

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/1015
----------------------------	-------------

<b>Responsible Officer:</b>	Stephanie Gelder
<b>Land to be developed (Address):</b>	Lot A DP 339924, 6 Nield Avenue BALGOWLAH NSW 2093
<b>Proposed Development:</b>	Demolition works and construction of a dual occupancy (attached) and subdivision of existing allotment into two (2) Torrens title allotments
<b>Zoning:</b>	Manly LEP2013 - Land zoned R1 General Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Tobias Simon Cogley Paul Brendan O'Connor
<b>Applicant:</b>	KD Town Planning

<b>Application Lodged:</b>	04/08/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Other
<b>Notified:</b>	10/08/2023 to 24/08/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	4
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 1,500,086.50
---------------------------------	-----------------

### PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following works:

- Demolition of existing dwelling house and associated structures;
- Subdivision of existing one (1) lot into two (2) lots;
- Construction of a pair of semi-detached dwelling houses;
- Alteration of existing vehicular driveway crossover and internal driveway; and
- Associated landscaping and fencing works.

## 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 - SEPP (Sustainable Buildings) 2022

Manly Local Environmental Plan 2013 - 6.4 Stormwater management

Manly Development Control Plan - 3.4.3 Maintenance of Views

Manly Development Control Plan - 3.7 Stormwater Management

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

Manly Development Control Plan - 4.1.10 Fencing

Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

## SITE DESCRIPTION

<b>Property Description:</b>	Lot A DP 339924 , 6 Nield Avenue BALGOWLAH NSW 2093
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Nield Avenue.</p> <p>The site is regular in shape with a frontage of 12.8m along Nield Avenue and a depth of 48.77m. The site has a surveyed area of 624.4m<sup>2</sup>.</p> <p>The site is located within the R1 General Residential zone from MLEP 2013 and accommodates a dwelling house, and detached garage currently on the site.</p> <p>The site slopes from the front western boundary downwards to the rear eastern boundary over approximately 4 metres.</p> <p>The site contains grass, planters, garden beds, and trees. There are no details of any threatened species on the</p>

subject site.

**Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by one and two storey dwelling houses, semi-detached dwellings, and residential flat building developments.

Map:



**SITE HISTORY**

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

The land has been used for residential purposes for an extended period of time.

**APPLICATION HISTORY**

Following the preliminary assessment of the application, Council requested additional information on 1 November 2023 in relation to Clause 3.4.1 Sunlight Access and Overshadowing of Manly Development Control Plan 2013, Clause 3.4.3 Maintenance of Views of Manly Development Control Plan 2013, Clause 4.1.4 Setbacks (front, side and rear) and Building Separation of Manly Development Control Plan 2013, Clause 4.1.5 Open Space and Landscaping of Manly Development Control Plan 2013, and Clause 4.1.10 Fencing of Manly Development Control Plan 2013. Further information was requested from Council’s Development Engineer in relation to Access, Levels, and Stormwater. Council’s Landscape Officer requested further information requesting a Landscape Plan.

Subsequently, the applicant submitted amended documentation including an amended Geotechnical Report, amended Stormwater Report, amended Stormwater Plans, Landscape Plan, amended Master Plans, Traffic Report, an amended BASIX Certificate, and an amended NatHERS Certificate.

Upon review of the additional information, Council’s Development Engineer requested further information on 19 December 2023 largely in relation to the proposed stormwater system.

On 12 January 2024, the applicant submitted additional information including an amended Stormwater Report, and an amended Stormwater Plans.

The amended plans constitute a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP).

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters are capable of being addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Clause 3.4.1 Sunlight Access and Overshadowing of Manly Development Control Plan 2013, Clause 3.4.3 Maintenance of Views of Manly Development Control Plan 2013, Clause 4.1.4 Setbacks (front, side and rear) and Building Separation of Manly Development Control Plan 2013, Clause 4.1.5 Open Space and Landscaping of Manly Development Control Plan 2013, and Clause 4.1.10 Fencing of Manly Development Control Plan 2013. Further information was requested from Council's Development Engineer in relation to Access, Levels, and Stormwater. Council's Landscape Officer requested further information requesting a Landscape Plan. Subsequently, the applicant submitted amended</p>

Section 4.15 Matters for Consideration	Comments
	<p>documentation. Upon review of the additional information, Council's Development Engineer requested further information in relation to the proposed stormwater system. The applicant submitted additional information including an amended Stormwater Report, and an amended Stormwater Plans.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matters are capable of being addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter is capable of being addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter is capable of being addressed via a condition of consent.</p>
<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>	<p>(i) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>



## 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 application has been publicly exhibited from 10/08/2023 to 24/08/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

<b>Name:</b>	<b>Address:</b>
Ms Vicky Capar	C/- Level 10 70 Pitt Street SYDNEY NSW 2000
Mr Karl Wilson	C/- Investment Property Managers PO Box 1717 NEUTRAL BAY NSW 2089
Mr Anthony William Rasmussen	4 A Nield Avenue BALGOWLAH NSW 2093
Mr Todd Clarence Want	8 Nield Avenue BALGOWLAH NSW 2093

The following issues were raised in the submissions:

- **Maintenance of Views**
- **Flood and Overland Flow of Stormwater**
- **Excavation, Earthworks, and Geotechnical**
- **Sunlight Access**
- **Side Setbacks**
- **Loss of Street Parking**

The above issues are addressed as follows:

- **Maintenance of Views**

The submissions raised concerns surrounding views from No.8 Nield Avenue and No.11 Nield Avenue.

Comment:

A detailed view loss assessment has been conducted under Clause 3.4.3 Maintenance of Views of Manly Development Control Plan 2013. In summary, the proposal results in a minor view loss impact, and is therefore supportable.

- **Flood and Overland Flow of Stormwater**

The submissions raised concerns surrounding the overland flow paths, and flooding on downstream properties.

Comment:

Council's Development Engineer has reviewed the proposal and provided comments located under the Internal Referrals section contained within this report. In summary, the proposed stormwater system is not acceptable, and is non-compliant with Council's Water Management for Development Policy. As such, the proposed stormwater system forms the reason for refusal of the development application.

- **Excavation, Earthworks, and Geotechnical**

The submissions raised concerns surrounding the excavation planned for the proposed basement, and the impact upon the adjoining site in relation to the fences, and boundary walls.

Comment:

If the application were to be approved, suitable conditions can be recommended for the adjoining sites to the north at No.8 Nield Avenue, and south at No.4 Nield Avenue for Pre-Dilapidation Reports, and Post-Dilapidation Reports to ensure the proposed development does not result in any unacceptable damage to the adjoining sites.

- **Sunlight Access**

The submissions raised concerns that the proposed development will result in more overshadowing to the site to the south at No.4 Nield Avenue.

Comment:

Under Clause 3.4.1.1 Overshadowing adjoining open space requires sunlight to private open spaces of adjacent properties to provide: *New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June).*

The applicant has provided hourly shadow diagrams that demonstrates the proposed development will not result in the elimination of more than one third of the existing sunlight accessing the private open space of the property to the south of the subject site at No.4 Nield Avenue.

- **Side Setbacks**

The submissions raised concerns that the side setback encroaches within the minimum required setback.

Comment:

A detailed assessment has been conducted under Clause 4.1.4 Setbacks (front, side and rear) and Building Separation contained within this report. In summary, the proposed variation to the side setback control is considered to be acceptable, and is consistent with the objectives of the control.

- **Loss of Street Parking**

The submissions raised concerns that the proposed development will result in a loss of off-street parking as a result of the proposed driveway.

Comment:

Council's Development Engineer has reviewed the proposal and provided comments located under the Internal Referrals section contained within this report. In summary, the proposed driveway location subject to a reduced vehicular crossing of 4 metres at the kerb line is supportable. It is noted that the reduction of an one (1) on-street car space would be reinstated to the north of the proposed driveway in the existing location of the driveway.

**REFERRALS**

Internal Referral Body	Comments
Landscape Officer	<p>Council's Landscape Referral section have considered the application against the Manly Local Environment Plan (MLEP), and the following Manly DCP 2013 (MDCP) controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• 3.3.1 Landscaping Design</li> <li>• 3.3.2 Preservation of Trees or Bushland Vegetation</li> <li>• 4.1.5 Open Space and Landscaping, including 4.1.5.2 (c) Minimum Tree Plantings where applicable</li> <li>• 4.4.8 Subdivision</li> </ul> <p>Amended plans are submitted for review. Landscape Referral note that the existing two palms within the frontage are identified by Council as Washingtonia Palms and such may be managed or removed without Council consent.</p> <p>Landscape Plans are submitted with sufficient information to appreciate the landscape outcome and Landscape Referral raise no objections subject to conditions.</p>
NECC (Development Engineering)	<p><b>Assessment 1 - 14/08/23:</b></p> <p>The applicant proposes to "demolish the existing dwelling house and associated structures and construct a new pair of semi-detached dwellings with Torrens Title subdivision."</p> <p><b>Access:</b> <i>Impact on street parking</i></p> <p>There is an existing driveway at the northern end of the property. The proposed driveway width is 6m at the boundary and 6.7m at the back of layback.</p> <p>The street benefits from on street parking bays at 60 degrees along the frontage.</p> <p>As a result of the proposal, 2-3 on street parking spaces will be lost which is not supported.</p> <p>Consider removing the landscape between the proposed driveways and designing a splayed driveway closer to the existing opening. The proposed layback shall be located and have its width reduced to maintain on street parking.</p> <p>Swept paths are required to demonstrate that the B85 vehicle can safely maneuver (entry and exit) into both parking facilities.</p> <p><i>Levels</i></p>



Internal Referral Body	Comments
	<p>The proposed garage level is 35.4 as shown in section 4.  The proposal indicates 2 side by side single garages with tandem parking located in the middle of the subdivision.  Should the space in front of the garages be used as undercover parking, it shall adhere to the minimum dimensions and section 2.4.6 gradients within parking modules of AS2890.1 Parking Facilities.  Requesting longitudinal plans on both edges of the 2 driveways, commencing from the centreline of the road to the parking facility.  The levels should comply with AS2890.1 Parking Facilities.  The boundary levels shall generally be maintained.</p> <p>Stormwater:  The site falls to the rear and is located in Region 3, Zone 1 of Councils Water Management for Development Policy.  The OSD checklist in the stormwater report prepared by Stellen Civil and Structural Engineering dated 16.06.22 does not accurately report the post development impervious area.  A post-development impervious area of 102.9m<sup>2</sup> is stated whereas plans and statement of environment effects indicate a pervious area of 92.2m<sup>2</sup>, hence impervious area per lot of 219.8m<sup>2</sup> (approximately 70%).  In accordance with Part 4.3.2.1 of the checklist, calculation 2, <math>159.3 &lt; 219.8</math> (<math>a &lt; b</math>). Hence OSD is required for both lots.  Provide a design in accordance with the section 9.3.3.2 of Council's Water Management for Development Policy.</p> <p>The applicant proposed to charge the on site stormwater to Council's kerb and gutter on Nield Avenue.  Stormwater drainage for all properties must be by gravity means.  Council requires the on site stormwater to be discharged via an easement in accordance with section 5.5 of Council's Water Management For Development Policy.  The applicant shall try to seek a drainage easement from the downstream property as the above policy.  Council is to be satisfied that all avenues of Stage 1 (Section 5.5.1.1 and 5.5.1.2) have been exhaustively investigated and these avenues considered impractical or unviable, prior to Council consenting to the property owner or developer progressing to the next stage.</p> <p>Geotech:  A geotechnical report has been prepared and submitted by White Geotechnical Group dated 6.02.23.  Sections 3 and 4 propose excavation of 1.2m below the existing ground level in close proximity to the neighbouring property at no. 8 Nield Ave.  There is also a proposed 1.5m of excavation below NGL for the basement/storage.  Hazards 2, 3 and 4 in Section 8 of the report indicates an unacceptable risk to life and property.  Geotechnical requirements are satisfied subject to conditions and recommendations in section 12, 13 and 14 of the report to move risk</p>

Internal Referral Body	Comments
	<p>to an acceptable level.</p> <p>Note to planner: The geotechnical report is to be included as part of the approved documents.</p> <p>As such, Development Engineering cannot support the application due to insufficient evidence to address clauses 3.7 and 4.1.6 of the DCP</p> <p><b>Engineering Comments 19.12.23</b></p> <ol style="list-style-type: none"> <li>1. The easement letters sent out to neighbouring properties state that Council recommends a "pump out" system to the front kerb. This is not correct. Such advice was not provided by Council's Development Engineers.</li> <li>2. Discharge of stormwater from part of the site via a charged system to the front kerb is not supported. This information was previously provided to the applicant.</li> <li>3. The entire site must be drained by gravity to the rear.</li> <li>4. As noted above the drainage easement letter sent to 139A erroneously states that Council recommends a pump out system for stormwater.</li> <li>5. A drainage easement request needs to be made to 139A Woodland Street, Balgowlah using the Appendix 2 form from the Water Management for Development Policy. If there is no response a Statutory Declaration needs to be provided stating the attempt made to obtain the drainage easement.</li> <li>6. A drainage easement request needs to be made to 141 and 143A Woodland Street, Balgowlah using the Appendix 2 form from the Water Management for Development Policy. If there is no response a Statutory Declaration needs to be provided stating the attempt made to obtain the drainage easement.</li> <li>7. A drainage easement request needs to be made to 143A Woodland Street, Balgowlah using the Appendix 2 form from the Water Management for Development Policy. If there is no response a Statutory Declaration needs to be provided stating the attempt made to obtain the drainage easement. This route involves a "dog leg" through the subject property only.</li> <li>8. A sketch needs to be provided for the proposed easement routes for Steps 5,6 &amp; 7.</li> <li>9. If a drainage easement cannot be obtained from a downstream property, the applicant is asked to investigate the suitability of an absorption pit design in accordance with Appendix 3 of the Water Management for Development Policy. A geotechnical engineer shall determine whether an absorption system is suitable. Provide design or evidence of unsuitability to Council with amended plans.</li> <li>10. If an absorption system is not suitable the applicant is asked to proceed to an on-site detention and level spreader system as per Appendix 4 of the Water Management for Development Policy. Provide DRAINS model to Council for perusal.</li> <li>11. Provide individual absorption or on-site detention/ level spreader</li> </ol>

Internal Referral Body	Comments
	<p>system for each lot.</p> <p>12. The vehicle crossing is to be narrowed to 4 metres on the kerb line, up to 5.5 metres on the boundary.</p> <p><b>Engineering Comments 17.01.24</b></p> <p>1. It is noted that evidence of drainage easement refusal has been provided from downstream properties.</p> <p>2. Discharge of stormwater from part of the site via a charged system to the front kerb is not supported. This information was previously provided to the applicant. It is noted that the verge area at the front of the site is flat or has reverse cross-fall and hence draining water from the site to Nield Avenue is not viable.</p> <p>3. The entire site must be drained by gravity to the rear.</p> <p>4 . The applicant is advised to provide a stormwater management design in accordance with Section 5.5 of the Water Management for Development Policy. This will include designing an on-site detention system that attenuates flows from each lot back to the 20% AEP State of Nature event for all storm up to the 1% AEP storm. Refer to Appendix 4 of the Water Management for Development Policy. Provide DRAINS model of the proposed design to Council for perusal.</p> <p>5. The applicant has the option of pursuing a drainage easement through rear properties using Section 88K of the Conveyancing Act.</p> <p>6. The vehicle crossing is to be narrowed to 4 metres on the kerb line, up to 5.5 metres on the boundary.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent, if the application were to be approved.

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

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

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

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

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

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

A BASIX certificate has been submitted with the application (see Certificate No.1298565M\_02 dated 13 December 2023).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate if the application were to be approved.

### SEPP (Transport and Infrastructure) 2021

#### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

#### Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report if the application were to be approved.

### SEPP (Resilience and Hazards) 2021

#### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

### Manly Local Environmental Plan 2013

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

#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
----------	-------------	----------	-------------	----------

Minimum subdivision lot size:	300m <sup>2</sup>	Lot 1: 312.2m <sup>2</sup>	-	Yes
		Lot 2: 312.2m <sup>2</sup>	-	Yes
Height of Buildings:	8.5m	Lot 1: 8.3m	-	Yes
		Lot 2: 8.3m	-	Yes
Floor Space Ratio	FSR: 0.5:1 (156.1m <sup>2</sup> )	Lot 1: FSR: 0.49:1 (153.7m <sup>2</sup> )	-	Yes
		Lot 2: FSR: 0.49:1 (153.7m <sup>2</sup> )	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.1 Minimum subdivision lot size	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	No
6.12 Essential services	Yes

### Detailed Assessment

#### 6.4 Stormwater management

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

**Comment:** The proposal has been assessed by Council's Development Engineers who have raised objections to the proposed stormwater system as detailed under the Internal Referrals section of this report. In this regard, it is considered that the stormwater system proposed by the applicant is of inadequate design to mitigate any significant adverse impacts of stormwater runoff on adjoining properties. As such, the proposed stormwater system and inconsistency with Northern Beaches Council Water Management for Development Policy will form the reason for refusal for the development application.

## Manly Development Control Plan

### Built Form Controls

Built Form Controls - Site Area: 312.2m <sup>2</sup> per lot	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings per 300m <sup>2</sup>	1 dwelling per 312.2m <sup>2</sup>	-	Yes
	Dwelling Size: 107m <sup>2</sup> per dwelling	155.37m <sup>2</sup> per dwelling	-	Yes
4.1.2.1 Wall Height	N: 6.9m (based on gradient 1:15)	6.8m	-	Yes
	S: 6.8m (based on gradient 1:20)	6.7m	-	Yes
4.1.2.2 Number of Storeys	2	2	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.9m	-	Yes
	Pitch: maximum 35 degrees	20 degrees	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	9m, consistent with prevailing setback	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	<b>North</b> Lower Ground: 1.1m (based on 1/3 wall height) Upper Ground & First Floor (Lower): 1.8m (based on 1/3 wall height) First Floor (Upper): 2.27m (based on 1/3 wall height)	Lower Ground: 1.4m-1.8m Upper Ground & First Floor (Lower): 1.4m-1.8m First Floor (Upper): 1.8m	- 22.22% (0.4m) 20.0% (0.47m)	Yes <b>No</b> <b>No</b>
	<b>South</b> Lower Ground: 1.1m (based on 1/3 wall height) Upper Ground & First Floor (Lower): 1.8m (based on 1/3 wall height) First Floor (Upper): 2.23m (based on 1/3 wall height)	Lower Ground: 1.4m-1.8m Upper Ground & First Floor (Lower): 1.4m-1.8m First Floor (Upper): 1.8m	- 22.22% (0.4m) 20.0% (0.47m)	Yes <b>No</b> <b>No</b>
	Windows: 3m	1.4m	53.33% (1.6m)	<b>No</b>
4.1.4.4 Rear Setbacks	8m	8.2m	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (171.71m <sup>2</sup> )	55% (171.73m <sup>2</sup> )	-	Yes
	Open space above ground 25% of total open space (42.94m <sup>2</sup> )	7.95% (13.65m <sup>2</sup> )	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (60.11m <sup>2</sup> )	52.03% (89.35m <sup>2</sup> )	-	Yes
	2 native trees	>2 native trees	-	Yes



4.1.5.3 Private Open Space	18m <sup>2</sup>	>18m <sup>2</sup>	-	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	3.2m per dwelling	-	Yes
Schedule 3 Parking and Access	2 spaces	2 spaces per dwelling	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 Stormwater Management	No	No
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.1.2 Residential Land Subdivision	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.10 Fencing	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	No	Yes
4.4.8 Subdivision	Yes	Yes

#### Detailed Assessment

### 3.4.3 Maintenance of Views

A submission from No.11 Niel Avenue was received detailing concerns surrounding view impacts.

The submission detailed the following: *Could we please request the proposed new roof pitch and ridge RL facing Niel Ave be reduced from RL 42.550 to RL42.00 as it appears to affect the seated sight line sharing views from my terrace.*

The applicant responded to the submission as detailed: *In response to this, the revised proposal has been reduced in overall height by 350mm, with a maximum RL of 42.20 now proposed. In addition to this, all roofs have been lowered to ensure minimal impact to views, the western roof has been lowered by 350mm, the stairway roof by 700mm and the eastern roof by 500mm.*

Additionally, a submission from No.8 Niel Avenue was received detailing concerns surrounding view impacts.

The submission detailed the following: *The footprint of the proposed new multistorey dwelling at 6 Niel Avenue encroaches on the minimum side setback, and extends further down the block than the current dwelling. This is expected to lead to a loss of some of the views of the natural landscape towards the South East On the direction of Wellings Reserve) from the living areas at 8 Niel Avenue.*

A site visit was conducted on 19 December 2023 to No.11 Niel Avenue, and a site visit was conducted on 16 January 2024 to No.8 Niel Avenue. As such a detailed view loss assessment has been conducted as follows.

#### Merit consideration:

The development is considered against the Objectives of the Control:

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

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

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

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

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

**Comment:**

The views to be affected are partial water views that are obtained from the first floor living room of No.11 Nield Avenue. The views are obtained from the first floor terrace located off the living room (see Figure 1), and first floor living room (see Figure 2).

The views to be affected are views of the reserve known as Wellings Reserve that is obtained from the first floor parent's retreat, and balcony of No.8 Nield Avenue. The views are obtained from the first floor parent's retreat (see Figure 3), and first floor balcony (see Figure 4).



**Figure 1. View facing east from first floor terrace of No.11 Nield Avenue**



**Figure 2. View facing east from first floor living room of No.11 Nield Avenue**



**Figure 3. View facing south-east from the first floor parent's retreat of No.8 Nield Avenue**





**Figure 4. View facing south-east from the first floor balcony of No.8 Nield Avenue**

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

Comment:

The views obtained from No.11 Nield Avenue are from the front boundary facing east. Furthermore, the views can be obtained from a standing and sitting position from both the first floor terrace, and first floor living room.

The views obtained from No.8 Nield Avenue across the side boundary of the subject site facing south-east. It is considered that the views will largely be uninterrupted, however views can be obtained from a standing and sitting position from both the first floor balcony, and first floor parent's retreat.

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

Comment:

The extent of the impact to No.11 Nield Avenue is considered to be minor, noting the first floor terrace,



and first floor living room are adjacent to the first floor bedrooms. It is noted that the kitchen is located on the ground floor alongside the dining, and family room, and as such the use of the first floor living room would be infrequently used. Furthermore, given the columns of the terrace, it is considered that the view obtained from the first floor living room is obstructed, and therefore the view loss impact is considered to be minor in this circumstance.

The extent of the impact to No.8 Nield Avenue is considered to be minor from the first floor balcony, however this would be obtained from abutting the eastern rear of the balcony. It is considered that the views will largely be uninterrupted from the parent's retreat, given the existing balcony and privacy screening on the southern edge of the balcony, and therefore the view impact is considered to be negligible from the parent's retreat.

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

Comment:

The proposal is more than compliant with the maximum height of buildings development standard, and is therefore considered to be acceptable. Furthermore, the applicant has reduced the height of buildings in the amended plans, and therefore it is considered that a skilful design has been applied to mitigate any unacceptable view loss impacts to No.11 Nield Avenue. It is noted that the location of the proposed semi-detached development is compliant with the rear setback control, and is in a location that will continue to preserve acceptable views from No.8 Nield Avenue, despite the variation to the side setback control. It is considered that a further side setback would not result in any significant view retention. Therefore, it is considered the proposed development is acceptable, and the view sharing is reasonable in this regard.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 and MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **3.7 Stormwater Management**

Description of non-compliance

Council's Development Engineer has reviewed the Stormwater Plans (DR-000 to DR-004, Revision 2, dated 1 December 2023, prepared by Stellen Civil and Structural Engineering and DR-005 to DR-006, Revision 3, dated 2 January 2024, prepared by Stellen Civil and Structural Engineering). Furthermore, Council's Development Engineer has reviewed the Stormwater Report (dated 4 January 2024 by Stellen Civil and Structural Engineering) that details the consideration of various stormwater water systems for the subject site.

Council's Development Engineer has reviewed the proposed Stormwater Plans and Stormwater Report and concluded that the proposed stormwater system is inconsistent with the requirements of Northern Beaches Council's Development for Water Management Policy. Specifically, Council's Development Engineer has noted the Stormwater Plans do not meet the requirements with Section 5.5 Stormwater Drainage from Low Level Properties of Northern Beaches Council's Development for

Water Management Policy.

It is noted, that the applicant has been afforded three (3) opportunities to resolve the stormwater concerns, and propose a stormwater management design that is in accordance with Section 5.5 Stormwater Drainage from Low Level Properties of Northern Beaches Council Water Management for Development Policy.

As such, the proposal is recommended for refusal based on the proposed stormwater system that is inconsistent with Council's Water Management for Development Policy.

#### 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 manage urban stormwater within its natural catchments and within the development site without degrading water quality of the catchments or cause erosion and sedimentation.***

#### Comment:

The proposed stormwater plans do not adequately manage urban stormwater within its natural catchments, and within the development site. As such, the proposed stormwater plans will not suitably manage the water quality of the catchments or may result in erosion and sedimentation.

The development does not satisfy this objective.

***Objective 2) To manage construction sites to prevent environmental impacts from stormwater and protect downstream properties from flooding and stormwater inundation.***

#### Comment:

The proposed stormwater plans are inconsistent with Northern Beaches Council's Development for Water Management Policy. As such, the proposed stormwater system may result in unacceptable environmental impacts, and unacceptable impacts to downstream properties.

The development does not satisfy this objective.

***Objective 3) To promote ground infiltration of stormwater where there will be no negative (environmental) impacts and to encourage on-site stormwater detention, collection and recycling.***

#### Comment:

The proposed stormwater plans are inconsistent with Northern Beaches Council's Development for Water Management Policy. As such, the proposed stormwater system will not manage stormwater appropriately, and may result in negative environmental impacts.

The development does not satisfy this objective.

***Objective 4) To make adequate arrangements for the ongoing maintenance of stormwater facilities.***

#### Comment:

The proposed development is not supported by detail regarding the ongoing maintenance of stormwater facilities.

The development does not satisfy this objective.

Furthermore, under Clause 3.7 Stormwater Management of Manly Development Control Plan the following applies:

*Note: Development consent must not be granted on residential, business and industrial lands unless Council is satisfied that the matters identified in LEP clause 6.4(3) are satisfied.*

*The following consideration and requirements apply to the management of stormwater:*

*a) In support of the purposes of LEP clause 6.4(3), all developments must comply with Northern Beaches Council's 'Water Management for Development Policy';*

Comment:

As detailed by Council's Development Engineer under the Internal Referrals section of this report, the proposed Stormwater Plans are inconsistent with Northern Beaches Council's Water Management for Development Policy. As such, this will form the reason for refusal of the development application.

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

Description of non-compliance

Under Clause 4.1.4.2 of MDCP 2013, the requirements for setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building. The proposal presents variations to the northern, and southern side boundary setbacks with a variation of 22.22% (0.4m) to the Upper Ground & First floor. The proposal presents a variation to the northern, and southern side boundary setbacks with a variation of 20.0% (0.47m) to the First Floor (Upper).

Under Clause 4.1.4.2 of MDCP 2013, the requirements for all new windows that face the side boundary are to be setback at least 3m from side boundaries. The proposal presents a maximum variation of 53.33% (1.6m). It is noted that the Lower Ground Floor, Upper Ground, First Floor (Lower) and Ground Floor (Upper) present variations to the control. However, it is noted that the proposal presents high level windows to mitigate any unreasonable privacy impacts.

The variation to the side setback requirements, and window requirements are supportable in this circumstance as the objectives of the control have been met as outlined below.

Merit consideration:

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

***Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.***

Comment:

The proposal is consistent with other semi-detached dwellings that are located in Nield Avenue. The proposal includes landscaping in the front setback area that will contribute to a positive visual streetscape.

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

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

Comment:

The proposal ensures and enhances local amenity by providing privacy through appropriate window privacy measures including high level windows along the northern and southern elevations. The proposal is accompanied by hourly shadow diagrams that demonstrate equitable access to sunlight, sunshine, and air movement. The proposal will not result in any unreasonable view impacts from public and private spaces. The proposal includes articulation between each level, and it is considered that the proposal has been designed appropriately to the sloping site, that includes a split level design. The proposal will ensure safe and adequate traffic conditions from the driveways of the semi-detached dwellings as reviewed, and supported by Council's Development Engineer.

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

Comment:

Flexibility is afforded in this circumstance, as the proposed semi-detached dwellings have been designed appropriately to ensure no unreasonable amenity impacts arise as a result of the proposed development.

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

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

Comment:

The proposed development results in a more than compliant landscaped area that includes plantings, deep soil zones, and vegetation. The subject site does not detract from the context of the site and the site does not adjoin open space lands, national parks, or urban bushland.

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

Comment:

The subject site is not located in bush fire prone land and therefore this objective is not relevant.

#### **4.1.10 Fencing**

Description of non-compliance

Under Clause 4.1.10 of MDCP 2013, fences between the front street boundary and the building are to

be no more than 1m high above ground level at any point.

The proposal includes a new front fence that varies between 1.2m-1.328m due to the sloping nature of the front boundary line.

In this instance, the objectives of the control have been met as outlined below and the proposed fencing is considered acceptable.

#### Merit consideration

With regard to the consideration for a variation, the proposed development is considered against the underlying objectives of the control. The control relies upon the objectives specified within Clause 3.1 of the MDCP 2013.

***Objective 1) To minimise any negative visual impacts of walls, fences and carparking on the street frontage.***

#### Comment:

The proposed fencing will not give rise to any negative visual impacts of fencing on the street frontage. The proposal is consistent with fencing along Nield Avenue, and therefore the proposal will not detract from the existing streetscape.

***Objective 2) To ensure development is generally viewed from the street complements the identified streetscape.***

#### Comment:

The height of the fence is consistent with fencing along the identified streetscape, and the proposed fencing will ensure the development is complimentary to the existing character of Nield Avenue.

***Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.***

#### Comment:

The front fence is considered appropriate in this instance, as the fencing is a replacement of an existing fence. It is considered that the proposed front fence will provide an appropriate visual aesthetic.

### **4.4.5 Earthworks (Excavation and Filling)**

#### Description of non-compliance

The proposal includes a lower ground floor level that presents a maximum excavation of approximately 1.5m.

Under Clause 4.4.5.2 Excavation of Manly Development Control Plan 2013, the following applies:  
*a) Excavation is generally limited to 1m below natural ground level with the exception of basement parking areas (which will be contained within the footprint of the building) and swimming pools;*

Therefore, the proposal has been assessed against the objectives of the control and is considered supportable in this instance.

#### Merit consideration

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

**Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:**

- **Limiting excavation, “cut and fill” and other earthworks;**
- **Discouraging the alteration of the natural flow of ground and surface water;**
- **Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and**
- **Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.**

Comment:

The proposal is accompanied by a Geotechnical Report (prepared by White Geotechnical Group, dated 29 November 2023). The Geotechnical Report is supportable of the proposed development, and the recommendations contained within this report will be included as a recommended condition, if the application were to be approved. It is considered that the proposed excavation is acceptable, and will not result in any adverse impacts to the natural flow of ground and surface water. The proposal will not result in a sedimentation to enter the drainage lines and waterways. Furthermore, a suitable condition is recommended for the requirement for a sediment control fence during constructions to manage the site accordingly, if the application were to be approved. Therefore, it is considered that the proposal will enhance the landscape character as detailed on the accompanied Landscape Plan, and will not result in any significant impacts to the site topography.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

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

A monetary contribution of \$15,001 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,500,087.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;



- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2023/1015 for the Demolition works and construction of a dual occupancy (attached) and subdivision of existing allotment into two (2) Torrens title allotments on land at Lot A DP 339924,6 Nield Avenue, BALGOWLAH, for the reasons outlined as follows:

1. **Pursuant to Section 4.15(1)(a)(i) and (iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of Clause 6.4 Stormwater Management of the Manly Local Environmental Plan 2013, and Clause 3.7 Stormwater Management of the Manly Development Control Plan 2013.**

### Particulars:

- i. The Stormwater Plans that detail discharge of stormwater from part of the site via a charged system to the front kerb (DR-000 to DR-004, Revision 2, dated 1 December 2023, prepared by Stellen Civil and Structural Engineering and DR-005 to DR-006, Revision 3, dated 2 January 2024, prepared by Stellen Civil and Structural Engineering) are inconsistent with Section 5.5 Stormwater Drainage from Low Level Properties of Northern Beaches Council's Water Management for Development Policy.
- ii. In accordance with Section 5.5 Stormwater Drainage from Low Level Properties of Northern Beaches Council's Water Management for Development Policy, an on-site detention system and level spreader is considered the appropriate method to manage stormwater on this site.
- iii. The proposed on-site detention tank is incorrectly located at the high point of the site, whereas the on-site detention system is required to be located at the low point of the site to provide for an emergency overflow path in case of blockage.
- iv. The proposed pipe connections from site to boundary are not at the minimum angle of at least 45 degrees. The proposed long pipe with acute angles indicates that drainage to the

street is not feasible.

v. Council is not satisfied that the proposed stormwater design will avoid adverse impacts of stormwater runoff on adjoining properties, and will appropriately protect downstream properties from stormwater inundation.

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

**Signed**



**Stephanie Gelder, Planner**

The application is determined on 19/01/2024, under the delegated authority of:



**Adam Richardson, Manager Development Assessments**