

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0808
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 2 DP 325220, 16 Addison Road MANLY NSW 2095
Proposed Development:	Construction of a swimming pool and associated works
Zoning:	Manly LEP2013 - Land zoned E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Sarah Penelope Joyce Nicholas John Fairfax
Applicant:	Sarah Penelope Joyce

Application Lodged:	29/07/2019
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	10/08/2019 to 09/09/2019
Advertised:	10/08/2019
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 209,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions at No.16 Addison Road. The works comprise of;

- Demolishing existing harbour swimming pool and spiral staircase.
- Constructing a new swimming pool (no excavation required), which will include a catch pool, weir edge and deck.
- Constructing a new spiral staircase, which will be built into the sandstone retaining wall behind.
- The selected finishes and materials for the works are coloured to blend with the existing sandstone cliff.

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

Assessment - Foreshore and Waterways Planning and Development Advisory Committee
 Manly Local Environmental Plan 2013 - 2.4 Unzoned land
 Manly Local Environmental Plan 2013 - 5.10 Heritage conservation
 Manly Local Environmental Plan 2013 - 6.5 Terrestrial biodiversity
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Local Environmental Plan 2013 - 6.10 Limited development on foreshore area
 Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features
 Manly Development Control Plan - 5.4.1 Foreshore Scenic Protection Area
 Manly Development Control Plan - 5.4.2 Threatened Species and Critical Habitat Lands

SITE DESCRIPTION

Property Description:	Lot 2 DP 325220 , 16 Addison Road MANLY NSW 2095
Detailed Site Description:	<p>The site is legally described as Lot 2 DP 325220, and is commonly known as 16 Addison Road, Manly. The works subject to this application relate to the land adjacent to the site, below the mean high water mark ("MHWM"). The existing waterfront development comprises a total area of 55m² and includes a swimming pool and spiral access stairs.</p> <p>The current Licence for the waterfront structures issued from the RMS provides for a swimming pool and spiral access stairs, covering an area of 55m².</p> <p>The land seaward of the MHWM is unzoned lands and adjoins land zoned as W2 Environment Protection located under SREP (Sydney Harbour Catchment) 2005.</p>

Map:



SITE HISTORY

A search of Council’s records has revealed that there are no recent or relevant applications for this site.

However, the Statement of Environmental Effects submitted with the application has provided evidence to demonstrate continuous the domestic tenures from RMS since 1960 comprising of;

- Approval for the construction of a swimming pool was granted by the Maritime Services Board of NSW (MSB) on 23rd November 1960.
- A lease was then entered into with the MSB for an area located within the foreshore to be used for 'private purposes' on 24th May 1962.
- Approval for the proposed replacement stairway was granted by the MSB on 17 Feb 1986.
- The structures continue to be leased from the RMS.

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	None applicable.
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 Matters for Consideration'	Comments
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>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&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>
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 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 1 submission/s from:

Name:	Address:
Mrs Margaret Lavers	14 Addison Road MANLY NSW 2095

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

- **Construction impacts**

The matters raised within the submissions are addressed as follows:

- **Construction impacts:** Concern has been raised around the proposal's potential construction impacts on adjoining land. In particular, the owners of No.14 Addison Road have raised concern towards areas at the 'water level' and the 'shared driveway'.

Comment:

Imposed conditions will ensure that a dilapidation report is conducted prior to the commencement of any works and an additional report will be required at the completion of the works.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The subject site is identified as an "Area of Outstanding Biodiversity Value" (AOBV; formerly Little Penguin Critical Habitat) under the NSW Biodiversity Conservation Act 2016. Accordingly, the development triggers the requirement for a Biodiversity Development Assessment Report (BDAR). A BDAR (GIS Environmental Consultants 19/03/19) has been prepared in accordance with Section 6.7 of the BC Act and submitted with the DA. The application has also been assessed against the requirements of Manly LEP 2013 Clause 6.5 (Terrestrial Biodiversity) and DCP 2013 5.4.2 Threatened Species and Critical Habitat Lands, and complies with these controls.</p> <p>As part of the development assessment, additional information</p>

Internal Referral Body	Comments
	<p>regarding the current and historical Little Penguin nesting and breeding activity within the immediate vicinity of 16 Addison Rd was requested from NSW Department of Planning, Infrastructure and Environment (DPIE). While habitat of little penguins occurs in the area, DPIE have advised that there is no record of penguins nesting on the subject property. The nearest known burrows are located on a property to the south-west, although no nesting activity has occurred at that site since 2012. Other penguin activity has been historically recorded along the rear of properties on the southern side of Addison road, however the most recent record of confirmed breeding was 2015/16. Based on the latest information from DPIE, the closest nest site currently being used is ~>50 metres from the site.</p> <p>The proposed development includes the replacement of an existing staircase, and this will not significantly alter (increase or decrease) the existing access to the foreshore area on the site. It is considered that the potential for an increase in human activity associated with the replacement of the stairs, pool and decking would not significantly disrupt the potential for penguin activity at this site. Little Penguin access to the foreshore to the north and south is not likely to be affected by the proposal.</p> <p>The BDAR assesses the biodiversity values of the site and the impacts of the development proposal to those values, including a number of potential prescribed impacts as defined under Section 6.7 of the BC Act. Most of these relate to indirect construction-related impacts which have the potential to prevent penguin access to the subject site and subsequent use of known nest sites on adjoining properties.</p> <p>The BDAR identifies measures to avoid and minimise impacts on the biodiversity values of the site, particularly of known penguin and bandicoot habitat. Proposed mitigation measures generally focus around timing restrictions to limit high-risk construction activity to outside of the penguin breeding season. It is concluded that no unreasonable ("serious and irreversible") impacts on the Little Penguin population or biodiversity values of the site are likely to result from the proposed development. This referral includes recommended conditions of consent in order to prevent disturbance to nesting penguins, and a monitoring program is also recommended in order to allow for adaptive management for impacts to biodiversity that are uncertain.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP.</p> <p>Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area</p>

Internal Referral Body	Comments
	<p>Development Control Plan, 2005.</p> <p>The proposed development is located within the W2 Environment Protection area with the Sydney Harbour Catchment Regional Environment Plan, 2005. On internal assessment, it is determined that the proposed development also meets the requirements of the Sydney Harbour REP and DCP, and relevant clauses of the Manly LEP and DCP.</p> <p>State Environmental Planning Policy (Coastal Management) 2018</p> <p>12 Development on land within the coastal vulnerability area</p> <p><i>Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <ul style="list-style-type: none"> <i>(a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i> <i>(b) the proposed development:</i> <ul style="list-style-type: none"> <i>(i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i> <i>(ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i> <i>(iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i> <i>(c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i> <p><u>Comment:</u></p> <p>The proposed development meets Clauses 12 and 15 of the Coastal Management SEPP (13 and 14 do not apply as the subject land is within the SREP area). As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>As the proposed development is located in the Area of Outstanding Biodiversity Value in the coastal zone, recommendations of the Construction EMP should be strictly adhered to.</p>
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following condition of consent.
NECC (Riparian Lands and	This application has been assessed under the Manly LEP 6.10

Internal Referral Body	Comments
Creeks)	Limited development on foreshore area, and the SEPP (Coastal Management) 2018. The applicant is required to comply with the Construction and Environmental Management Plan prepared by Marine Advisory Services Pty Ltd, dated 24 June 2019.
Strategic and Place Planning (Heritage Officer)	The site of the proposed development is not a listed heritage item in its own right, however, it is located in the vicinity (and makes a minor encroach on) of a heritage item, the Harbour Foreshore area (I-1 in MLEP). Given the nature of the proposal and the item, the impact on heritage values is assessed as acceptable. Based on the above, I have no objections to this proposal from heritage perspective. Proposal is acceptable without conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Integrated Development – NSW Fisheries	The proposal was referred to the Department of Primary Industries. DPI Fisheries provided a response on 11 September 2019, which raised no objections with the proposal. The recommendations contained within this referral response have been included within this 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject property is located within the Foreshores and Waterways Area therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 21 (relating to biodiversity, ecology and environment protection) Clause 25 (relating to foreshore and waterways scenic quality) and Clause 26 (relating to maintenance, protection and enhancement of views) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. The proposal was referred to Foreshore and Waterways Planning and Development Advisory Committee. No response has been received within the 30 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

2 Aims of plan

- (1) *This plan has the following aims with respect to the Sydney Harbour Catchment:*
- (a) *to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour*
 - (i) *as an outstanding natural asset, and*
 - (ii) *as a public asset of national and heritage significance, for existing and future generations,*
 - (b) *to ensure a healthy, sustainable environment on land and water,*
 - (c) *to achieve a high quality and ecologically sustainable urban environment,*
 - (d) *to ensure a prosperous working harbour and an effective transport corridor,*

- (e) to encourage a culturally rich and vibrant place for people,
- (f) to ensure accessibility to and along Sydney Harbour and its foreshores,
- (g) to ensure the protection, maintenance and rehabilitation of watercourses, wetlands and foreshores,
- (h) to provide a consolidated, simplified and updated legislative framework for future development.

Comment:

The proposed swimming pool and spiral access stairs will occupy 59.7sqm of land adjacent to the site, below the mean high water mark ("MHW"). The foreshore area currently contains a swimming pool and access stairs, however, the existing waterfront development has deteriorated beyond a usable state. The proposal seeks to revitalise this foreshore area through a well designed development that is compatible with the surrounding natural and built environment. It is considered that the works will not unreasonably detract from the cultural, ecological or commercial values of Sydney Harbour. In addition, the proposal has been referred to all relevant internal Council departments for comment with no objections received, subject to the recommended conditions of consent. Further assessment of any impacts is undertaken throughout this report.

14 Foreshores and Waterways Area

The planning principles for land within the Foreshores and Waterways Area are as follows:

- (a) development should protect, maintain and enhance the natural assets and unique environment of the foreshore and waterways,
- (b) public access to and along the foreshore should be increased, maintained and improved, and
- (c) access to and from the waterways should be increased, maintained and improved for public use,
- (d) development along the foreshore and waterways should maintain, protect and enhance the natural assets and unique environment of the foreshore and waterways,
- (e) adequate provision should be made for the retention of foreshore land to meet existing and future public access requirements,
- (f) public access along foreshore land should be provided on land used for industrial or commercial purposes,
- (g) the use of foreshore land adjacent to land used for industrial or commercial maritime purposes should be encouraged,
- (h) water-based public transport (such as ferries) should be encouraged to link with land-based public transport,
- (i) the provision and use of public boating facilities along the waterfront should be encouraged.

Comment:

The foreshore area currently has no public access, therefore, the proposal will not alter any public access to or along the harbour foreshore for recreational or commercial use. The proposed access stairs will obscure a small portion of the existing natural cliff on the property, however, the selected finishes and materials of the works are sympathetic of its surroundings and will minimise the visual impact when viewed from the foreshore/harbour.

21 Biodiversity, ecology and environment protection

The matters to be taken into consideration in relation to biodiversity, ecology and environment protection are as follows:

- (a) development should have a neutral or beneficial effect on the quality of water entering the foreshore and waterways,
- (b) development should protect and enhance terrestrial and aquatic species, populations and habitats,
- (c) development should promote ecological connectivity between neighbouring areas of aquatic and terrestrial habitat,
- (d) development should avoid indirect impacts on aquatic vegetation (such as changes to flow and sedimentation),
- (e) development should protect and reinstate natural intertidal foreshore areas, natural landforms and riparian habitat,
- (f) development should retain, rehabilitate and restore riparian land,
- (g) development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands,
- (h) the cumulative environmental impact of development, and
- (i) whether sediments in the waterway adjacent to the development are contaminated, and whether the development will contribute to sedimentation.

Comment:

The proposed works are below the mean high water mark ("MHW") and will be remaining essentially within the existing pool's footprint. As such, the proposal will result in minimal additional impervious

area and associated runoff. Imposed conditions will ensure that the construction process will avoid and/or minimise any impact on water quality. Further, no aquatic vegetation will be impacted as a result of the development. In addition, the protection and enhancement of the penguin population and its habitat is maintained as a result of the development as outlined under the comments and conditions relating to biodiversity/threatened species. Whilst the proposal includes a new swimming pool and access stairs, they will only partially obscure the natural landform. Overall, the works will provide a visual improvement to the foreshore area.

25 Foreshore and waterways scenic quality

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of scenic quality are:

- (a) the scale, form, design and siting of any building should be based on an analysis of:
 - (i) the land on which it is to be erected, and*
 - (ii) the adjoining land, and*
 - (iii) the likely future character of the locality,**
- (b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour,*
- (c) the cumulative impact of water-based development should not detract from the character of the locality.*

Comment:

The proposal is not considered to substantially alter the appearance of the foreshore area in the vicinity of the site. The proposed works to the foreshore area are relatively remaining within the existing swimming pool's building footprint. In addition, the proposal's design has selected a range of finishes and materials, which integrate the works with the existing sandstone cliff. In addition, the proposed swimming pool is consistent with nearby comparable developments at Nos. 5, 7, 11, 28A and 30A Addison Road, therefore the proposal is compatible with the established and future character of the locality.

26 Maintenance, protection and enhancement of views

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are:

- (a) development should maintain, protect and enhance views (including night views) to and from the locality,*
- (b) development should minimise any adverse impacts on views and vistas to and from public places,*
- (c) the cumulative impact of development on views should be minimised.*

Comment:

The proposal will not unreasonably impact any views or vistas to and from Sydney Harbour or other public places.

37 Development within 20 metres of boundary of Zone No W2

Despite any other provision of this plan, a consent authority may grant development consent to the development of land that is within 20 metres of the boundary of Zone No W2 and another zone for a purpose for which development may be carried out in either Zone No W2 or the adjoining zone.

Comment:

Whilst swimming pools are a prohibited use within W2 zones, the subject area is unzoned and within 20m from the adjoining E4 Zone, which allows swimming pools to be an ancillary use to dwelling houses. Therefore, in addition to the Sydney Harbour Foreshores and Waterways Area DCP, the development standards and controls used to assess developments within lands zoned E4 under MLEP2014, have also been applied to determine the merits of this proposal.

Sydney Harbour Foreshores and Waterways Area - Development Control Plan

The Sydney Harbour Foreshores and Waterways Area DCP is also applicable to the site. An assessment of the proposal against the relevant provisions of Parts 2, 3 and 4 has been undertaken.

2. Ecological Assessment

The subject site is located within the *"Mixed Rock Intertidal and Sand"* Ecological Community.

<u>Statement of Intent</u>	<u>Comment</u>
<p>Controlling shading <i>To minimise impacts from shading on communities of high conservation value.</i></p>	<p>The proposed pool is low lying and will not overshadow nearby seagrass communities.</p>
<p>Avoiding Harmful Effects of Reclamation <i>To minimise the effects from reclamation</i></p>	<p>The proposal is remaining consistent with the existing waterfront development. Additionally, the proposal was referred to NSW Fisheries who raised no objections with the proposal. Overall, it is considered that the proposal will not create unreasonable impacts from reclamation.</p>
<p>Urban Run-off <i>To minimise the effects from urban run-off.</i></p>	<p>The proposal will be remaining essentially within the existing pool's footprint. Therefore, the proposal will result in minimal additional impervious area and associated runoff.</p>
<p>Dredging <i>To minimise the effects of dredging.</i></p>	<p>No dredging is proposed as a part of this proposal.</p>
<p>Physical Damage <i>To minimise physical damage to communities of high conservation value.</i></p>	<p>The submitted Marine Habitat Survey (Waterfront Surveys, 2019) indicates that there are no seagrass communities within 10m of the proposed pool. It is considered that the proposal will not effect nearby ecological communities of high conservation value.</p>
<p>Tidal Flows/Currents <i>To minimise changes to natural tidal flow/currents.</i></p>	<p>The proposal will be remaining essentially within the existing pool's footprint, as such there will be a minimal change to the natural tidal flow/currents.</p>

3. Landscape Assessment

The subject site is located within the area Landscape Character Type 8. Any development within this landscape is to satisfy the following criteria:

- *vegetation is integrated with land-based development to minimise the contrast between natu*

Comment:

The proposed swimming pool and access stairs have been effectively designed to minimise the contrast between natural and built elements, through selecting finishes and materials that blend with the existing sandstone cliff.

- *design and mitigation measures are provided to minimise noise and amenity impacts betwee*

Comment:

The residential use is existing and remains consistent with the surrounding area.

- *the maritime uses on the Harbour are preserved. Pressure for these uses to relocate is minin*

Comment:

The existing use and proposed works will not unreasonably impact the uses of the Harbour.

- *remaining natural features that are significant along the foreshore are preserved and views o*

Comment:

The proposed works are designed to retain the appearance of the existing sandstone cliff face as closely as possible.

4. Design Guidelines for Water-Based and Land/Water Interface Developments

4.2 General Requirements

The following objectives and requirements must be considered for all water-based and land/water interface developments:

- *public access to waterways and public land is maintained and enhanced;*

Comment:

There is currently no public access through the subject site to the foreshore.

- *congestion of the waterway and foreshore is minimised;*

Comment:

The proposed swimming pool and access stairs will only be used for private recreation. It is considered that the works will not create any congestion impacts for the adjacent harbour waterway and foreshore areas.

- *conflicts on the waterway and foreshore are avoided;*

Comment:

The proposal is consistent with existing waterfront development within the locality and will not create conflict between the waterway and foreshore.

- *the development warrants a foreshore location;*

Comment:

The works subject to this application relate to the land adjacent to the site, below the mean high water mark. The existing waterfront development comprises a total area of 55m² and includes a swimming pool and spiral access stairs, which have deteriorated beyond a usable state. The proposed development is warranted, as the unused land is still leased from the RMS and the works are consistent with existing and nearby waterfront developments.

- *the development does not interfere with navigation, swimming or other recreational activities;*

Comment:

The proposal will protrude 7.8m beyond the MHWL and will be relatively contained within the existing pool's footprint. It is considered that the proposed structures will not interfere with navigation, swimming or other nearby recreational activities.

- *the demand for the development has been established;*

Comment:

The nature of the site's existing waterfront development has warranted the renewal of this foreshore area.

- *the structure does not obstruct or affect the natural flow of tides and currents;*

Comment:

The proposal will be remaining essentially within the existing pool's footprint, as such there will be a minimal change to the natural tidal flow/currents.

- *development does not dominate its landscape setting;*

Comment:

The proposal's design has incorporated a range of finishes and materials that are synonymous with the adjacent sandstone cliff. It is considered, that the proposals design will effectively minimise the visual impact of the works when viewed from the harbour waterway and nearby foreshore areas.

- *the extent of development is kept to the absolute minimum necessary to provide access to th*

Comment:

The proposal is relatively remaining within the existing waterfront development's footprint. In addition, no access to the waterway is proposed.

- shared usage of facilities is encouraged to minimise the number of structures and their cumu

Comment:

Not applicable, the swimming pool will only be used for private recreational purposes.

- *development is setback at least 2.5 metres from the division of the waterway as established l*

Comment:

The existing pool's platform has been built into a sandstone rock, which has caused an encroachment beyond the northern 'division of the waterway' by 0.80m with a total area of 0.64sqm. The proposal seeks to remain relatively within the existing pool's footprint to minimise the disturbance on the foreshore area. Whilst, the proposal involves slightly extending the pool's platform 0.36m to the east, the platform will be integrated within the existing sandstone rock and will have a minimal impact on the adjoining site's waterway and foreshore.

4.3 Foreshore Access

There is currently no public access through the subject site to the foreshore.

4.4 Siting of Buildings and Structures

In addition to these foreshore building lines, the following criteria should be observed when siting buildings and structures:

- *where there is existing native vegetation, buildings should be set back from this vegetation to*
- *buildings should address the waterway;*
- *buildings should not obstruct views and vistas from public places to the waterway;*
- *buildings should not obstruct views of landmarks and features identified on the maps accomp*

Comment:

The proposed works will not impact native vegetation on the site. The existing dwelling is built on top of the cliff and addresses the Harbour/Little Manly Cove. The proposal retains and enhances this existing orientation without unreasonably impacting any views or vistas from public places.

4.5 Built Form

The following guidelines are designed to reinforce the local requirements:

- *where buildings would be of a contrasting scale or design to existing buildings, care will be ne*
- *while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion ro*
- *walls and fences should be kept low enough to allow views of private gardens from the water*
- *bright lighting and especially floodlighting which reflects on the water, can cause problems wi*
- *except where otherwise required for navigation purposes, all lights on structures shall be shie*
- *use of reflective materials is minimised and the relevant provisions of the Building Code of Au*
- *colours should be sympathetic with their surrounds and consistent with the colour criteria, wh*
- *the cumulative visual impact of a number of built elements on a single lot should be mitigated*
- *the cumulative impact of development along the shoreline is considered having regard to pre*

Comment:

The surrounding area contains development of varying scales/designs ranging from single dwellings to multi-storey residential flat buildings. The proposal will not affect the existing dwelling's presentation, when viewed from the Harbour/Little Manly Cove and nearby foreshore areas. The proposal will not affect night navigation as no bright lighting or floodlighting is proposed. The proposed external finishes are sympathetic to the surrounding natural environment with; pigmented concrete, non-reflective finish and aquatic coloured internal pool tiles.

4.15 Swimming Pools

It is acknowledged that Swimming pools are not acceptable structures for locations below MHWM and should be located landward of MHWM. However, pursuant to clause 37 of SREP 2005 the subject area is unzoned and within 20m from the adjoining E4 Zone, which allows swimming pools to be an ancillary use to dwelling houses. Providing the existing nature of the site's waterfront development and nearby comparable development, it is considered reasonable for the pool to be located below the MHWM.

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:

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or*

works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and

(b) the proposed development:

- (i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
- (ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
- (iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*

(c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment:

At the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified. Not applicable.

13 Development on land within the coastal environment area

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

headland or rock platform for members of the public, including persons with a disability,

- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

Comment:

The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. Currently, there is no public access along the foreshore. In addition, the proposed works are consistent with the existing foreshore swimming pool and nearby comparable developments. Overall, the proposal does not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

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

Comment:

Council is satisfied the proposed works are designed and can be managed to avoid adverse impacts upon the matters identified in this clause.

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 proposal does not impact upon public access to and along the foreshore. The visual amenity from private and public space is not adversely effected, as the design of the proposal has been effectively integrated within the surrounding natural environment. In addition, the surrounding area consists of

examples of similar developments.

The subject site and adjacent foreshore area is mapped as having a high likelihood of containing Aboriginal heritage sites. However, the foreshore area have been heavily modified and no sites have been identified within the vicinity of the proposed development. Overall, the proposed works are not likely to cause an adverse impact upon the matters identified in this clause. A condition of consent has been placed to stop works if any Aboriginal Engravings or Relics are unearthed.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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:

Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

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

Note: The subject site is contained within unzoned lands, therefore the controls of the adjoining E4 Zone have been applied to determine the merits of this proposal.

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	5.3m (Spiral stairs) 1.7m (Pool patio)	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.4 Unzoned land	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes

Clause	Compliance with Requirements
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes

Detailed Assessment

2.4 Unzoned land

The subject site is contained within unzoned lands. See Figure 1.

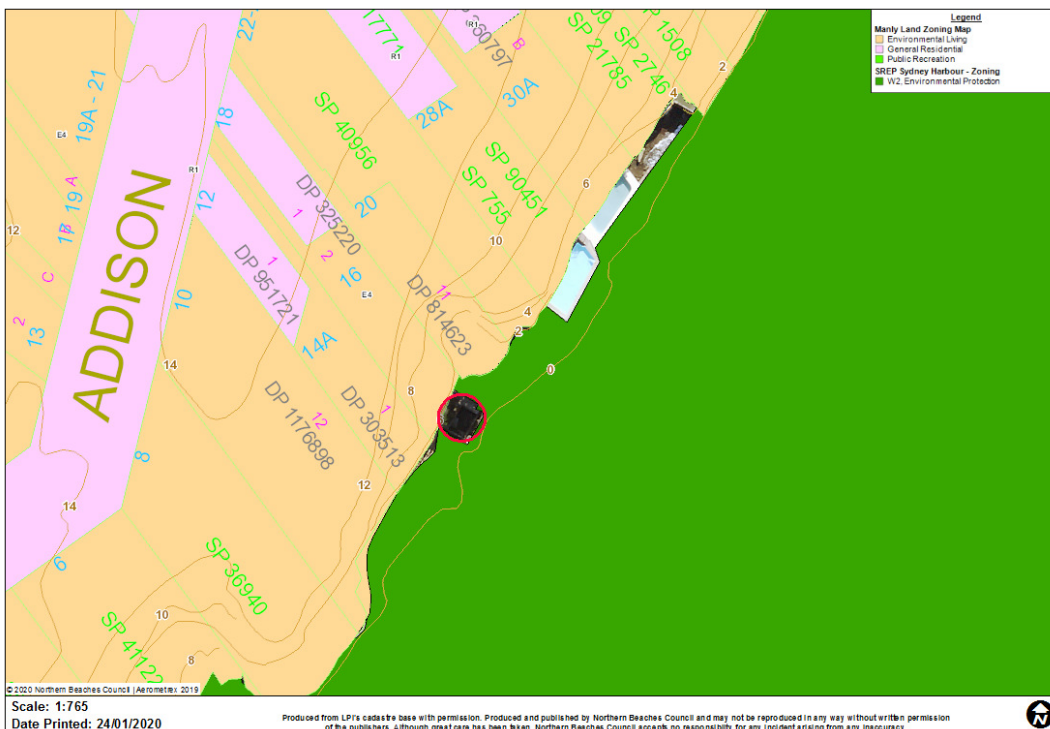


Figure 1.



(2) In deciding whether to grant development consent, the consent authority:

(a) *must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land.*

The proposal seeks consent to construct a new swimming pool and spiral staircase within the foreshore. The proposal will be relatively contained within the existing pool's footprint. In addition, the proposal's design has selected a range of finishes and materials that will effectively integrate the works within the foreshore environment. Further, imposed conditions have been included to ensure a dilapidation report is carried out monitor the condition of adjoining land. Overall, it is considered that the development will not have an unreasonable impact on adjoining zoned land and is consistent with the objectives of zone E4.

(b) *must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.*

Currently the subject area contains a swimming pool and access stairs within the foreshore area. Similarly, Nos. 5, 7, 11, 28A and 30A Addison Road have foreshore swimming pools located within unzoned lands. The proposal is reasonably remaining within the existing pool's footprint and will be effectively integrated within the surrounding natural environment. Overall, it is considered that the development is appropriate and is compatible with nearby comparable developments.

5.10 Heritage conservation

The proposed works are not considered to result in any unreasonable impact to the heritage value of the harbour foreshore or surrounding area. Council's Heritage Officer raised no objection to the proposed development.

6.5 Terrestrial biodiversity

Council's Biodiversity Officer concluded that the proposal can be undertaken without significant or serious and irreversible impacts to threatened entities, subject to recommended conditions of consent.

6.9 Foreshore scenic protection area

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

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

Comment

It is considered that the proposed works are not likely to cause an adverse impact upon the matters identified in this clause.

6.10 Limited development on foreshore area

The works subject to this application relate to the land adjacent to the site, below the mean high water mark ("MHWM"). The existing waterfront development comprises a total area of 55m² and includes a swimming pool and access stairs. The proposal seeks consent to revitalise this foreshore area, through constructing a new swimming pool and spiral access stairs, which will be remaining essentially within the existing pool's footprint. Swimming pools and waterway access stairs are permitted to be within foreshore areas pursuant to Clause 6.10 (2) of MLEP 2013. In addition, the proposal's finishes and materials have been selected to blend with the existing sandstone cliff. Overall, it is considered that the proposal has been carefully designed to maintain and enhance the foreshore area, while remaining consistent with nearby comparable developments.

Manly Development Control Plan

Built Form Controls

Built Form Controls	Requirement	Proposed	%	Complies
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			Variation*	
4.1.4.5 Foreshore Building Lines and Foreshore Area	FBL applies	Pool positioned outside the FBL	N/A	N/A
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	At ground level	N/A	Yes
	1m curtilage/1.5m water side/rear setback	Pool positioned outside the FBL	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.2 Heritage Considerations	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
3.5.1 Solar Access	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	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
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

4.1.9 Swimming Pools, Spas and Water Features

Description of non-compliance

The subject site is contained within unzoned lands, therefore the controls of the adjoining E4 Zone have been applied to determine the merits of this proposal.

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 be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties.

Comment:

The swimming pool is proposed within the foreshore area, located below the mean high water mark ("MHW") and has been designed to capture water views of Little Manly and Sydney Harbour. The pool has also been designed to be relatively screened by the sandstone cliff, which in turn mitigates opportunities for adjoining properties to overlook the proposal. Overall, it is considered the pool has been located and designed to maintain privacy, both visual and acoustic, for the dwelling occupants and those of adjoining and surrounding properties.

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

Comment:

The swimming pool will not be visible from Addison Road, as it is located within the foreshore area. Notwithstanding, the proposal is consistent with existing waterfront development within the locality and is remaining essentially within the existing pool's footprint. As such, the proposal will not adversely affect the streetscape or the established character of the locality.

Objective 3) To integrate landscaping.

Comment:

No landscaping is proposed as a part of this development.

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

Comment:

Not applicable, as the site is not classified as bush fire prone land.

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

5.4.1 Foreshore Scenic Protection Area

The proposed new swimming pool is designed to match the existing cliff face as closely as possible. The proposed works will be relatively contained within the existing pool's footprint, which maintains consistency with the existing waterfront development as viewed from the harbour frontage. As such, the proposal is not considered to result in unreasonable impact in relation to visual aesthetic amenity or views to and from Sydney Harbour/Little Manly.

5.4.2 Threatened Species and Critical Habitat Lands

The subject site is identified as an Area of Outstanding Biodiversity Value (AOBV; formerly Little Penguin Critical Habitat) under the NSW BC Act.

The application is classified as threatened species development and has been advertised for a 28 day period in accordance with Clause 89(3)(a) of the EPA Regulation 2000.

The application was also referred to Council's Biodiversity Officer to complete an assessment of the proposed works and the BDAR submitted by the applicant. The Officer indicated that the proposal could be undertaken without significant or serious and irreversible impacts to threatened entities, subject to compliance with the recommended conditions of consent and the BDAR.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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 \$2,090 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$209,000.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0808 for Construction of a swimming pool and associated works on land at Lot 2 DP 325220, 16 Addison Road, 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
DA9.5 - Pool Plan	15 April 2019	Patterson
DA9.6 - Elevation	15 April 2019	Patterson
DA9.7 - Section	15 April 2019	Patterson
DA9.12 - Demolition Plan	15 April 2019	Patterson

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Biodiversity Development Assessment Report	19 March 2019	GIS Environmental Consultants
Construction Management Plan	24 June 2019	Marine Advisory Services P/L

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

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	16 July 2019	Sarah Joyce

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
DPI Fisheries	Response DPI Fisheries Referral	11 September 2019

(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 (Demolition):

(a) 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 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
- (ii) 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.

(b) 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.

(c) 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.

Reason: Legislative Requirement.

4. 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.

5. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 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) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) 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.

(d) 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.

(e) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(i) 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.

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

6. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.30 am to 4.30 pm inclusive Monday to Friday.

Demolition and excavation works are restricted to:

- 8.00 am to 4.30 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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

(k) 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

7. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,090.00 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 \$209,000.00.

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.

8. **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 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, 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

9. **Access Spaces – Bandicoot Habitat**

Any new gates or fences are to be designed to include gaps appropriate to maintain bandicoot access through and within the site. Gaps are to be at least 150mm high and 300m wide. This condition does not apply to pool fencing.

Plans are to be amended accordingly prior to issue of the Construction Certificate.

Reason: To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

10. **Project Ecologist**

A project ecologist is to be employed for the duration of works located below the cliff line to

ensure compliance with Biodiversity Conservation conditions. The project ecologist must have one of the following memberships/accreditations:

- Practicing member of the NSW Ecological Consultants Association OR
- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016.

The details of the Project Ecologist engaged for the development are to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

11. **Preparation of CEMC**

A Construction Environmental Management Checklist (CEMC) is to be prepared and is to incorporate all measures for the protection of native vegetation, wildlife and habitats during the construction phase. Protection measures specified in the checklist must include all requirements of conditions of this consent and section 7.2 of the Biodiversity Development Assessment Report (GIS Environmental March 2019). The CEMC is to address all construction-related impacts on biodiversity. The Project Ecologist is also to identify critical stages during construction where they are required to conduct interim inspections of the site/works. The checklist is to be certified by the Project Ecologist as complying with this condition and provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

12. **Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

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

13. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **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.

Property / Properties: No.14A Addison Road and No.20 Addison Road.

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 arising 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.

15. **Protect AOBV – Penguin Habitat**

The Area of Outstanding Biodiversity Value (formerly Little Penguin Critical Habitat), including rocky cliff and intertidal areas below the formed backyard, are to be fully protected for the duration of the works. There shall be no machinery use, storage of construction materials/waste, dumping, or clearing of vegetation, soil, rock or rubble within these areas.

The Project Ecologist is to certify compliance with this condition in writing and provide this evidence to the Principal Certifying Authority at the commencement of works.

Reason: To prevent impacts to Little Penguins and the adjoining Area of Outstanding Biodiversity Value.

16. **Site Induction Required – Penguin and Bandicoot Habitat**

All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of relevant threatened species and endangered ecological communities through a site induction prior to commencement of works. The site induction is to include information about their conservation significance, potential activities on-site, means of identification and the measures to be implemented for their protection. A confirmation of induction is to be signed by every worker and the site manager.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

17. **Ecologist to Induct Site Manager – Penguin and Bandicoot Habitat**

Prior to commencement of construction works, the project ecologist is to meet with the site manager to:

- a) advise of conditions to be implemented for protection of relevant threatened species and endangered ecological communities;
- b) ensure that all workers are appropriately briefed on required protective measures; and
- c) inspect protective measures to confirm their adequacy and advise the proponent and site manager of the inspection results and their implications.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

18. Runoff and Sediment Control – Penguin Habitat

Appropriate runoff and sedimentation control devices must be installed prior to and maintained for the duration of works.

Reason: To prevent impacts to Little Penguins and their habitat, including the Area of Outstanding Biodiversity Value, in accordance with the Biodiversity Conservation Act 2016.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

19. Installation and Maintenance of Sediment Control

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

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

20. Traffic Control During Works

Traffic control devices and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (hand to the satisfaction of the Principal Certifying Authority). Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety

21. Construction and repair works timing restrictions - Little Penguin habitat

All demolition, excavation and construction works below the line of the existing cliff, including the staircase, are only permitted to be carried out outside of the Little Penguin breeding season (i.e. only between 1 March and 31 May) unless written approval of a representative of Council's Bushland & Biodiversity Team is obtained. The project ecologist is to notify Council's Bushland & Biodiversity Team of the proposed commencement date of these works at least 5 working days prior to works commencing. Any demolition, excavation and construction works below the line of the existing cliff, including to the staircase, are not to be undertaken whilst penguins are occupying breeding habitat on the property or adjoining properties at any time of year.

Compliance with this condition is to be certified by the project ecologist and evidence provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To avoid disturbance to nesting and moulting penguins.

22. **Construction and Environmental Management Plan implementation**

All measures as described Construction and Environmental Management Plan prepared by Marine Advisory Services Pty Ltd, dated 24 June 2019 and any other pollution controls shall be implemented prior to commencement of any works at the Site and maintained until all development activities have been completed and the site is sufficiently stabilised.

Reason: Protection of the waterway.

23. **Construction Hours – Manly LEP Clause 6.5**

Construction hours are to be adhered to, with no construction vehicles or heavy machinery used outside the hours of 7.30am and 4.30pm. Written certification of compliance with this condition is to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

24. **Fauna inspections**

All holes (e.g. those excavated for footing or installations) and any construction materials/stockpiles/machinery must be inspected for penguins and bandicoots before they are moved or cleared. Filling of holes, operation of machinery and clearing of materials/stockpiles may only proceed if the inspection concludes that no penguins or bandicoots are present. A record of each inspection is to be kept with a copy of the CMEC and be made available on site for inspection by the Principal Certifying Authority or Council. If a penguin or bandicoot is found within the works area, works must cease and the Project Ecologist contacted for advice. Works are not to commence until the animal has been safely relocated away from the works area.

Written evidence of compliance with this condition is to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To avoid injury to penguins and other fauna.

25. **No Artificial Lighting**

No artificial light is to be directed toward or illuminate the Area of Outstanding Biodiversity Value (formerly Little Penguin Critical Habitat) at any time during construction. No bright lighting or motion detectors which illuminate the formed back yard or foreshore areas are to be installed. Low intensity lighting may be used in the formed back yard for safety purposes only.

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

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

26. **CEMC to be Implemented**

Construction is to be undertaken in accordance with the Constructional Environmental

Management Checklist. Compliance is to be certified by the project ecologist and provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.

27. **Report Dead or Injured Penguins or Bandicoots – Penguin and Bandicoot Habitat**

Any injured or dead Long-nosed Bandicoots or Little Penguins found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434). Compliance with this condition is to be certified by the project ecologist in writing and this evidence provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To prevent impacts to Long-nosed Bandicoots and Little Penguins in accordance with the Biodiversity Conservation Act 2016.

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

28. **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.

29. **Project Ecologist Certification**

The Project Ecologist is to provide a statement in writing that they were engaged by the proponent for the duration of all works located below the cliff line. The statement is to be provided to the Principal Certifying Authority and Council prior to issue of the Occupation Certificate, and should include

confirmation of the following details:

1. That they were engaged throughout the works
2. That they carried out the induction of the Site Manager
3. That they carried out inspections of the site in accordance the CEMC
4. That no works below the cliff line were carried out at times prohibited by the condition "Construction and repair works timing restrictions - Little Penguin habitat"
5. That no scaffolding was erected or removed at times prohibited by the condition "Scaffolding timing restrictions"
6. That the CEMC was implemented and followed during the works on the site
8. That the AOBV was managed and protected during works in accordance with the condition "Protect AOBV"

Reason: To ensure that the works undertaken on the site maintain compliance with the conditions of consent.

30. **Staircase Gate and Advisory Signage for Penguin AOBV**

A self-closing gate with a 100mm gap at base must be installed at the top of the harbour-garden level staircase to help mitigate entry of cats, dogs and foxes into the Little Penguin Area of Outstanding Biodiversity Value. The gate must have a permanently attached sign displaying the wording below. The

sign is to be A4 in size and made of metal with permanent lettering that is at least 14 points in size. The wording is to be:

"Little Penguin Area of Outstanding Biodiversity Value

This foreshore is a declared Area of Outstanding Biodiversity Value (AOBV) for the endangered population of little penguins of Manly. The AOBV includes known breeding habitat and is critical for the survival of the penguin population. The numbers of Little Penguins in Manly have become so low that the population is in danger of becoming extinct.

The following restrictions apply in the little penguin AOBV:

- Companion animals (assistance animals excepted) are not permitted within the AOBV;
- Touching or damaging penguin habitat (including nest boxes) is not permitted;
- No person is to come within five metres of a Little Penguin;
- Fishing is only permitted between sunrise and sunset;
- Any dead or injured penguins must be reported to Sydney Wildlife (9413 4300) or WIRES (1300 094 737)

Penalties for non-compliance may apply in accordance with Division 3.2 of the NSW Biodiversity Conservation Regulation 2017."

Written confirmation of compliance with this condition is to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To prevent impacts to Little Penguins and the adjoining Area of Outstanding Biodiversity Value.

31. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in

rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

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

32. **No Artificial Lighting**

No artificial light is to be directed toward or illuminate the Area of Outstanding Biodiversity Value (formerly Little Penguin Critical Habitat) post-construction in perpetuity. No bright lighting or motion detectors which illuminate the formed back yard or foreshore areas are to be installed. Low intensity lighting may be used in the formed back yard for safety purposes only.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

33. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

34. **Maintain Fauna Access and Landscaping Provisions – Manly LEP Clause 6.5**

All fauna access/movement and landscaping provisions specified in these conditions of consent are to be implemented and maintained for the life of the development.

Reason: To maintain fauna access to existing and proposed habitat within and surrounding the site.

35. **Dead or Injured Wildlife – Manly LEP Clause 6.5**

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

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

36. **Control of Domestic Animals**

Domestic pet animals are to be kept from entering the foreshore areas at all times, i.e. Area of Outstanding Biodiversity Little Penguin habitat. Dogs and cats are to be kept in an enclosed

area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Cats must be kept indoors between dusk and dawn. Ferrets and rabbits are to be kept in a locked hutch/run at all times.

Reason: Wildlife protection

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

Signed



Kye Miles, Planner

The application is determined on 24/01/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments