

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2021/2509 |
|----------------------------|-------------|

|   |  |
|---|--|
| <b>Responsible Officer:</b>               | Thomas Burns   |
| <b>Land to be developed (Address):</b>    | Lot 1 DP 550821, 265 Sydney Road FAIRLIGHT NSW 2094<br>Lot 2 DP 550821, 263 Sydney Road FAIRLIGHT NSW 2094 |
| <b>Proposed Development:</b>              | Alterations and additions to a semi-detached dwelling  |
| <b>Zoning:</b>                            | Manly LEP2013 - Land zoned R1 General Residential  |
| <b>Development Permissible:</b>           | Yes  |
| <b>Existing Use Rights:</b>               | No   |
| <b>Consent Authority:</b>                 | Northern Beaches Council   |
| <b>Land and Environment Court Action:</b> | No   |
| <b>Owner:</b>                             | Julia Emily Surgeon  |
| <b>Applicant:</b>                         | Modum Pty Ltd  |

|                                  |   |
|----------------------------------|---|
| <b>Application Lodged:</b>       | 20/12/2021                              |
| <b>Integrated Development:</b>   | No                                      |
| <b>Designated Development:</b>   | No                                      |
| <b>State Reporting Category:</b> | Residential - Alterations and additions |
| <b>Notified:</b>                 | 07/01/2022 to 25/01/2022                |
| <b>Advertised:</b>               | Not Advertised                          |
| <b>Submissions Received:</b>     | 3                                       |
| <b>Clause 4.6 Variation:</b>     | Nil                                     |
| <b>Recommendation:</b>           | Approval                                |

|                                 |               |
|---------------------------------|---------------|
| <b>Estimated Cost of Works:</b> | \$ 240,000.00 |
|---------------------------------|---------------|

### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to existing semi-detached dwellings to provide a first floor addition at 263 Sydney Road and re-build chimneys on 263 and 265 Sydney Road. The works consist of:

#### Ground Floor

- Internal staircase to provide access to the first floor addition.

#### First Floor Addition

- Re-build party wall and chimneys.

- Main bedroom with ensuite and balcony.
- Additional bedroom.

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

Manly Development Control Plan - 3.4.4 Other Nuisance (Odour, Fumes etc.)

Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

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

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

## SITE DESCRIPTION

|                                   |   |
|-----------------------------------|---|
| <b>Property Description:</b>      | <p>Lot 1 DP 550821 , 265 Sydney Road FAIRLIGHT NSW 2094</p> <p>Lot 2 DP 550821 , 263 Sydney Road FAIRLIGHT NSW 2094</p>   |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one allotment with frontages to Sydney Road and Hilltop Crescent, Fairlight. Pedestrian access is provided via both frontages, whilst vehicular access is confined to the Hilltop Crescent frontage.</p> <p>The site is irregular in shape with a frontage of 6.375m to Sydney Road and a frontage of 6.3m to Hilltop Crescent.</p> |

The site has depth of 40.615m and a surveyed area of 253.2sqm.

The site is located within the R1 General Residential zone pursuant to Manly LEP 2013 and accommodates a single storey semi-detached dwelling including a single car hardstand adjacent to the Hilltop Crescent frontage. The party wall is located on the western boundary.

The site contains one small tree within the primary front setback area and one small tree within the secondary front setback area, in which is located directly on the eastern side boundary.

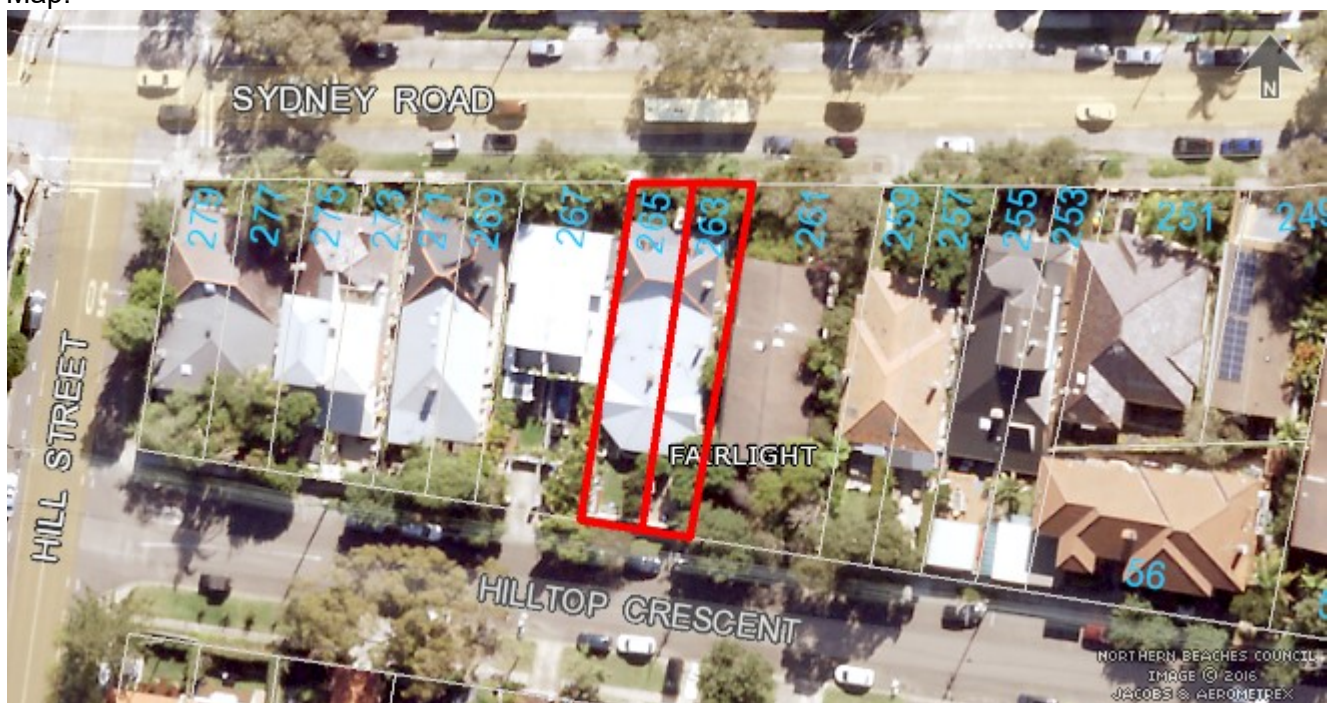
The site experiences a fall of approximately 3.7m that slopes away from Hilltop Crescent to Sydney Road.

### Description of Surrounding Development

The surrounding built environment is largely characterised by a mix of residential land uses, which includes semi-detached dwellings, residential flat buildings and dwelling houses. Furthermore, a number of neighbourhood shops and commercial tenancies are located in close proximity to the site. The scale of development is typically 1-2 storeys in height. The locality is well serviced by local public transport services.

***Note:** The site description has only been prepared for 263 Sydney Road as the works are generally confined to this property (excluding new chimney at 265 Sydney Road).*

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:

- Development Application No. 428/06 for alterations and additions to semi-detached dwelling including living room and patio to rear approved by Council on 29 November 2006.
- Section 4.55(1A) Modification to modify Development Application No. 428/06 approved by Council on 14 September 2007.

## APPLICATION HISTORY

The Development Assessment Planner examined the subject site and the surrounds on 1 February 2022.

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

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

| Section 4.15 Matters for Consideration  | Comments  |
|---|---|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument   | See discussion on “Environmental Planning Instruments” in this report.  |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.  |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan  | Mainly Development Control Plan 2013 applies to this proposal.  |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement  | None applicable.  |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> |



| Section 4.15 Matters for Consideration   | Comments  |
|--|---|
|  | Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.   |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) <b>Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>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 07/01/2022 to 25/01/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

| Name:                   | Address:                               |
|-------------------------|--|
| Ms Karen Anne Webster   | 2 / 261 Sydney Road FAIRLIGHT NSW 2094 |
| Ms Erica Jane Cumming   | 1 / 267 Sydney Road FAIRLIGHT NSW 2094 |
| Mrs Helena June Northey | 2 / 267 Sydney Road FAIRLIGHT NSW 2094 |

Three submissions were received following the public exhibition period. The following issues were raised in the submissions:

- **View Loss**

The submissions raised concerns that the proposed development would result in unreasonable view loss from nearby residential properties.

Comment:

This matter is discussed within this section of this report relating to Clause 3.4.3 of the Manly DCP 2013. In summary, it is considered that the proposed development results in minor view impacts to nearby residential development, noting that the affected views are obtained over the side boundaries and do not hold significant value. Overall, Council is satisfied that the development achieves consistency with the objectives of the view sharing control and the planning principles outlined within the NSW Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*.

- **Privacy**

The submissions raised concerns that the proposed development would result in unacceptable visual privacy impacts.

Comment:

This matter is discussed in detail within the section of this report relating to Clause 3.4.2 of the Manly DCP 2013. In summary, the proposed development does not result in unreasonable privacy impacts, which is attributed to sufficient privacy mitigation measures that are employed (i.e. highline windows, privacy screens and recessed balcony).

- **Solar Access**

The submissions raised concerns that the proposed development results in unacceptable overshadowing of adjacent properties.

Comment:

This matter is addressed within the section of this report relating to Clause 3.4.1 of the Manly DCP 2013. In summary, the proposed development complies with the solar access numeric requirements.

- **Smoke Nuisance from Solid Fuel Burning Heater**

The submissions raised concerns that the solid fuel burning heater would create unreasonable amenity impacts.

Comment:

Council's Environmental Health Officer has reviewed the proposal in relation to the solid fuel burning device and raises no objections, subject to conditions to ensure compliance with

relevant Australian Standards.

### Conclusion

The matters raised within the submissions have been appressed above and resolved through conditions where necessary. The concerns do not warrant refusal of the application.

### **REFERRALS**

| <b>Internal Referral Body</b>                      | <b>Comments</b>   |
|--|---|
| Building Assessment - Fire and Disability upgrades | <p>1. The proposed first floor addition should comply with Part 3.7 and 3.8.6 of the National Construction Code (BCA) 2019.</p> <p>2. The proposed party wall must be located wholly within the allotment boundary.</p> <p>3. A chartered professional structural engineer's "Certificate of Adequacy" certifying the ability of the existing walls and footings to take the proposed additions is to be submitted to the Principal Certifier prior to the first inspection.</p> <p><u>Comment:</u></p> <p>The Development Assessment Planner has discussed the above conditions with the Building Control Officer. Recommended Conditions 1 and 2 will be placed under the 'Prior to Construction Certificate' section, whilst Condition 3 will be placed under the 'Prior to Commencement Section'.</p> |
| Environmental Health (Solid Fuel/Oil Heater)       | <p><b>General Comments</b></p> <p>Standard solid fuel heater conditions apply</p> <p><b>Recommendation</b></p> <p>SUPPORTED - subject to conditions</p>   |

| <b>External Referral Body</b> | <b>Comments</b>   |
|-------------------------------|---|
| Ausgrid: (SEPP Infra.)        | The application was referred to Ausgrid, who responded stating that a formal assessment was not required. |

### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

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

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

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

### **SEPP 55 - Remediation of Land**

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

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

A BASIX Certificate was submitted with this application (see BASIX Certificate No. A439467\_03, dated 22 November 2021). A condition has been included with this consent to ensure compliance with the aforementioned BASIX Certificate.

### **SEPP (Infrastructure) 2007**

#### Ausgrid

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

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

#### Comment:

The application was referred to Ausgrid, who responded stating that a formal assessment was not required.

### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The subject property is located within the Sydney Harbour Catchment and therefore, the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

## Manly Local Environmental Plan 2013

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

### Principal Development Standards

| Standard             | Requirement           | Proposed              | % Variation | Complies |
|----------------------|-----------------------|-----------------------|-------------|----------|
| Height of Buildings: | 8.5m                  | 8.48m                 | -           | Yes      |
| Floor Space Ratio    | 0.6:1 (151.92sqm GFA) | 0.58:1 (145.9sqm GFA) | -           | Yes      |

Note: GFA refers to gross floor area.

### Compliance Assessment

| Clause                    | Compliance with Requirements |
|---------------------------|------------------------------|
| 4.3 Height of buildings   | Yes                          |
| 4.4 Floor space ratio     | Yes                          |
| 6.1 Acid sulfate soils    | Yes                          |
| 6.4 Stormwater management | Yes                          |
| 6.12 Essential services   | Yes                          |

## Manly Development Control Plan

### Built Form Controls

| Built Form Controls - Site Area: 253.2sqm     | Requirement   | Proposed                    | % Variation* | Complies |
|---|---|-----------------------------|--------------|----------|
| 4.1.1.1 Residential Density and Dwelling Size | Density: 1 dwelling per 250sqm site area                                | 1 dwelling on 253.2sqm site | -            | Yes      |
|   | Dwelling Size: 112sqm GFA required based off 4 bedrooms and 3 bathrooms | 145.9sqm GFA                | -            | Yes      |
| 4.1.2.1 Wall Height                           | West: N/A Party Wall  | N/A                         | N/A          | N/A      |
|   | East: 6.8m (1:18 gradient)  | 6.9m                        | 1.47%        | No       |
| 4.1.2.2 Number of Storeys                     | 2 storeys   | 2 storeys                   | -            | Yes      |
| 4.1.2.3 Roof Height                           | Height: 2.5m  | 1.31m                       | -            | Yes      |
|   | Pitch: maximum 35 degrees   | 27 degrees                  | -            | Yes      |
| 4.1.4.1 Street Front Setbacks                 | Primary Frontage (Sydney Road) Prevailing building line / 6m            | 10.92m                      | -            | Yes      |
| 4.1.4.2 Side Setbacks and Secondary Street    | Secondary street frontage (Hilltop Crescent): 6m                        | 10.68m                      | -            | Yes      |
|   |   |                             |              |          |



|   |  |   |                |           |
|---|--|---|----------------|-----------|
| Frontages   | West: N/A Part Wall                              | N/A   | N/A            | N/A       |
|   | East: 2.3m                                       | 1.2m - 2.14m                                  | 6.96% - 47.83% | <b>No</b> |
|   | Windows: no windows within 3m of side boundaries | 2x windows within 3m of eastern side boundary | up to 30%      | <b>No</b> |
| 4.1.5.1 Minimum Residential Total Open Space Requirements<br>Residential Open Space Area: OS3 | Open space 55% of site area                      | no change                                     | N/A            | N/A       |
|   | Open space above ground 35% of total open space  | no change                                     | N/A            | N/A       |
| 4.1.5.2 Landscaped Area   | Landscaped area 35% of open space                | no change                                     | N/A            | N/A       |
|   | 1 native tree                                    | 2 native trees                                | -              | Yes       |
| 4.1.5.3 Private Open Space  | 18sqm per dwelling                               | >18sqm  | -              | Yes       |
| Schedule 3 Parking and Access   | Semi-detached Dwelling: 2 spaces                 | 1 space (as existing)                         | 50%            | <b>No</b> |

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

#### Compliance Assessment

| Clause   | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 3.1 Streetscapes and Townscapes  | Yes                          | Yes                         |
| 3.1.1 Streetscape (Residential areas)  | Yes                          | Yes                         |
| 3.3.2 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                         |
| 3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design) | Yes                          | Yes                         |
| 3.7 Stormwater Management  | Yes                          | Yes                         |
| 3.8 Waste Management   | Yes                          | Yes                         |
| 3.10 Safety and Security   | Yes                          | Yes                         |
| 4.1 Residential Development Controls   | Yes                          | Yes                         |
| 4.1.1 Dwelling Density, Dwelling Size and Subdivision  | Yes                          | Yes                         |
| 4.1.1.1 Residential Density and Dwelling Size  | Yes                          | Yes                         |
| 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)                     | No                           | Yes                         |
| 4.1.3 Floor Space Ratio (FSR)  | Yes                          | Yes                         |

| Clause   | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 4.1.4 Setbacks (front, side and rear) and Building Separation              | No                           | Yes                         |
| 4.1.5 Open Space and Landscaping   | Yes                          | Yes                         |
| 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities) | No                           | Yes                         |
| 4.1.7 First Floor and Roof Additions                                       | Yes                          | Yes                         |
| 4.1.8 Development on Sloping Sites   | Yes                          | Yes                         |
| 4.4.1 Demolition   | Yes                          | Yes                         |
| 4.4.2 Alterations and Additions  | Yes                          | Yes                         |

#### Detailed Assessment

##### **3.4.1 Sunlight Access and Overshadowing**

The following controls are of relevance in determining the development's impact upon sunlight to adjacent properties:

*"New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June)"; and*

Comment:

##### **265 Sydney Road (western adjacent site)**

The adjacent property at No. 265 accommodates a single storey semi-detached dwelling. The private open space on this site is located within the southern portion of the site adjacent to the Hilltop Crescent frontage. An examination of the applicant's shadow diagrams reveals that this area is heavily overshadowed at 9am and partially overshadowed at 12pm and 3pm on June 21. Due to the north-south orientation of the allotments and the central positing of the first floor addition within the site, the proposal does not result in additional overshadowing of the adjacent private open space at 9am, 12pm or 3pm on June 21. It is noted that shadow diagrams have not been provided for 10am and 11am on June 21, however based off the projection of the shadows and positioning and height of the first floor addition, it is reasonable to conclude that the proposal will result in minor shading of the adjacent private open space at 10am and 11am on the winter solstice. However, the shadowing would be minor and would not constitute more than 1/3 of existing solar access accessing this area.

##### **261 Sydney Road (eastern adjacent site)**

The adjacent property at No. 261 accommodates a two storey residential flat building (RFB) comprising four dwellings. One dwelling is located on the ground floor within the north-eastern corner of the building, whilst the remaining dwellings are sited on the first floor. The dwellings' private open space is located on the eastern elevations (and partially northern elevations for two units on the northern end of the building) and is in the form of balconies.

As the balconies are located on the eastern and northern elevations of the adjacent RFB and the subject site is located to the west of the adjacent RFB, the proposed development does not result in additional shading of these balconies on June 21.

*"For adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors to living rooms for a period of at least 4 hours from 9am to 3pm on the winter solstice (21 June)".*

### **265 Sydney Road (western adjacent site)**

Living room windows on this adjacent building are located on the southern and western elevations on the ground floor. As depicted on the shadow diagrams, the proposed development does not result in further shading of these windows on June 21 when compared to what is currently experienced.

### **261 Sydney Road (eastern adjacent site)**

Living room windows on the adjacent RFB are largely located on the northern and eastern elevations of the building. As depicted on the shadow diagrams, the proposed development results in additional shading of west facing windows at 3pm on June 21. Whilst shadow diagrams have not been prepared for 1pm and 2pm on June 21, it is reasonable to conclude that the southernmost west facing window on the adjacent RFB will receive additional shading between 12:45pm - 1pm based off the projection of the shadows and positioning and height of the first floor addition.

Despite this, it is noted that the window subject to additional shading between 12:45pm - 1pm on June 21 is a bedroom window within Unit 4. All living room windows within Unit 4 are located on the eastern elevation of the RFB and will not be impacted by the proposal. All living room windows within Units 1, 2 and 3 and 4 within the adjacent RFB will maintain at least 4 hours of existing sunlight on June 21, which complies with this requirement. Whilst there is additional shading to the west facing windows within the afternoon, the impacts are largely confined to bedroom windows and therefore, are considered to be reasonable in this instance, noting that bedrooms receive low volumes of pedestrian movement on a day to day basis.

### Conclusion

As demonstrated above, the proposed development complies with the Manly DCP 2013 solar access requirements.

### **3.4.2 Privacy and Security**

The following controls are of relevance to determine the development's privacy impacts:

#### 3.4.2.1 Window Design and Orientation

*a) Use narrow, translucent or obscured glass windows to maximise privacy where necessary.*

*b) When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and to mitigate impacts on privacy.*

### Comment:

The first floor addition includes two new bedroom windows on the eastern elevation. The windows are located 4.7m from opposing west facing bedroom windows on the first floor of the adjacent RFB at No. 261 (eastern adjacent site). However, the window sills are positioned 1.55m above the finished floor level of the first floor addition. Furthermore, the window sill heights are located above the window head heights on the adjacent west facing windows. These factors will prevent direct overlooking between the

opposing habitable rooms.

#### 3.4.2.2 Balconies and Terraces

*a) Architectural or landscape screens must be provided to balconies and terraces to limit overlooking nearby properties. Architectural screens must be fixed in position and suitably angled to protect visual privacy.*

*b) Recessed design of balconies and terraces can also be used to limit overlooking and maintain privacy.*

#### Comment:

The proposed development includes an elevated balcony on the southern elevation of the first floor addition. However, a full height privacy screen has been included on the eastern elevation of the balcony, whilst the western elevation is recessed behind the common party wall. As such, the occupants will only be able to maintain direct sightlines towards Hilltop Crescent. These factors will prevent direct overlooking into private open space and habitable rooms on adjacent properties. Furthermore, due to the minimal size of the balcony and the fact that the balcony adjoins a bedroom (i.e. low trafficable area), the balcony will not receive high volumes of pedestrian movement on a day to day basis.

#### 3.4.2.3 Acoustical Privacy (Noise Nuisance)

*See also Noise Guide for Local Government prepared by NSW Department of Environment, Climate Change and Water in 2010.*

*a) Consideration must be given to the protection of acoustical privacy in the design and management of development.*

*b) Proposed development and activities likely to generate noise including certain outdoor living areas like communal areas in Boarding Houses, outdoor open space, driveways, plant equipment including pool pumps and the like should be located in a manner which considers the acoustical privacy of neighbours including neighbouring bedrooms and living areas.*

*c) Council may require a report to be prepared by a Noise Consultant that would assess likely noise and vibration impacts and may include noise and vibration mitigation strategies and measures. See particular requirements for noise control reports for licenced premises below at paragraph g) below.*

#### Comment:

The first floor balcony has a trafficable area of 4.9sqm and adjoins a bedroom. As such, the area will receive low volumes of pedestrian movement and will not be conducive to serve as the principal private open space on the site. It is noted that the principal private open space on the site is located within the southern courtyard directly adjacent to the kitchen/living/dining areas on the ground floor. These factors, coupled with the side setbacks and visual privacy mitigation measures (i.e. recessed design and privacy screening), will ensure that a reasonable level of acoustical privacy is maintained between dwellings.

## Conclusion

As demonstrated above, the proposed development complies with the Manly DCP 2013 privacy controls.

### **3.4.3 Maintenance of Views**

Two submissions were received raising concern of potential view loss arising from the proposed first floor addition.

One submission was received from the occupants of 2/261 Sydney Road, which is a unit located on the first floor of the adjacent RFB within the northern end of the building. In response to the submission, the Development Assessment Planner undertook a site visit at the unit on 17 February 2022.

One submission was received from the occupants of 2/267 Sydney Road, which is a unit located within an attached dual occupancy located 7m to the west of the site (two properties to the west). The Development Assessment Planner attempted to arrange a site visit at the nearby property with the occupants but was unable to get access due to scheduling conflicts. However, the occupants of 2/267 Sydney Road provided photos to the Development Assessment Planner to depict the impacted view corridor. The photos are sufficient to enable an accurate assessment.

#### Merit consideration:

The development is considered against the objectives of the control:

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

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

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

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

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

#### Comment:

### **2/261 Sydney Road**

The affected views from this property consist of the natural skyline, the existing roofline of the semi-detached dwelling at the subject site and tree canopy. The views do not hold significant value.

### **2/267 Sydney Road**

The affected views from this property consist of the natural skyline, the existing roofline of the semi-



detached dwelling at the subject site, tree canopy and distant development located further to the east of the subject site. The views do not hold significant value.

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

Comment:

### **2/261 Sydney Road**

The affected view from this property is obtained from a bedroom window over the western side boundary. The view is enjoyed from standing and sitting positions. Figure 1 below depicts the view in question.

**Figure 1:** bedroom window standing view - 2/261 Sydney Road



### **2/267 Sydney Road**

The affected views from this property are obtained from east facing bedroom windows on the first floor, in addition to an elevated balcony on the southern elevation on the first floor. The elevated balcony is located adjacent to a bedroom. The views are obtained over the eastern side boundary from standing and sitting positions. Figures 2 and 3 below depict the views in question.

**Figure 2:** balcony standing view - 2/267 Sydney Road





**Figure 3:** bedroom window standing view - 2/267 Sydney Road



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

Comment:

**2/261 Sydney Road**

The first floor addition will largely obscure the available natural skyline and canopy cover from the adjacent bedroom window. Notwithstanding, the view impact is confined to a bedroom window, which receives low volumes of pedestrian movement when compared to the living space and balcony on the adjacent unit. It is noted that the primary view to the north (over the front boundary), which is obtained from the living room and balcony, is unaffected by the proposal. Furthermore, the affected view is not considered to be highly valued in accordance with this planning principal. For these reasons, the qualitative extent of the view impact is considered to be minor.

## **2/267 Sydney Road**

The first floor addition will obscure a significant portion of the natural skyline, tree canopy cover and distant development to the east when viewed from the east facing windows and over the eastern elevation of the elevated decking on the first floor. However, the impacts are confined to bedroom windows or decking adjacent to bedrooms, which received low volumes of pedestrian movement when compared to the living spaces on the ground floor. Furthermore, the primary district views to the north (front) and south (rear) will be unaffected by the proposed development. These views are obtained from elevated balconies on the first floor. For these reasons, the qualitative extent of the view impact is considered to be minor.

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

### Comment:

The proposed development complies with the height of buildings and floor space ratio development standards, which are the key statutory provisions that govern the bulk and scale of development on the site. Whilst there are minor variations to the Manly DCP 2013 side setback and wall height provisions, a fully compliant design would not have a materially different impacts with regards to view sharing. It is noted that the floor to ceiling heights of the first floor addition have been minimised to reduce the height of the external wall.

Given the qualitative extent of the view loss from both properties is considered to be minor, a more skilful design is not warranted in this case.

### Conclusion

Council is satisfied that the development achieves consistency with the objectives of this control and the planning principles outlined within the NSW Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*.

## **3.4.4 Other Nuisance (Odour, Fumes etc.)**

The works involve re-building the existing chimney which serves the solid fuel burning device. Council's Environmental Health Officer has reviewed the proposal in this regard and raises no objections, subject to conditions. Hence, it is considered that the proposal meets the requirements of this control, subject to conditions.

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

##### Description of non-compliance

The maximum wall height of the proposed development is 6.9m above the existing ground level, which does not satisfy the numeric requirement of 6.8m (based off 1:18 gradient). It is noted that the non-compliance occurs for a horizontal length of 1.17m on the eastern elevation on the northern end of the first floor addition, with the remainder of the wall complying with this requirement.

##### Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the objectives of the control. The control relies upon the objectives specified within Clause 4.3 of Manly LEP 2013.

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

##### Comment:

The proposed development remains below the 8.5m statutory height limit and the resulting dwelling is two storeys in height, which is commensurate with the scale of surrounding residential development within the locality. The gable roofline is also consistent with the prevailing roof form within the locality, where hipped and gable pitched roofs are prevalent. In addition, the proposal is confined to the existing building footprint and does not result in the removal of landscaping on the site.

*(1) (b) to control the bulk and scale of buildings.*

##### Comment:

The proposal complies with the height of buildings and floor space ratio development standards, which are the key controls that govern the bulk and scale of buildings. Furthermore, the eastern elevation of the first floor addition is stepped in from the ground floor and employs a varied wall plane to alleviate the building bulk.

*(1) (c) to minimise disruption to the following:*

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

##### Comment:

As discussed in detail within the section of this report relating to Clause 3.4.3 of the Manly DCP 2013, the proposed development allows for reasonable view sharing, in accordance with the Manly DCP 2013 view sharing objectives and the planning principles outlined within the NSW Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*. It is further noted that the development does not disrupt views to Sydney Harbour or the foreshore area.

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

##### Comment:



As discussed within the section of this report relating to Clause 3.4.1 of the Manly DCP 2013, the proposed development complies with the solar access numeric requirement.

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

Comment:

The site does not located within a recreation or environmental protection zone. Moreover, the site does not adjoin a recreation or environmental protection zone.

Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

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

Description of non-compliance

The control requires the development to be setback at least 2.3m (1/3 of wall height) from the eastern side boundary. The first floor addition involves a varied eastern side setback between 1.2m - 2.14m, which does not satisfy the numeric requirement. It is noted that the area setback 1.2m is confined to the stairwell, with the remaining wall plane being setback between 2.1m and 2.14m from the eastern side boundary.

In addition, the first floor addition includes two bedroom windows within 3m of the eastern side boundary, which does not satisfy the 3m requirement.

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 first floor addition is centrally positioned within the existing building footprint and adequately setback from the primary and secondary frontages. The adequate separation proposed from each frontage will ensure the first floor component is not visually imposing within the streetscape.

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

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



*street intersection.*

Comment:

As discussed earlier within this report, the proposed development does not result in unacceptable amenity impacts, specifically with regard to solar access, views and privacy. In addition, the adequate upper floor front setbacks will ensure the development does not hinder road visibility. Furthermore, the eastern elevation of the first floor is stepped in from the ground floor and will not disrupt the rhythm or pattern of development. This will also ensure that adequate separation is provided between buildings.

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

Comment:

Flexibility is afforded with regards to the side setback non-compliance as the proposed development does not result in unacceptable streetscape or amenity impacts.

*Objective 4) To enhance and maintain natural features by:*

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

Comment:

The proposal is confined to an existing building footprint and does not result in a reduction of total open space or deep soil landscaping on the site.

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

Comment:

The site is not bushfire prone.

Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

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

The Manly DCP 2013 stipulates that semi-detached dwellings shall provide two off-street parking spaces. The site currently only has one off-street parking space in the form of a hardstand adjacent to the Hilltop Road frontage. The proposal does not include any additional off-street parking and thus, the proposal does not satisfy this requirement.

Nevertheless, the site does not have ample space to provide additional off-street parking. The provision

of a parking space via the primary frontage at Sydney Road would have a detrimental impact upon the streetscape and create traffic hazards, noting that the road is a classified road and receives high volumes of vehicular movement on a day to day basis. Additionally, there is available on-street parking at Hilltop Road to continue to accommodate for the additional vehicle. Under these circumstances, the existing non-compliance is supported.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

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

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

A monetary contribution of \$2,400 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$240,000.

## **CONCLUSION**

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

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

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

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

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

It is considered that the proposed development satisfies the appropriate controls and that all processes

and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/2509 for Alterations and additions to a semi-detached dwelling on land at Lot 1 DP 550821, 265 Sydney Road, FAIRLIGHT, Lot 2 DP 550821, 263 Sydney Road, FAIRLIGHT, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp |                 |               |
|---|-----------------|---------------|
| Drawing No.   | Dated           | Prepared By   |
| Page 3 (Revision A)                                 | 8 November 2021 | Modum Pty Ltd |
| Page 4 (Revision A)                                 | 8 November 2021 | Modum Pty Ltd |
| Page 5 (Revision A)                                 | 8 November 2021 | Modum Pty Ltd |
| Page 6 (Revision A)                                 | 8 November 2021 | Modum Pty Ltd |
| Page 7 (Revision A)                                 | 8 November 2021 | Modum Pty Ltd |

| Reports / Documentation – All recommendations and requirements contained within: |                  |                                |
|--|------------------|--------------------------------|
| Report No. / Page No. / Section No.  | Dated            | Prepared By                    |
| BASIX Certificate No. A439467_03   | 22 November 2021 | Modum Pty Ltd                  |
| Preliminary Geotechnical Assessment Ref. AG 21441                                | 14 December 2021 | Ascent Geotechnical Consulting |

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 | 9 November 2021 | Modum Pty Ltd |

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

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

#### 2. Prescribed Conditions

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

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

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

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

Reason: Legislative requirement.

### 3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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



- erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

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

Reason: To ensure that works do not interfere with reasonable amenity expectations of

residents and the community.

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Policy Controls**

#### Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$2,400.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$240,000.00.

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

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

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

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

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

### 5. **Security Bond**

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

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

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

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

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

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

### 6. **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 Certifying Authority 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 Certifying Authority 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.

### 7. **Compliance with Standards**

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

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

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

### 8. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

### 9. **Compliance with National Construction Code**

The proposed first floor addition should comply with Part 3.7 and 3.8.6 of the National Construction Code (BCA) 2019.

Details demonstrating compliance must be submitted to the Certifying Authority prior to the

issue of the Construction Certificate.

Reason: To ensure compliance with the National Construction Code.

10. **Party Wall to be located within allotment boundary**

The proposed party wall must be located wholly within the allotment boundary.

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

Reason: To ensure the works do not encroach onto adjoining land.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

11. **Structural Certification**

A chartered professional structural engineer's "Certificate of Adequacy" certifying the ability of the existing walls and footings to take the proposed additions is to be submitted to the Principal Certifier prior to the first inspection.

Reason: To ensure the existing building can withstand the load of the new development.

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

12. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

13. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

14. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

**15. 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.

**16. Waste Management During Development**

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

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

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

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

**17. 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 Certifying Authority 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 party 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 Certifying Authority prior to the issue of final Occupation Certificate.

Reason: To ensure satisfactory management of stormwater.

**18. Installation of solid/fuel burning heaters**

Installation work must be carried out by an appropriately experienced and qualified person and in accordance with the relevant provisions of AS2918:2001 – Domestic Solid Fuel Burning Appliances – Installation

Reason: To ensure the installation is completed in a legislatively compliant manner.

**19. Certification of solid fuel burning heaters**

A certificate from an appropriately qualified person indicating the system is compliant with all relevant legislation, Building Code of Australia, Australian Standards, Specifications and manufacturer requirements is to be submitted to Council prior to the operation of the solid fuel heater.

Reason: To ensure the system operates in a legislatively compliant manner.

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

**20. 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.

**21. Maintenance of solid fuel heaters**

The owner/occupier shall ensure servicing of the heater is maintained according to the manufacturer's specifications.

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

**22. Operation of solid fuel burning heaters**

You are requested to take all practicable measures to prevent the likelihood of causing smoke and/or odour nuisances. Such measures should include:

- Using dry seasoned hardwood
- Storing wood in a dry well ventilated place
- Having a hot and well oxygenated fire
- Ensuring that the chimney flue is clean
- Checking the chimney at different stages of the fire to see if there is any smoke

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



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

**Signed**



**Thomas Burns, Planner**

The application is determined on 04/03/2022, under the delegated authority of:



**Phil Lane, Acting Development Assessment Manager**