

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0702
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Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 102 DP 586416, 9 Steinton Street MANLY NSW 2095
Proposed Development:	Alterations and additions to an attached dwelling
Zoning:	Manly LEP2013 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Grant Tyson Brits Ellisa Marjorie Baginska Bennett
Applicant:	Grant Tyson Brits Ellisa Marjorie Baginska Bennett

Application Lodged:	25/06/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	03/07/2020 to 17/07/2020
Advertised:	Not Advertised
Submissions Received:	5
Clause 4.6 Variation:	4.4 Floor space ratio: 22.5%
Recommendation:	Approval

Estimated Cost of Works:	\$ 346,000.00
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EXECUTIVE SUMMARY

The proposal is for the alterations and additions to an attached dwelling and involves a variation to the Floor Space Ratio development standard of the Manly Local Environmental Plan 2013 (MLEP 2013) of 22.5%. Despite the non-compliance, the proposal is not considered to result in unreasonable bulk, scale or amenity impacts from street frontages or adjoining properties.

As a result of the public exhibition of the application, Council received 5 submissions.

The proposed development is generally compliant with the numeric controls under the Manly Development Control Plan (MDCP).

The application is referred to the Northern Beaches Development Determination Panel for determination due to the contravention of the Floor Space Ratio development standard exceeding 10%.

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs) and Council policies. The outcome of this assessment is detailed within this report.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the alterations and additions to an attached dwelling. In particular, the works include:

- Alterations and additions to the existing ground floor level to provide a new sitting room, internal access stairs, bath/laundry and an open plan living, dining and kitchen area; and
- Proposed new first floor addition to provide for three bedrooms, a bathroom, ensuite, walk-in robe, and internal stairs to the ground floor.

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 - 4.6 Exceptions to development standards
Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
Manly Development Control Plan - 3.2 Heritage Considerations
Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 4.1.3 Floor Space Ratio (FSR)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

Property Description:	Lot 102 DP 586416 , 9 Steinton Street MANLY NSW 2095
Detailed Site Description:	<p>The subject site is known as 9 Steinton Street, Manly and legally referred to as Lot 102 DP 586416 and consists of one (1) allotment located on the southern side of Steinton Street.</p> <p>The site is regular in shape with a frontage of 4.97m along Steinton Street and a depth of 30.887m. The site has a surveyed area of 152.3m².</p> <p>The site is located within the R3 Medium Density Residential zone and accommodates a single storey Federation-era terrace.</p> <p>The site is located in the <i>Pittwater Road Conservation Area</i> and within the vicinity of heritage items, all listed in Schedule 5 of Manly Local Environmental Plan 2013. The site is also mapped within the Northern Beaches Council Flood Hazard Map.</p> <p>The slope of the site is generally flat, with a slight fall from the rear boundary to the Steinton Street frontage.</p> <p>The site reflects a modified landscape setting with vegetation on site being largely within pots/planters.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a mixture of heritage terraces, residential flat buildings, a guest house and a petrol station. The site is approximately 100m west of Manly Beach.</p>

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:

24 October 2019

Prelodgement meeting (PLM2019/0198) was held to discuss alterations and additions to an attached dwelling. Of relevance, the prelodgement minutes recommended that the proposed ridge height for the first floor should be further reduced, particularly following concerns of the additions being visible from the Steinton Street frontage. Further, the minutes advised that greater consistency with the requirements of the Manly LEP 2013 and Manly DCP was encouraged to amenity impacts including sunlight access and privacy on neighbouring properties.

25 June 2020

The subject application was lodged with Council.

29 July 2020

Site inspection undertaken by the assessing officer. The property owner was present at the time of the inspection.

31 August 2020

Council sends a letter to the applicant requesting the application to be withdrawn due to issues concerning building height, scale, sunlight access, amenity impacts, and heritage.

10 September 2020 - 25 September 2020

Email correspondence between the applicant and assessing officer to go through the issues raised.

25 September 2020

The applicant submits revised architectural plans that are received by Council seeking to address the concerns of the letter. Amendments included a reduction of the overall building height by 1.23m. In accordance with the *Northern Beaches Community Participation Plan*, re-notification is not required where the "changes result in a lesser or reduction of environmental impacts".

30 September 2020

Email correspondence from the assessing officer to those who had previously made submissions to inform them that the applicant had submitted revised architectural plans. These neighbours were provided the opportunity to comment on the changes made.

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	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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 50(1A)</u> of the EP&A Regulation 2000 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 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested, however following a request for the application to be withdrawn, the applicant submitted amended plans that were accepted by Council.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Structures. This matter can be addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 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 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter can be addressed via a condition of consent.</p> <p><u>Clause 98</u> 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.</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 03/07/2020 to 17/07/2020 in

accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Ms Antonia Patricia Hawkins	11 The Shores WAY BELMONT NSW 2280
Mr Robert Nichols Mrs Ria Nichols	7 Steinton Street MANLY NSW 2095
Ms Vanessa Anna Maria Beenders	11 Steinton Street MANLY NSW 2095
Mr James Colin Holloway	11 Steinton Street MANLY NSW 2095
Ms Julie Anne Beagley	4 Steinton Street MANLY NSW 2095

The following issues were raised in the submissions and each have been addressed below:

- **Building Height**

Comment:

Submissions were received from the owners of No. 4, No. 5, No. 7 and No. 11 Steinton Street raising concerns that the height of the proposed development were inconsistent and incompatible with the rear additions approved on adjoining Federation terraces. In response to these concerns and those relating to overshadowing, the applicant amended the proposal to reduce the height by 1.66m. Whilst siting marginally higher (between 565-675mm) than the first floor additions of No.7 and No.11, the proposal is considered to be generally consistent with the prevailing building height of the area. The height of the building is to be a maximum of 7.35m and therefore is also technically compliant with the 11m development standard.

- **Solar Access and Natural Light**

Comment:

Submissions were received from the owner of No. 4, No. 5, No. 7 and No. 11 Steinton Street concerning the loss of solar access and natural light as a result of the proposed development. Based on the shadow diagrams submitted (prepared by Action Plans and dated 25 September 2020), all adjoining and adjacent properties with the exception of No. 7 Steinton Street continue to have an acceptable level of solar access. It is acknowledged that just over one third of the existing sunlight accessing the private open space areas of No. 7 Steinton Street will be impacted by the proposed development. Despite the non-compliance, the proposal has been considered acceptable. See discussion under Clause 3.4.1 (Sunlight Access and Overshadowing) of the Manly DCP in this report.

- **Heritage and Streetscape**

Comment:

Submissions were received from the owner of No. 4, No. 5, No. 7 and No. 11 Steinton Street with regards to the visibility of the proposed development from the frontages facing Steinton Street, Pittwater Road and Whistler Street. These concerns along with those raised by Council's Heritage Advisor resulting in amended plans being submitted to lower the height of the additions and remove the Steinton Street facing upper floor balcony. The amended proposal has been

considered by Council's Heritage Advisor who is satisfied that the proposal is acceptable subject to conditions. Detailed commentary from Council's Heritage Advisor is provided in the 'Referrals' section of this report. See also discussion under clauses 3.2 Heritage Considerations and 4.1.4 Setbacks (front, side and rear) and Building Separation of the Manly DCP in this report.

- **Eastern side setback breach**

Comment:

Concerns were raised in a submission by the owners of No. 7 Steinton Street with regards to the eastern side setback breach of Bedroom 1 on the First Floor. Despite the non-compliance, this addition has been considered as acceptable as it would not result in unacceptable amenity impacts towards the south adjoining property. See discussion under Clause 4.1.4 (Setbacks) of the Manly DCP in this report.

- **Rear setback breach**

Comment:

Concerns were raised in submissions by the owners of No. 5 and No. 11 Steinton Street with regards the proposed additions breaching the rear setback area. The proposed addition being 6.7m from the rear boundary has been considered acceptable and consistent with existing setbacks of the terraces on either side of the subject site. See discussion under Clause 4.1.4 (Setbacks) of the Manly DCP in this report.

- **Demolition of outhouse**

Comment:

Concerns were raised in a submission by the owners of No. 11 Steinton Street with regards to the demolition of the brick outhouse to the rear of the site. Both the submitted Heritage Impact Statement and comments received by Council's Heritage Advisor have not raised any concern with the removal of this structure. The structure looks to be in a deteriorating condition with loose brickwork, rusting roof and rotting timber trim. Consideration has been given that this structure is not visible from Steinton Street or Whistler Street. As the outhouse appears to have a common wall with the outbuilding at 11 Steinton Street, Manly a condition has been recommended for this wall to be retained and for a Dilapidation Report to be prepared prior to the issue of a Construction Certificate and again prior to the issue of an Occupation Certificate.

- **Floor Space Ratio breach**

Comment:

Concerns were raised in a submission by the owners of No. 5 Steinton Street with regards to the breach in the floor space ratio standard. The proposed development breaches this standard by 26m². Consideration has been given that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. See further discussion in this report under Clause 4.6 of the Manly LEP.

- **Impacts on on-street parking**

Comment:

Concerns were raised in a submission by the owners of No. 5 Steinton Street with regards to the impact on on-street parking as a result of the proposed development. Consideration has been given that the resultant two storey, 4 bedroom dwelling will not be unreasonable development

for its context. It should also be noted that there are examples of existing semi's in this row of terraces that have yet to construct a first floor addition that are currently 3 bedroom dwellings. It has been considered that Council should apply its exception to the off-street parking requirement as any parking on the site would adversely impact upon the hertiage listed conservation area. See further discussion under Clause 3.2 Heritage Considerations of the Manly DCP.

Amended Plans

Amended Plans were received on the 28 September 2020. These amended plans consisted of changes including the reduction of the overall building height by 1.23m. Whilst the *Northern Beaches Community Participation Plan* refers to re-notification not being required for amendments where the "changes result in a lesser or reduction of environmental impacts", courtesy was extended to those neighbours who previously made submissions to allow for the opportunity to respond to the amended plans. The amended plans were also uploaded to Council's website. In response to the amended plans, submissions were received from the owners of No. 4, No. 5, No. 7 and No. 11 Steinton Street. These submissions were reviewed, and no other issues were identified for further consideration than those already discussed above.

REFERRALS

Internal Referral Body	Comments
NECC (Coast and Catchments)	<p>Approval without conditions</p> <p><i>The application has been assessed in consideration of the Coastal Management Act 2016, the State Environmental Planning Policy (Coastal Management) 2018. It has also been assessed against the requirements of the Manly LEP 2013 and DCP 2013.</i></p> <p>Coastal Management Act 2016</p> <p><i>The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development.</i></p> <p><i>The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</i></p> <p>State Environmental Planning Policy (Coastal Management) 2018</p> <p><i>As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</i></p> <p><i>The subject land has been included on the 'Coastal Use Area' map but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) SEPP). Hence, Clauses 14 and 15 of the CM SEPP apply for this DA.</i></p> <p><i>Comment:</i></p> <p><i>On internal assessment and as assessed in the submitted Statement of Environmental Effects</i></p>

Internal Referral Body	Comments
	<p><i>prepared by Vaughan Milligan Development Consulting Pty. Ltd. dated June 2020 , the L requirements under clauses 14 and 15 of the CM SEPP.</i></p> <p><i>As such, it is considered that the application does comply with the requirements of the St Planning Policy (Coastal Management) 2018.</i></p> <p>Manly LEP 2013 and Manly DCP 2013</p> <p>Foreshores Scenic Protection Area Management</p> <p><i>The subject site is also shown to be as “Manly Foreshores Scenic Protection Area” on Cc Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Pro Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Man apply to proposed development on the site.</i></p> <p><i>On internal assessment and as assessed in the submitted Statement of Environmental E prepared by Vaughan Milligan Development Consulting Pty. Ltd. dated June 2020 , the L requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013.</i></p> <p><i>As such, it is considered that the application does comply with the requirements of the Cl (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Fo Protection Area of the Manly DCP 2013.</i></p>
NECC (Development Engineering)	<p>Approval subject to conditions</p> <p><i>Development Engineering raises no objection to application subject to the condition of co</i></p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Approval subject to conditions</p> <p><i>The proposed development is for alterations and additions. Subject to conditions, the pro with Council's flood prone land controls.</i></p>
Strategic and Place Planning (Heritage Officer)	<p>Approval subject to conditions</p>
	<p>HERITAGE COMMENTS</p>
	<p><i>Discussion of reason for referral</i></p> <p><i>The proposal has been referred to Heritage as the subject site is located in the Pittwater Conservation Area and within the vicinity of heritage items, all listed in Schedule 5 of the Environmental Plan 2013:</i></p>

Internal Referral Body	Comments															
	<p>Item I202 - House - 80 Pittwater Road</p> <p>Item I203 - House - 82 Pittwater Road</p> <p>Details of heritage items affected</p> <p>Details of the Conservation Area and the heritage items as contained within the Manly Heritage Inventory are:</p> <p>Pittwater Road Conservation Area</p> <p><u>Statement of Significance:</u> This street pattern is distinctive and underpins the urban character of the area. The streets are unaltered in their alignment, although the names of Malvern, Pine and North Steyne are for what were Whistler, Middle Harbour and East Steyne respectively.</p> <p><u>Physical Description:</u> The streetscape of Pittwater Road is a winding vista of late 19th and early 20th century residential architecture of generally one or two floors - although there are exceptions including a four storey private hotel. The streetscape provides a 19th century atmosphere due to its scale and the number of extant Victorian structures. Within the streetscape there are a number of individually significant buildings which are listed separately. Adjacent streets generally have a consistent pattern of one and two story residential cottages, with the occasional terrace. The streets have intermittent street plantings and remnant stone kerbs. The flat topography is accentuated by the escarpment to the west which provides an important visual, vertical vegetated backdrop.</p> <p>Item I202 - Item I203 - House</p> <p><u>Statement of significance:</u> This building is a good example of a Late Victorian design. This item is of local cultural significance as it demonstrates the pattern of development of Manly and in particular the development along Pittwater Road. Constructed on the main road it is associated with development of the area prior to the introduction of the tram service. One of a pair, it is an uncommon example of its kind and contributes to the overall character of the Pittwater Road Conservation Area</p> <p><u>Physical description:</u> One of a pair (Nos 80 and 82) of single storey late Victorian period weatherboard semi-detached cottages in the Villa style. The cottages have a hipped roof with dominant symmetrical gables and bull nosed awning between. Gables have decorative barge boards and timber louvered windows in front wing have 2 pane double hung sashes and a sheet metal roof.</p> <p>Other relevant heritage listings</p> <table><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century</td><td>No</td><td></td></tr></table>	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century	No	
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No															
Australian Heritage Register	No															
NSW State Heritage Register	No															
National Trust of Aust (NSW) Register	No															
RAIA Register of 20th Century	No															

Internal Referral Body	Comments		
	Buildings of Significance		
	Other	N/A	
	Consideration of Application		
	<i>The proposal is for alterations and additions to the existing dwelling, which is a part of F style row of 6 terrace dwellings and located within the Pittwater Road Conservation Area. The property also is within the vicinity of two heritage listed dwellings to the west, facing Pittwater Road.</i>		
	<i>It is acknowledged that, the proposed works are mainly confined to the rear and there is no extension to the front facade of the dwelling, however, it is believed that the height of the first floor extension is substantial and visible from the street level. It was recommended in the PLM notes that the height for the rear first floor extension should be investigated, yet, even higher ridge height was proposed with this application. The expected outcome was that, the proposed first floor extension was designed to preserve the single storey form of the street facade. A photomontage was requested in the PLM notes, in order to help in assessing the visual impact on the street from a heritage perspective, it is considered that, the proposal is not satisfactory in its current form. The proposed additions will result in excess bulk and scale in comparison with the adjacent dwellings.</i>		
	<i>For the above reasons, Heritage recommends amendments to the drawings and cannot approve the application in its current form.</i>		
	Amended Plans - Received 30 September 2020		
	<i>Revised drawings, dated 25 September 2020, have been reviewed, and it is considered that the amended plans have resolved a number of concerns Heritage had with the proposal.</i>		
	<i>Therefore, the proposal is acceptable on heritage grounds, subject to a condition.</i>		
	<u><i>Consider against the provisions of CL5.10 of MLEP 2013.</i></u> <i>Is a Conservation Management Plan (CMP) Required? No</i> <i>Has a CMP been provided? No</i> <i>Is a Heritage Impact Statement required? Yes</i> <i>Has a Heritage Impact Statement been provided? Yes</i>		
Further Comments			
COMPLETED BY: Oya Guner, Heritage Advisor			
DATE: 14 July 2020, Amended 02 October 2020			

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of

External Referral Body	Comments
	consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A374662_03, dated 21 September 2020).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

14 Development on land within the coastal use area

(1)

- (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 platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) 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:

The proposed development will not cause an impact on the existing access along the foreshore for members of the public, including persons with a disability and will not cause any overshadowing, wind tunneling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands will be preserved. The site has not been identified to contain any Aboriginal cultural heritage, practices or places. The proposed development will also not have an adverse impact on the cultural and built environment heritage. It is considered that the proposed development has satisfied the requirement to be designed, sited and will be managed to avoid an adverse impact on the above mentioned cultural and environmental aspects. Furthermore, the proposed development is considered to be of an acceptable bulk, scale and size that is generally compatible with the surrounding coastal and built environment of Manly.

15 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:

The proposed development is not likely to cause increased risk of coastal hazards on the subject site or other land.

As such, it is considered that the application does/does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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:	11m	7.36m	-	Yes
Floor Space Ratio	FSR: 0.75:1 (114.225m ²)	FSR: 0.91:1 (140m ²)	22.5%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
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Requirement:	0.75:1 (114.225m ²)
Proposed:	0.91:1 (140m ²)
Percentage variation to requirement:	22.5%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.4 - Floor space ratio development standard is not expressly excluded from the operation of this clause.

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters

required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- The proposal will maintain the existing single storey building facade and roof form, with the upper floor to provide an additional setback from the front boundary. The bulk and scale of the proposed development is in keeping with the desired future character of the locality.
- The proposed low profile roof form assists with minimising the visual bulk of the development.
- The siting and bulk and scale of the proposal is considered acceptable given the site constraints posed by the smaller lot size, and the proposal is not considered to result in any unreasonable adverse impacts for neighbouring properties or adjoining public land.
- The proposed development will maintain the general bulk and scale of the existing surrounding development and maintains architectural consistency with the prevailing development pattern.
- The proposed development will provide for residential amenity within a built form which is compatible with the streetscape of Steinton Street.
- The proposed new development is considered to promote good design and enhance the residential amenity of the buildings' occupants and immediate area.
- The proposed development will not result in the loss of any substantial views for neighbouring properties.

It is accepted that despite the variation to the floor space ratio development standard, that the proposed built form maintains a level of consistency with recent first floor developments undertaken towards the rear of adjoining terraces. Recognition is also given that the proposal with its low profile roof assists with minimising the visual bulk, in particular with reference to the desired streetscape character from the Steinton Street frontage. In considering the site constraints, the proposal is largely seen to not result in unreasonable adverse impacts for neighbouring properties. It is further accepted that the proposed development promotes good design by enhancing the internal amenity for the buildings' occupants.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Floor Space Ratio development standard and the objectives of the R3 Medium Density Residential zone. An assessment against these objectives is

provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.4 – ‘Floor space ratio’ of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The proposed first floor addition being 7.36m when measured from ground level (existing) to the highest point of the building is compliant with the height of buildings development standard. The height of buildings development standard is designed to control building height ensuring the development is consistent with that of the surrounding area. Despite the site being mapped with a maximum building height of 11m, a reduced height must be applied to this row of Federation-era terraces to ensure new additions are not visible from the Steinton Street frontage. In this regard, the proposed development is seen to have a relatively consistent height compared with the adjoining terraces, with a maximum reduced level (RL) of RL12.707. The proposed development also largely incorporates setbacks that are consistent with neighbouring terraces to also ensure that the bulk and scale of the development does not result in any unreasonable impact on the existing and desired streetscape character of the locality.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

As discussed above, it is not considered that the proposal will result in any unreasonable bulk or scale within the locality. Furthermore, the proposal is not considered likely to obscure any important landscape or townscape features.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

With the proposal being bookended by the first floor additions of No. 7 and No. 11 Steinton Street, the proposed development will not be visually prominent from the Whistler Street, Steinton Street or Pittwater Road frontages. As such, the proposed additions that are of a contemporary design are not seen to dominate or challenge heritage details or character of the Federation-era terraces. The proposed development does not seek the removal of any native vegetation, rather it seeks to increase the amount of landscaped area on site. In this regard, the proposal seen to enhance the site with vegetation and provide for infiltration of water thereby minimising stormwater run-off.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

The proposal has been assessed with regard to amenity impacts and has been found to maintain a reasonable level of amenity within the locality. The proposal will not result in any unreasonable adverse impacts on the use or enjoyment of adjoining land and the public domain.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

Not applicable.

Zone objectives

The underlying objectives of the R3 Medium Density Residential zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*

Comment:

The proposal seeks the alterations and additions to an existing attached dwelling, which is a permissible use in this zone. The additional floor area is considered to provide for the current housing needs of the occupants of the site and is compatible with that of adjoining terraces.

- *To provide a variety of housing types within a medium density residential environment.*

Comment:

The medium density residential environment within this particular area of Manly provides a mixture of dwelling types spanning from dwelling houses to residential flat buildings. The proposal seeks to maintain the building as an attached dwelling.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

Not applicable.

- *To encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

Comment:

The proposed development is seen to appropriately preserve the heritage significance of the Federation-era terrace, while also allowing it to be revitalised to improve the building's amenity and meet the housing demands of its occupants. In this regard, the proposal is considered to be an acceptable adaption that is sympathetic to the existing building and its hertiage context.

- *To encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination.*

Comment:

Not applicable.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R3 Medium Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 24 May 2019, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Floor space ratio Development Standard associated with a single dwelling house (Class 1 building).

5.10 Heritage conservation

The subject site is located within the *Pittwater Road Conservation Area* and is within the proximity of a number of heritage items listed in Schedule 5 of the Manly LEP 2013 including: Item I202 at 80 Pittwater Road, Manly and Item I203 at 82 Pittwater Road, Manly.

In accordance with clause 5.10(4) of the Manly LEP 2013, the consent authority must consider the effect of the proposed development on the heritage significance of the item or area concerned prior to granting consent to the proposal. In this regard, the proposal has been considered by Council's Heritage Advisor who is satisfied that the proposal is acceptable subject to conditions. Detailed commentary from Council's Heritage Advisor is provided in the 'Referrals' section of this report.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 152.3m²	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling/150m ²	1	-	Yes
	Dwelling Size: min: 112sqm (4 bedrooms)	140sqm	-	Yes
4.1.2.1 Wall Height	North: 9m	6.9m	-	Yes
	South: 9m	6.2m	-	Yes
	East: 9m	6.9m	-	Yes
	West: 9m	6.8m	-	Yes
4.1.2.2 Number of Storeys	3	2	-	Yes

4.1.2.3 Roof Height	Height: 2.5m	0.46m	-	Yes
	Pitch: maximum 35 degrees	maximum 2 degrees	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line	Consistent with prevailing setback (1.4m as existing)	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	East: 2.3m (based on wall height)	0m	100%	No
	West: 2.26m (based on wall height)	0m	100%	No
	Windows: 3m	1m	67%	No
4.1.4.4 Rear Setbacks	8m	6.7m	16.3%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS2	Open space 50% of site area	21.1% (32.2m ²)	58%	No
	Open space above ground 25% of total open space	0%	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 30% of open space	77%	-	Yes
	1 native trees	No trees	1 native tree	No
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm	-	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	No spaces	2 spaces	No

***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
3.2 Heritage Considerations	Yes	Yes
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	No	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

3.2 Heritage Considerations

Merit consideration:

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

Objective 1) To retain and conserve environmental heritage and cultural significance of Manly including:

- *significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- *the foreshore, including its setting and associated views; and*

- *potential archaeological sites, places of Aboriginal significance and places of natural significance.*

Comment:

The development subject to the conditions of consent will retain the original external fabric of the terrace as viewed from the Steinton Street frontage. The application is also subject to conditions of consent to ensure that any proposed changes to the front facade colour scheme are submitted and approved by Council's Heritage Advisor's prior to the issue of a Construction Certificate. The proposal is not seen to unreasonably impact upon views and conditions have also been placed to ensure the adequate protection measures for any Aboriginal items uncovered during works.

Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.

Comment:

With sight lines (eye height is 1.6m above floor level) provided on submitted plans and the the bulk of the development located to the rear of the site (Figure 1), the proposal is not considered to adversely impact upon the heritage significance of the Federation-era terraces or the associated Pittwater Road Conservation Area. Whilst the existing development at No. 7 Steinton Street is expected to largely obscure the proposed development, a minor portion may be visible from the Whistler Street frontage (Figure 4). As such, the proposed development is considered to be of an appropriate design to ensure it is not visually prominent from the streetscape.

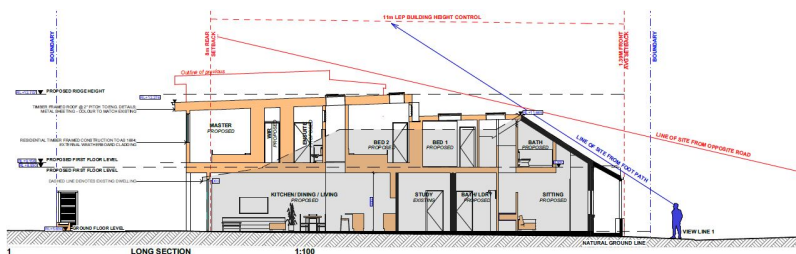


Figure 1: Section diagram indicating sight/view lines in blue and red.



Figure 2: Photo taken from the northern side footpath of Steinton Street on 29 July 2020.



Figure 3: Photo taken from the footpath on the opposing corner where Whistler Street and Steinton Street on 29 July 2020.



Figure 4. Photo taken from the eastern side footpath of Whistler Street on 29 July 2020.

Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/ or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.

Comment:

Whilst a portion of the building's original fabric is being removed to the rear of the site, it is not a portion of the building that is visible from any street frontage. As detailed above, the proposed development is not considered to detract from the significance of any heritage item or the conservation area.

Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.

Comment:

Not applicable.

Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.

Comment:

The proposed development is largely considered to be a contemporary design that enhances the internal amenity for the buildings' occupants, while also not dominating or challenging the heritage character of the Federation-era terrace when viewed from Steinton Street. The proposal has also been reviewed by Council's Heritage Advisor who is satisfied that the proposal is acceptable subject to

conditions.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of this clause and is supported on merit.

3.4.1 Sunlight Access and Overshadowing

Description of non-compliance

Based on the shadow diagrams submitted (prepared by Action Plans and dated 25 September 2020), all adjoining and adjacent properties with the exception of No. 7 Steinton Street continue to have a compliant level of solar access. It is acknowledged that more than one third (38.5%) of the existing sunlight accessing the private open space areas and the west facing ground floor living rooms windows of No. 7 Steinton Street will be impacted by the proposed development between 9am to 3pm at winter solstice (21 June).

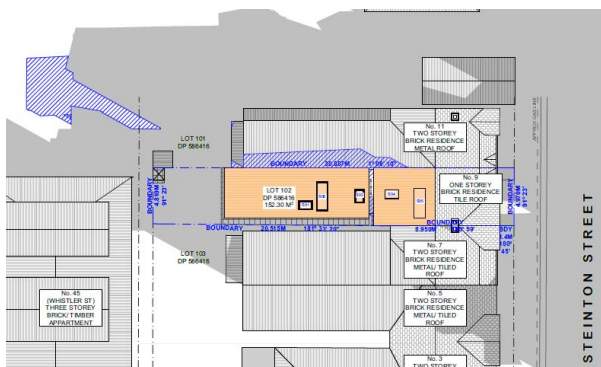


Figure 5. Shadow Diagram at 9am (21 June) depicting the extent of new shadows in blue.

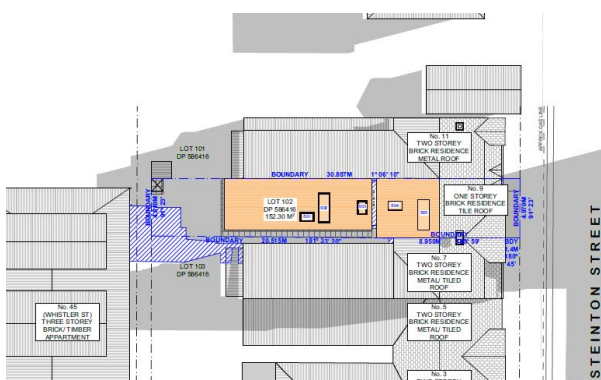


Figure 6. Shadow Diagram at 12pm (21 June) depicting the extent of new shadows in blue.

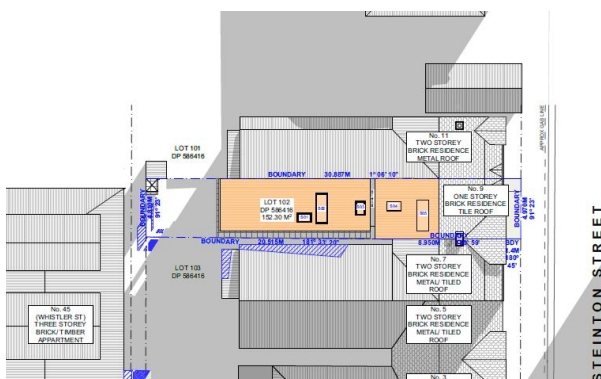


Figure 7. Shadow Diagram at 3pm (21 June) depicting the extent of new shadows in blue.



Figure 8: 3D view shadow diagrams demonstrating the impact to the living room windows of No. 7 Steinton Street.

Merit consideration:

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

Objective 1) To provide equitable access to light and sunshine.

Comment:

The proposal is seen to provide equitable access to light and sunshine, when accounting for the existing site constraints and the compliant building height of the development. Such constraints include the need from a heritage perspective, to ensure that the proposed additions were not visible from the Steinton Street frontage, which limits the bulk of the additions to the rear of the site. In addition, the private open space areas and associated living rooms or the adjoining terraces being south facing are considered to be highly vulnerable to overshadowing due to the lot configuration and the medium density zoning of the site which results in sunlight being harder to protect. Further, it should be noted that the proposal is of a similar scale to the existing first floor additions of adjoining terraces and that these developments have contributed to limiting the extent of remaining solar access available for the subject site and those neighbouring.

Objective 2) To allow adequate sunlight to penetrate:

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

Comment:

As discussed above, existing site constraints make compliance with the numerical control requirements difficult to achieve for the purposes of constructing a first floor addition. As seen in the submitted shadow diagrams, the extent of the proposed solar access impacts to the rear garden of No. 7 Steinton Street are largely limited to the afternoon of 21 June. Further, the reduction of existing sunlight to the west facing ground floor living rooms windows of No. 7 Steinton Street appears to be limited to the period around midday on the winter solstice, as the elevational shadow diagrams indicate that these

windows currently do not receive light during 9am or 3pm. In this regard, the proposal is considered to continue allowing adequate sunlight towards No. 7 Steinton Street.

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment:

With the exception of a portion of the bed 1 addition, the majority of the first floor addition has been setback 1m from the eastern side boundary. The site having a lot width of 4.97m and the existing building being an attached terrace, results in difficulties with facilitating a greater level of modulation or increased setbacks. Consideration has been given that submitted plans reflect a first floor that attempts to provide adequate bedroom sizes, ceiling heights, adequate internal amenity and cavity spaces for services. A further reduction to the overall building height or an increase to the eastern side setback would not seem to lead to a more favourable design outcome or a compliant solar access arrangement.

The proposed development is considered acceptable on merit and consistent with the objectives of this clause, however for avoidance of doubt, an assessment against the relevant planning principles established in the *Benevolent Society v Waverley Council (2010) NSWLEC 1082* has also been used in the assessment of sunlight.

The Benevolent Society v Waverley Council [2010] NSWLEC 1082

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The subject site, including all adjoining and adjacent properties fall within a medium density residential zoning. With this density in mind, and when accounting for the existing site constraints and lot configuration discussed above, the private open space areas of No. 7 Steinton Street is considered to be vulnerable to being overshadowed.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

Comment: The shadow diagrams indicate that amount of existing sunlight retained in the rear private open space of No. 7 Steinton Street would be 100% at 9am on June 21. The amount of sunlight lost at 9am is 0m². The amount of sunlight retained in this rear private open space area would be 23% (3.7m²) at 12pm. The amount of sunlight lost at 12pm is 77% (12.5m²). Finally, the amount of sunlight retained in this area at 3pm would be 53% or 1.9m², with the amount of sunlight lost being 47% (1.7m²).

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The proposed first floor addition that is causing the shadowing impact is compliant with the relevant building height and wall height requirements. Overall, the development is not considered to be unreasonable and is an appropriate response to the spatial characteristics of the site and neighbouring sites. Should the development be situated further forward, it would likely result in streetscape concerns from a heritage perspective.

- *To be assessed as being in sunlight, the sun should strike a vertical surface at a horizontal angle of 22.5 degrees or more. (This is because sunlight at extremely oblique angles has little effect.) For a window, door or glass wall to be assessed as being in sunlight, half of its area should be in sunlight. For private open space to be assessed as being in sunlight, either half its area or a useable strip adjoining the living area should be in sunlight, depending on the size of the space. The amount of sunlight on private open space should be measured at ground level.*

Comment: The proposed development reduces the level of sunlight available to the west facing ground floor living rooms windows of No. 7 Steinton Street at around midday on the winter solstice. Consideration has been given that retaining sunlight to half of the glazed area of these windows would be difficult to achieve, given the context of these sites being attached dwellings, as well as the width and the orientation of the lots. These factors are also applicable to the retention of sunlight in the rear private open space area.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: The subject site is largely seen to be without any established vegetation such as trees within the rear yard that could further contribute towards overshadowing. Consideration has also been given that the requirement for 1 native tree to be planted on site, should be varied on account that sunlight is limited in this area which may impact on the tree's longevity. Shadowing caused by existing side boundary fences has also been taken into account.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

Comment: As discussed earlier in this report, the adjoining terraces either side of the subject site have undergone recent developments of a similar scale to that proposed as part of this application. In this regard, existing solar access is currently limited to the rear private open spaces of these terraces.

4.1.3 Floor Space Ratio (FSR)

Whilst the proposed floor area does not exceed the maximum variation to FSR for undersized lots as described under this clause, the development is technically non-compliant with the FSR requirement as prescribed under Clause 4.4 of the Manly LEP 2013. Refer to the discussion under Clause 4.6 of this report for the relevant considerations concerning the varying of this development standard.

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

Description of non-compliance

Side Setback Requirement:

East: 2.3m (based on wall height)
West: 2.26m (based on wall height)

Side Setback Proposed:

East: 0m
West: 0m, increasing to 1m

Rear Setback Requirement:

8m

Rear Setback Proposed:

6.7m

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 additions are located behind the front portion of the existing building. This portion is constructed to each side boundary, and as a result the proposed non-compliance will not be readily visible from Steinton Street. The proposal will therefore not impact upon the desired spatial proportions of the street, the street edge and the landscape character of the street.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposal is considered to ensure and enhance local amenity through privacy measures such as indicating translucent glazing and increased sill heights to certain windows along the eastern facade to avoid overlooking towards No. 7 Steinton Street. The proposed rear facing first floor bedroom windows are also not considered to result in any unreasonable privacy impacts towards the apartment building at 45 Whistler Street. The non-compliances are also not seen to result in unreasonable shadowing over view impacts when accounting for the constraints of the site. Further, the proposed additions are largely screened from the Steinton Street and Whistler Street frontages, and therefore will not impact on the streetscape or the levels of visibility around street intersections.

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

Comment:

The bulk of the proposed development is sited in the area where the existing building is currently located. The flexibility applied to the 1.3m breach to the rear setback and the bedroom addition (Bed 1) being within the eastern side setback, is not considered to result in unreasonable amenity impacts to adjoining properties.

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 proposed development enhances the site with additional landscaped areas, in particular in the rear yard which is to be turned from being predominantly paved to an area that allows for lawn as well as the planting of vegetation including trees.

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

Comment:

The site is not mapped as being bush fire prone.

Based on the above, the proposed development is considered acceptable on merit and consistent with the objectives of this clause in this particular instance.

4.1.5 Open Space and Landscaping

Description of non-compliance

Total Open Space Requirement:

Total Open Space: 50% of site area (76.15m²)

Existing:

Total Open Space: 23.6% of site area (35.9m²)

Proposed:

Total Open Space: 21.1% of site area (32.2m²)

Minimum Tree Planting Requirement:

1 native tree

Proposed:

No native trees

Merit consideration:

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

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

Comment:

The site currently contains a modified landscape arrangement that is typical of dwellings in this particular area of Manly. The proposal does not seek to removal any native vegetation or trees and therefore is not seen to impact upon native fauna habitats.

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

Comment:

The proposal seeks 77% of the total open space to be landscaped area. This is greater than the 30% requirement prescribed under this clause and also results in an increase in landscaped areas than what currently exists on site.

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

Comment:

The proposed open space and landscape arrangement is considered acceptable to maintain and enhance the amenity of the site, the streetscape and the surrounding area.

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

Comment:

The increase to landscaped area on site is seen to maximise water infiltration and minimise stormwater runoff.

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

Comment:

The proposed landscaping will minimise the spread of weeds within the locality.

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

Comment:

The proposal increases landscaping on site and does not seek the removal of any native vegetation or trees and is therefore not considered to reduce wildlife habitats or corridors.

Based on the above, the proposed development is considered acceptable on merit and consistent with the objectives of this clause in this particular instance.

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

Consideration has been given that general exceptions to off-street vehicle parking requirement should be applied for the proposed development, as any parking on the site would adversely impact upon the hertiage listed conservation area.

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 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$3,460 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$346,000.

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.4 Floor Space Ratio development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2020/0702 for Alterations and additions to an attached dwelling on land at Lot 102 DP 586416, 9 Steinton Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (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
DA03, Rev. B (Site, Roof, Sediment Erosion, Waste Management, Stormwater Concept Plan)	25 September 2020	Action Plans

DA04, Rev. B (Existing Ground Floor Plan)	25 September 2020	Action Plans
DA05, Rev. B (Proposed Ground Floor Plan)	25 September 2020	Action Plans
DA06, Rev. B (Proposed First Floor Plan)	25 September 2020	Action Plans
DA07, Rev. B (North, East Elevation)	25 September 2020	Action Plans
DA08, Rev. B (South, West Elevation)	25 September 2020	Action Plans
DA09, Rev. B (Long, Cross Section)	25 September 2020	Action Plans

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Heritage Impact Statement	20 March 2020	Brad Inwood Architects
BASIX Certificate A374662_03	21 September 2020	Action Plan

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
Northern Beaches Council Waste Management Plan	No date.	No author.

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

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

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	17/08/20

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

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

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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.

4. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of 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 2008
 - (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

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,460.00 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 2019. The monetary contribution is based on a development cost of \$346,000.00.

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 2019 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

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.

6. **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).

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

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

7. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

8. **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 Certifying Authority 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.

9. **Colour scheme to front facade**

Proposed colour scheme for the front facade should be provided prior to any approval.

Details demonstrating compliance with this condition to be submitted to the Council's Heritage Advisor's satisfaction.

Reason: To preserve the heritage significance of the the conservation area and the items within the vicinity.

10. **Flooding**

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

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 5.6m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-

prone property and reduce public and private losses in accordance with Council and NSW Government policy.

11. 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.

12. 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 Certifying Authority 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.

13. 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.

14. Terracotta tile ridge capping

The north facing terracotta tile ridge capping (RL 11.57) to the roof existing terrace must be retained. Should these tiles be damaged or require replacement, a equivalent terracotta tile must be used.

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

Reason: To ensure the protection of heritage, particular the character of the building as viewed from Steinton Street.

15. Details of Skylight (S05)

If the skylight (S05) proposed for inclusion to the stairway is able to be opened, it should be hinged on the northern side, and should only be able to be opened to a maximum of 250mm. Plans are to be notated accordingly prior to the issue of the Construction Certificate.

Reason: To ensure the protection of heritage, particular the character of the building as viewed from Steinton Street.

16. Party wall to outbuilding (shed)

Any partywall that is shared between the outbuilding (shed) on No. 9 Steinton Street, Manly and No. 11 Steinton Street, Manly is to be retained.

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

Reason: To protect the structural integrity of the outbuilding at No.11 Steinton Street, Manly.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

17. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties:

- No. 7 Steinton Street, Manly NSW 2095 (Lot 103 DP 586416)
- No. 11 Steinton Street, Manly NSW 2095 (Lot 101 DP 586416)

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

19. **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.

20. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

21. **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 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.

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 Certifying Authority.

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

23. Works to cease if item found

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, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: To protect Aboriginal Heritage.

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

24. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

25. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

26. Window Glazing

The window glazing of W01, W02, W03, W04, W05, W09 and W07 are to be of translucent glazing.

Documentary evidence of consistency with this requirement is to be provided to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect the privacy of the occupants and neighbours.

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

27. **Landscape maintenance**

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) 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 landscaping arrangement.

Reason: To maintain local environmental amenity.