

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1207
----------------------------	-------------

Responsible Officer:	Kelsey Wilkes
Land to be developed (Address):	Lot 2 DP 68123, 27 Francis Street FAIRLIGHT NSW 2094
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	James Charles Cheng Sara Louise Friedman
Applicant:	James Charles Cheng

Application Lodged:	30/09/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	07/10/2020 to 21/10/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 40,000.00
---------------------------------	--------------

PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for alterations and additions to an existing dwelling including:

- Construction of a carport over the existing single hardstand car parking space adjacent to the site's northern side boundary
- Construction of decking, stairs and a bin storage area to the west of the carport, adjoining the northern elevation of the existing dwelling
- Construction of a planter and retaining walls adjacent to the sites northern side boundary

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

Manly Development Control Plan - 3.4.2 Privacy and Security

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

Manly Development Control Plan - 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 2 DP 68123 , 27 Francis Street FAIRLIGHT NSW 2094
Detailed Site Description:	<p>The subject site consists of one (1) allotment identified as Lot 2 in DP 68123 and is located on the western side of Francis Street, Fairlight.</p> <p>The site is regular in shape with a frontage of 12.19m along Francis Street and a depth of 32.27m. The site has a surveyed area of 393m².</p> <p>The site is located within the R1 General Residential zone and accommodates an existing one and two storey residential dwelling .</p> <p>The site falls moderately from south east to north west by approximately 7 meters.</p> <p>Landscaping on site is characterised by areas of lawn, small to medium shrubs and native and non-native trees.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by one and two storey residential dwellings, dual occupancies and residential flat buildings of varying ages, sizes and architectural styles located within similar sized allotments.

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:

Mod2017/0348

Modification Application to modify consent DA0159/2017

Approved 1 May 2018

DA0159/2017

Development Application for alterations and additions to the existing dwelling house

Approved 29 September 2017

DA0365/2016

Development Application for alterations and additions to the existing dwelling house

Withdrawn 9 February 2017

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 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)(iiia) – 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. Additional information was requested in relation to amended plans.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&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 has been 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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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 07/10/2020 to 21/10/2020 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>2nd Development Engineering referral</p> <p>The applicant amended the application.</p> <p>The carport slab will be remained.</p> <p>And the carport will be reinstated into the previous.</p>

Internal Referral Body	Comments
	<p>As such, Development Engineering has no objection to the application.</p> <p>1st Development Engineering referral The existing driveway crossing did not comply with the current Australian Standard and Council's specification. The gradient of the existing driveway is too steep to B85 vehicle in accordance with Australian Standard AS2890.</p> <p>As the applicant proposed to re-construct the carport slab, the carport and driveway shall be upgraded and redesigned to comply with the above standard.</p> <p>As such, Development Engineering cannot support the application in accordance with the section 4.1.6 of Council's Manly DCP 2013</p>

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 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 (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.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.9m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 393m ²	Requirement	Proposed	% Variation*	Complies

4.1.2.3 Roof Height	Height: 2.5m	0.7m	N/A	Yes
	Pitch: maximum 35 degrees	23 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line	Nil, consistent with prevailing setback	N/A	Yes (see discussion)
4.1.4.2 Side Setbacks and Secondary Street Frontages	0.98m (based on wall height)	Nil (North) 9.4m (South)	100% N/A	No Yes
4.1.4.4 Rear Setbacks	8m	19m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (216.15m ²)	53% (210.8m ²)	3%	No (existing and unchanged)
	Open space above ground 25% of total open space (52.7m ²)	33% (70.2m ²)	32%	No (existing and unchanged)
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (73.78m ²)	50.8% (107.2m ²)	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	2.7m	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	1 spaces	50%	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)	No	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	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	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
Schedule 1 – Maps accompanying the DCP		

Detailed Assessment

3.1.1 Streetscape (Residential areas)

Clause 3.1.1.4 states that *garages, carports and hardstand areas must be designed and sited in a manner that does not dominate the street frontage by:*

i) its roof form, material choice and detailing by being subservient to the associated dwelling; and

Comment:

The roof form and material choice of the proposed carport has been designed to match that of the existing dwelling and is therefore considered subservient to the associated dwelling.

ii) being compatible with the streetscape and the location in relation to the front setback criteria.

Comment:

Notwithstanding the nil setback of the carport structure to the site's front and northern side boundaries, the size and location of the carport is consistent with carport development along the western side of Francis Street and therefore achieves compatibility with the existing streetscape. Further discussion regarding the setback of the structure can be found under part 4.1.4 of this report.

b) Exceptions to the setback criteria referred to in this paragraph may be considered where parking structures are a positive element of the streetscape

Comment:

As mentioned above, the non-compliant nil setback of the proposed carport to the site's front and northern side boundary has been addressed further under part 4.1.4.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the MDCP 2013 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.4.2 Privacy and Security

The proposed decking presents a non-compliant, nil setback to the sites northern side boundary. Clause 3.4.2.2 states that in relation to balconies and terraces, *architectural or landscape screens must*

be provided to balconies and terraces to limit overlooking to nearby properties. Architectural screens must be fixed in position and suitably angled to protect visual privacy. Recessed designed of balconies and terraces can also be used to limit overlooking and maintain privacy.

Due to the extent of the side setback non-compliance of the proposed deck, Council requested the plans be amended to recess a large portion of the deck in order to provide an increased the setback to the northern side boundary. The architectural plans were subsequently amended to reflect this. It is not considered that a privacy screen is necessary in this circumstance as the deck is now not considered large enough to facilitate outdoor entertainment and has a height of less than 1 meter above existing ground level. Landscaping is included between the deck and side boundary and the deck is not in proximity to any habitable rooms of adjoining dwellings with glazed windows. As such, it is considered that the proposed deck will not result in any adverse or unreasonable privacy impacts.

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

4.1.4.1 Street Front setbacks

Description of non-compliance

The proposed carport is located with a nil setback to the site's front boundary. While this is consistent with the prevailing setback of carport development along the western side of Francis Street, a merit assessment has been undertaken below to ensure the objectives are achieved despite the minimum setback.

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:

Notwithstanding the nil front setback, the proposal is consistent with carport development along the western side of Francis Street as evident at numbers 29, 31, 49 and 51. Due to the constraints of the site including the location of existing structures, little opportunity exists elsewhere to site the structure, as is the same with many allotments along the same side of Francis Street. The structure is designed to be of minimal bulk and scale and is located over the existing single hardstand car space, therefore having no impact on the landscape character of the street. As such, it is considered that the existing streetscape including the desired spatial proportions is consistent with the existing streetscape character and enhanced through the upgraded structure.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposed carport will be located over the existing single hardstand car space which provides the only formal off street parking for the site. It is not considered the structure will result in any additional privacy impacts as its only function is to provide coverage over an existing space. The structure is open on all four sides and of minimal bulk and scale which will ensure that sufficient solar access, sunshine and air movement is maintained. An inspection of the site has determined that the structure will not result in any impacts on views and vistas from private and public spaces. The location and nil setback of the structure is consistent with carport development along the western side of Francis Street as evident at numbers 29, 31, 49 and 51. It is not considered the structure will impact on the safety of existing traffic conditions including visibility as the site is not a corner allotment or in proximity to an intersection.

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

Comment:

Due to the location of existing structures on site, there are limited opportunities to provide the structure elsewhere. For this reason and as the structure is located over an existing hardstand space, it is considered an appropriate degree of flexibility has been applied.

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:

As mentioned, the structure is located over an existing hardstand space and will therefore have no impact on that mentioned above.

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

Comment:

The subject site is not identified as bushfire prone land.

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

4.1.4.2 Side setbacks and secondary street frontages

Description of non-compliance

The proposed carport and decking presents a nil side setback to the site's northern side boundary.

While the proposed carport is unenclosed, based on the wall height control of the MDCP 2013, a minimum setback of 0.98m would generally be required. This clause states that projections into the side setback may be accepted for unenclosed balconies if it can demonstrate that there will be no adverse impact on adjoining properties from loss of privacy from a deck or balcony. As such, the nil setback of these structures has been assessed on merit with reference to the underlying objectives as outlined below.

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:

As mentioned in the above assessment for the non-compliant front setback, the proposed carport is consistent with that along the western side of Francis Street and is therefore consistent with the existing characteristics of the streetscape including the desired spatial proportions, street edge and landscape character.

The proposed decking provides level access from the carport to the access door at the northern elevation of the dwelling. The design of the decking being of minimal height, bulk and scale and the slope of the site which falls away from the street frontage will ensure the decking will have negligible visual impact when viewed from the streetscape. Notwithstanding this, the deck is generally consistent with the setback of built form along the western side of Francis Street. Furthermore, the structure will not impact existing landscape features on site.

It is therefore considered that notwithstanding the nil setback of both structures, the existing streetscape in relation to the desired spatial proportions, street edge and landscape character will be maintained and enhanced.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

As mentioned above, the proposed carport will be located over the existing single hardstand car space which provides the only formal off street parking for the site. It is not considered the structure will result in any additional privacy impacts as its only function is to provide coverage over an existing space. The structure is open on all four sides and of minimal bulk and scale which will ensure that sufficient solar access, sunshine and air movement is maintained. An inspection of the site has determined that the structure will not result in any impacts on views and vistas from private and public spaces. The location

and nil setback of the structure is consistent with carport development along the western side of Francis Street as evident at numbers 29, 31, 49 and 51. It is not considered the structure will impact on the safety of existing traffic conditions including visibility as the site is not a corner allotment or in proximity to an intersection.

The proposed decking is less than 1 meter above existing ground level, narrow in width and not considered large enough for outdoor entertainment, therefore facilitating a reasonable level of privacy. The deck is unenclosed and will therefore have no impact on solar access, ventilation, sunshine or view sharing or traffic conditions. Due to its minimal bulk and scale and the slope of the site which falls away from the road, the deck will have negligible impact on the existing streetscape and remains consistent with the character of built form along Francis Street. Notwithstanding the nil setback, it is considered sufficient spatial separation remains as the structure is a maximum of 800mm above existing ground level and functions primarily to provide safe access down the side of the site.

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

Comment:

Due to the location of existing structures on site, there are limited opportunities to provide the carport structure elsewhere. For this reason and as the structure is located over an existing hardstand space, it is considered an appropriate degree of flexibility has been applied.

The proposed decking will provide safe and level access from the carport to the side access door at the northern elevation of the dwelling. Given the slope of the site and the minimal design, it is considered a reasonable in this circumstance.

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 carport is located over an existing hardstand space and will therefore have no impact on the above.

The proposed decking is modest in size and will have negligible impact on deep soil zones. The proposal includes a planter adjacent to the deck and side boundary which can facilitate vegetation however it is noted that the site already provides a compliant calculation of landscape open space. It is therefore considered that natural features have been sufficiently maintained and enhanced.

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

Comment:

The subject site is not identified as bushfire prone land.

Having regard to the above assessment, it is concluded that the proposed development

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

4.1.5 Open Space and Landscaping

The subject site is defined as residential open space area OS3. As such, at least 55% of the site area is to be provided as total open space and no more than 25% of this space can be provided as above ground as defined under the MDCP 2013. The total open space on site has been calculated as 53% and the total open space above ground has been calculated as 33% of the total open space. Both of these calculations fail to comply with the numerical requirement, however as this is existing and remains unchanged as part of the works, Council supports the variation in this circumstance.

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

This clause requires the subject site to provide two (2) on-site car parking spaces. The subject site provides for one (1) space which was approved under DA0159/2017. The current application makes no changes to this existing arrangement and is therefore supported despite the variation.

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

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/1207 for Alterations and additions to a dwelling house on land at Lot 2 DP 68123, 27 Francis Street, FAIRLIGHT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA1 Perspectives, Materials & Finishes	Undated	Not stated
DA3 Site Analysis Plan	11 November 2020	sketchArc
DA4 Lower Floor Plan	11 November 2020	sketchArc
DA5 Ground Floor Plan	11 November 2020	sketchArc
DA6 Mezzanine Floor Plan	11 November 2020	sketchArc
DA7 Roof Plan	11 November 2020	sketchArc
DA8 North Elevation	11 November 2020	sketchArc
DA9 South Elevation	11 November 2020	sketchArc
DA10 East Elevation & West Elevation	11 November 2020	sketchArc
DA11 Section C-C	11 November 2020	sketchArc

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

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

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

approved plans.

2. 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	3 November 2020

(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 2018

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

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

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

6. 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 WATER MANAGEMENT POLICY FOR DEVELOPMENT.

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.

7. **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.

8. **Waste Management Plan**

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

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

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

9. **Compliance with Standards**

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. **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.

11. **Waste Management During Development**

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

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

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

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

12. **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.

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

Signed



Kelsey Wilkes, Planner

The application is determined on 23/11/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments