a condition has been recommended to ensure a soil and erosion management plan is prepared to minimise the impact of hard surfaces and associated pollutants in stormwater runoff does not adversely impact upon the characteristics of the locality and the water quality of Middle Harbour.

- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

Comment:

The height of the proposed cabana is 3.64 metres, with a gross floor area of 29.8m². The proposed incline passenger lift extends into the foreshore area, and is sited approximately 3.76 metres from the mean high water mark. Notwithstanding the removal of two (2) trees on site, the proposed development is of an appropriate height and bulk, taking into consideration the topography and surrounding land uses, noting that the proposed development is ancillary to the existing residential dwelling. As detailed above, recommended conditions for replacement planting will ensure the vegetation throughout the site is maximised and enhanced to be commensurate with the foreshore area.

6.9 Foreshore scenic protection area

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- (a) *impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) *measures to protect and improve scenic qualities of the coastline,*
- (c) *suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) *measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Comment:

The proposed development has been considered against the above requirements. The proposed cabana is a single level, generally open structure, sited at ground level approximately 23.8 metres from the mean high water mark. In this instance, it is unlikely the proposed cabana will create unreasonable overshadowing of the foreshore area, nor is it likely to create any loss of views from public places to the foreshore as the subject site falls steeply from the road frontage, meaning the existing dwelling and topography will obscure any views of the foreshore from closest public space (being the pedestrian pathway along Seaforth Crescent).

Due to existing allotments along the southern side of Seaforth Crescent and Laura Lane, some of which

are shaped irregularly, there are many dwellings sited within the foreshore area that fronts Middle Harbour. In this instance, the scenic quality of the existing coastline of the subject site and other waterfront properties in the immediate vicinity is unlikely to be detrimentally impacted by the proposed development.

The proposed cabana is setback as close as possible to the existing stone retaining wall (which has an approximate height of 2.6 metres when measured from the existing ground RL15.65 to the top of the wall at RL18.32) and the highest point of the building being RL17.95. Therefore, the maximum height of the proposed cabana is lower than the existing retaining wall, which is not proposed for removal under this application. As the proposed cabana is approximately 11.3 metres from the foreshore building line (at its closest point), it is an acceptable development type that has an appropriate relationship with, and minimal impact upon, the foreshore area. The proposed inclinator is an acceptable development in that it is of minimal impact upon the topography of the land that does not require high piers to facilitate the rails, or substantial excavation works as the incline rails are sited close to the existing ground levels. However, a condition will be recommended to ensure the proposed timber deck, at RL12.88, shall be removed from the approved plans. This timber deck is sited 3.4 metres of the existing ground level (as measured on the East Section and Section BB) and is considered to be an inappropriate built form in the foreshore scenic area. The proposed cabana will provide the same intent as the timber deck, and having both is considered excessive. When considering the proposed development in the context of the subject site and surrounding properties, and as conditioned, the proposal is a suitable development that has been appropriately designed to ensure minimal impact upon the topography of the land as possible, with minor excavation works required to accommodate the proposed cabana.

The proposed development is unlikely to cause any potentially adverse conflicts between land-based and water-based coastal activities.

6.10 Limited development on foreshore area

Under Clause 6.10 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,*
- *the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment:

The proposed development is for the construction of a new cabana wholly outside of the foreshore area and the extension and rebuilding of an incline passenger lift of an existing incline passenger lift partly in the foreshore area and the construction of timber pathways wholly within the foreshore area.

The proposed development within the foreshore area (whether wholly or partly) is done so where the levels, depth or other exceptional features of the site make it appropriate to do so.

Development consent must not be granted under this clause unless the consent authority is satisfied that:

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore*

- *areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
 - *pollution or siltation of the waterway, or*
 - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - *an adverse effect on drainage patterns, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment:

The proposed development is consistent with the objectives of the C3 Environmental Management zone of the Manly LEP 2013. The appearance of the proposed development is compatible with the surrounding area. As conditioned, the proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats or drainage patterns. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway as the works are sited entirely within the property boundaries of the subject site. Additionally, the proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. As conditioned, the proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns. It is noted that there are multiple dwellings and ancillary structures in the immediate vicinity that are sited wholly or partly within the foreshore area (such as 37 Seaforth Crescent, 71 Seaforth Crescent, 3, 4, 5, 6, 7 and 8 Laura Street). As such, the extent of the proposed development within the foreshore area is minor in the wider context of the locality, and provides safe and convenient access from the existing dwelling to the foreshore area.

In satisfying itself about a matter mentioned in subclause (3) (e), the consent authority must give consideration to the following—

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will maintain the existing continuous public access to and along the foreshore as the proposed works are sited entirely within the property boundaries. The proposed

development does not impact upon any public access. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1307.0m ²	Requirement	Proposed	% Variation*	Complies	
4.1.2.1 Wall Height	Eastern Elevation: 7.6m (based on gradient 1:5.5)	2.54m - 3.09m	N/A	Yes	
	Western Elevation: 7.9m (based on gradient 1:4.3)	3.16m - 3.74m	N/A	Yes	
4.1.2.3 Roof Height	Height: 2.5m	0.35m	N/A	Yes	
4.1.4.2 Side Setbacks and Secondary Street Frontages	Eastern Boundary 1.03m (based on maximum proposed wall height)	Cabana 2.61m - 2.91m	N/A	Yes	
		Inclinators L1: 2.65m - 2.7m L2: 1.65m - 1.71m L3: 0.64m - 0.69m	N/A N/A N/A	Yes Yes Yes	
		Landing L1: 3.52m - 3.6m L2: 2.7m - 2.74m L3: 1.69m - 1.74m	N/A N/A N/A	Yes Yes Yes	
		Decking 5.21m - 6.66m (RL 12.88) 2.26m - 2.45m (RL 14.32)	N/A N/A	Yes Yes	
	Western Boundary 1.24m (based on maximum proposed wall height)	Cabana 0.93m - 2.69m	9.7%	Yes & No	
		Decking & Landings 0.89m - 0.92m (RL 12.88) 4.41m - 4.45m (RL 13.42) 4.45m - 8.42m (RL 14.32)	28.2% N/A N/A	No Yes Yes	
	Windows: 3m	Western Boundary 1.0m	66.6%	No	
	4.1.4.4 Rear Setbacks	8m	Cabana 26.0m (Mean High Water Mark [MWHM])	N/A	Yes
			Landings 3.76m - 5.11m	53%	No

4.1.4.5 Foreshore Building Lines and Foreshore Area	No encroachment (unless permissible in accordance with Cl. 6.10 of MLEP 2013)	Cabana Outside Foreshore Area	N/A	Yes
		Incline Passenger Lift Within Foreshore Area	N/A	Yes (Permissible under Cl. 6.10)
		Decking & Landing 3 Within Foreshore Area	N/A	Yes (Permissible under Cl. 6.10)
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% (784.2m ²) of site area	62.2% (812.8m ²)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% (325.12m ²) of total open space	75.67% (615.1m ²)	N/A	Yes
4.1.5.3 Private Open Space	18.0m ² per dwelling	>18.0m ²	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	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
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

Description of non-compliance

The proposed cabana is generally an open structure along the northern and southern elevations. However, along the western elevation of the cabana is a storage area which has one (1) highlight window. Due to the nature of the storage area, there is unlikely to be adverse privacy impacts upon the property to the west.

Amended plans were provided which provided greater detail of the proposed inclinator passenger cab. Drawing no. DA-04 Section Elevations (prepared by Space Landscape Designs) details the dimensions of the cab as well as noting that a privacy screen will be installed along the boundary side, indicated as frosted glass. However, Drawing No. 01 - Site Plan Rev G (prepared by Railus) indicates that angled louvres will be installed along the southern and eastern sides of the passenger car to minimise overlooking into the adjoining property when the inclinator is in use.

As a result of this inconsistency, a condition will be recommended which stipulates the details for the required privacy screens to be erected on the passenger cab.

Merit consideration:

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

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

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

Comment:

As conditioned, the proposed development provides an appropriate design for privacy, mitigating direct overlooking into the adjoining property to the east by way of erecting privacy screens to the passenger cab of the inclinator.

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

Comment:

As conditioned, the proposed development will not comprise access to light and air. Further, the passenger cab of the inclinator is unlikely to give rise to unreasonable impacts upon outlooks and views from habitable rooms and private open space of adjoining properties as it is sited close to the ground level.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed development is unlikely to compromise neighbourhood security, or casual surveillance of the water frontage as the works are sited on the existing round level and will maintain a single storey (with consideration to the proposed cabana)

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.

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

Description of non-compliance

4.1.4.2 Side setbacks and secondary street frontages

This control requires development to be setback a distance calculated as one third of the proposed wall height. The following applies to the subject site:

Based on the requirements, the *proposed wall heights* are as follows:

- **Eastern elevation:** 2.54m - 3.09m
- **Western elevation:** 3.16m - 3.74m

Therefore, the *required side setbacks* are as follows:

- **Eastern boundary:** 1.03m
- **Western boundary:** 1.24m

The *proposed side setbacks* are as follows:

- **Eastern boundary**
 - All proposed development is compliant with the required eastern side setback distance.
- **Western boundary:**
 - Cabana:
 - 0.93m - 2.69m (maximum variation of 9.7%)
 - Decking & landings (RL12.88) (all other decking and landings are compliant):
 - 0.89m - 0.92m (maximum variation 28.2%)

One window is proposed along the western elevation of the cabana, which is within 3.0 metres of the

western side boundary. However, this window is sited to the storage area and, therefore, is unlikely to create any unreasonable impact upon the privacy between properties.

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 works are sited in the rear yard of the subject site. In this instance, the existing street frontage will be maintained.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposed non-compliances do not give rise to unreasonable privacy impacts upon the residents of the adjoining properties. A further discussion on this has been undertaken within this report under section **3.4.2 Privacy and Security**.

As the proposed cabana is single storey, and the proposed inclinor is sited close to the existing ground levels, and due to the steep slope of the subject site, the risk of unreasonable overshadowing of adjoining properties is minimal. In this instance, the proposal is considered to provide equitable access to light, sunshine and air movement.

The proposed development is considered to provide a reasonable sharing of views as the proposed cabana is sited to the south of an existing stone retaining wall with levels ranging between RL18.32 and RL18.44, and the proposed maximum roof height of the cabana is RL17.95, thus being obscured by the existing retaining wall.

As detailed above, the proposed development is detached and sited to the rear of the property. Therefore, the existing streetscape is not impacted by the proposed development. Further to this, the proposed works will not impact upon the traffic conditions of Seaforth Crescent.

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

Comment:

Notwithstanding the non-compliances to this control, the proposed development will continue to provide

reasonable access throughout 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 location of the proposed works is currently overgrown vegetation. The proposal requires the removal of this vegetation to be replaced with formalised garden terracing with replacement planting throughout. Two (2) trees are proposed for removal, however conditions have been recommended which requires replacement planting of two (2) trees on the site to maximise the natural environment.

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

Comment:

The subject site is not located within bushfire prone land.

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.

5.4.1 Foreshore Scenic Protection Area

The matters for consideration under Clause 6.9 Foreshore Scenic Protection Area of MLEP 2013 have been addressed within the aforementioned Clause within this report. In addition, the proposed development is considered against the further matters for consideration as detailed under 5.4.1.1 Additional matters for consideration of the Manly Development Control Plan (MDCP) as follows:

i) minimise the contrast between the built environment and the natural environment;

Comment:

Notwithstanding the removal of vegetation throughout the site, the proposal includes the replacement planting and formalisation of garden terracing between the proposed cabana and foreshore building line. As conditioned, the proposal provides an acceptable contrast between the built environment and the surrounding natural environment.

ii) maintain the visual dominance of the natural environment;

Comment:

As above, the proposal, as conditioned, will ensure the vegetation (including trees) on the site will provide visual dominance, and will provide visual relief of the built form when viewed from adjoining properties and Middle Harbour. It shall be noted that a built form within the foreshore area, landward of the mean high water mark, is not inconsistent with the locality, with some dwellings being sited (wholly or partly) within the foreshore area. When viewed from Middle Harbour, the proposed development will

be commensurate with the locality.

iii) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;

Comment:

As detailed above, and elsewhere in this report, as conditioned, the proposed development will maximise the vegetation on the site, including the implementation of replacement planting of two (2) trees to off-set the removal of two (2) trees. As conditioned, the proposal will also provide wildlife corridors and habitat for locally native fauna.

iv) maximise the retention of existing vegetation including tree canopies, street trees, wildlife corridors and habitat;

Comment:

As detailed above, and elsewhere in this report, as conditioned, the proposed development will maximise the vegetation on the site, including the implementation of replacement planting of two (2) trees to off-set the removal of two (2) trees.

v) locate rooflines below the tree canopy;

Comment:

The proposed roof line of the cabana is well below the existing tree canopy.

vi) consider any effect of the proposal when viewed from the harbour / ocean to ridgelines, tree lines and other natural features; and

Comment:

As detailed above, and elsewhere in this report, the proposed cabana has a maximum height of 3.64 metres (or maximum ridge height of RL17.95) and is tucked in adjacent to the existing retaining wall (with a top of wall level RL18.32 and bottom of wall level RL15.65). The proposal includes substantial planting between the proposed cabana and mean high water mark. Such planting, as conditioned, will appropriately screen the built form. Further, the proposed cabana is setback approximately 23.8 metres from the mean high water mark. This provides ample spatial separation between the built form and Middle Harbour. The assessment has considered the effect of the proposal when viewed from Middle Harbour is minimally adverse.

vii) use building materials of a non-reflective quality and be of colours and textures that blend with the prevailing natural environment in the locality.

Comment:

An appropriate condition will be recommended to ensure the colours and finishes schedule is of dark and earthy tones to integrate into the natural environment.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$2,110 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$210,980.

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 DA2022/1305 for Alterations and additions to a dwelling house on land at lot 11 DP 1026519 Maritime Lic 30002506, 39 Seaforth Crescent, SEAFORTH, lot 11 DP 1026519 Maritime Lic 30002506, 39 Seaforth Crescent, SEAFORTH, 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-01 Rev C Site Plan & Site Analysis	21/11/22	Space Landscape Designs
DA-03 Rev C Demolition Plan	23/11/22	Space Landscape Designs
DA-04 Rev C Section Elevations	23/11/22	Space Landscape Designs
DA-05 Rev B Cut & Fill Plan	20/07/22	Space Landscape Designs
DA-07 Rev B Landscape Plan	20/07/22	Space Landscape Designs
L-08 Rev A Cabana Floor Plan & Roof Plan	20/07/22	Space Landscape Designs
00 Rev G Cover Sheet	16/12/21	Railus
01 Rev G Site Plan	16/12/21	Railus
02 Rev G Sections	16/12/21	Railus

Engineering Plans		
Drawing No.	Dated	Prepared By
DA-06 Rev B Erosion & Sediment Control Plan	20/07/22	Space Landscape Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation (J4201A)	26 July 2022	White Geotechnical Group

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	20/7/2022	Space Landscape Designs

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 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.

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 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.

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$2,109.80 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 \$210,980.00.

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.

5. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION

CERTIFICATE

6. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

7. **Stormwater Drainage Disposal**

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifier prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

8. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The proposed timber deck at RL12.88 shall be removed from the approved plans and replaced with landscaping, including one (1) locally native tree which shall be planted to

achieve at least 6 metres height at maturity, and shall be selected from Northern Beaches Council's Native Plant Species Guide, or Council's Tree Guide, and in accordance with the following:

- i) tree planting shall be a minimum pre-ordered planting size of 75 litres; shall meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth and backfilled with a sandy loam mix or approved similar; mulched to 75mm depth minimum and maintained and watered until established; located at least 3.0 metres from buildings or more and from other trees; at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
 - ii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.
- o The proposed cab for the incline passenger lift shall be affixed with angled louvre privacy screens along the eastern and southern elevations.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land and to maintain environmental amenity.

9. **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.

10. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

11. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in

accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the 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.

12. Compliance with Standards

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

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

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

13. 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
- i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) 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 Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) 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, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Certifying Authority must ensure that:

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

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

16. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

17. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected

by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

18. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

19. **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.

20. **Survey Certificate**

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

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

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

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

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

22. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

23. Aboriginal Heritage

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning and Environment.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning and Environment.

Reason: Aboriginal Heritage Protection.

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

24. Landscape Completion

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

- i) the nominated *Rhapiolepis indica* species shall not be planted, and shall be replaced with a non self-seeding species of similar form and size,
- ii) one (1) native tree species as 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, shall be planted near the Pinus to be removed, and 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, at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

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

Reason: Environmental amenity.

25. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

26. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the

stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the authority to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

27. 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

28. 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.

Reason: To maintain local environmental amenity.

29. 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.

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

Signed



Megan Surtees, Planner

The application is determined on 04/02/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments