

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2146
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 1 DP 115714, 35 Kangaroo Street MANLY NSW 2095
Proposed Development:	Dwelling House
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Mitchell Peter Waters Natalie Louise Waters
Applicant:	Richard Charles Monckton

Application Lodged:	01/02/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	04/02/2022 to 18/02/2022
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 60,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for alterations and additions to a residential dwelling pursuant to the *Manly Local Environmental Plan (MLEP) 2013*, including the following:

- Conversion of the flat roof area along the western elevation to be a balcony, located off the existing family room. This balcony will not be roofed, and will be equipped with two (2) 1.8m high privacy screens along the northern and southern elevations of the balcony.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning

and Assessment Act 1979 and the associated Regulations. In this regard:

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

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

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

SITE DESCRIPTION

Property Description:	Lot 1 DP 115714 , 35 Kangaroo Street MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Kangaroo Street, with vehicular access gained from Augusta Lane.</p> <p>The site is irregular in shape with a frontage of 5.6m along Kangaroo Street, and a frontage of 6.02 along Augusta Lane and a depth of 43.10m. The site has a surveyed area of 251.0m².</p> <p>The site is located within the R1 General Residential zone and accommodates a two (2) storey residential dwelling with a detached garage.</p> <p>The site has an easterly orientation and is located on a slope of approximately 3.04m (or 7.8%), and a steep drop from the eastern boundary to Kangaroo Street.</p> <p>The site is not known to have any threatened species. There is limited landscaped areas in the site, the rear yard (between the garage and rear external wall of the dwelling) is paved, and there is a small area of grass in the front (eastern) yard.</p> <p>Detailed Description of Adjoining/Surrounding</p>

Development

Adjoining and surrounding development is characterised by single dwellings and a Residential Flat Building is located a few blocks north of the subject site.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- **DA40/00** was lodged with Council for the construction of a new two (2) storey residential dwelling. This application was refused by Council on 29 May 2000. In April 2000, this application was reviewed, and voted on, by Manly Councilors, with three (3) Councilors voting against the proposed development. A review of determination application was submitted to Council, which subsequently resolved to approved the development application on 24 July 2000.
- **DA0115/2008** was lodged with Council for a double carport, stairs and path. This application was approved on 22 July 2008.
- **DA241/10** was lodged with Council for alterations and additions to an existing dwelling including new windows and conversion of a carport into a garage. This application was approved on 26 October 2010.
- **DA230/11** was lodged with Council for alterations and additions to an existing dwelling including balcony extension and vergola over the balcony. This application was approved on 27 October 2011.
- **CDC2013/179** was submitted to Council for minor changes to a window and door.

APPLICATION HISTORY

A Request for Further Information letter was sent to the Applicant on 1 April 2022, detailing various issues with the proposed development. Amended plans were provided to Council on 3 May 2022 which detailed a reduced scope of works. Following this, on 10 May 2022, the Applicant was requested to

provide updated shadow diagrams to reflect the revised, and reduced, scope of works. This information was provided to Council by 12 May 2022. In accordance with Council's Community Participation Plan (CPP), the amended plans were not required to be re-notified. The three objectors were notified of the updated plans and were given 7 days to update their submission should they wish to do so. From this, two objectors provided further comment on the amended plans.

It shall be noted that Council's Development Assessment Planner conducted site visits at 33 Kangaroo Street, 35 Kangaroo Street, and 37 Kangaroo Street. At each adjoining property, the owners were present. At the subject site, the tenant was present.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Mainly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to multiple planning issues on 1 April 2022. Amended plans were provided to Council on 3 May 2022. Amended shadow diagrams were requested on 10 May 2022. The amended plans did not require formal renotification, in accordance with Council's Community Participation Plan (CPP).</p>

Section 4.15 Matters for Consideration	Comments
	<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 clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 04/02/2022 to 18/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

Name:	Address:
Mr John Denis Murphy	39 Kangaroo Street MANLY NSW 2095
Mr Ian Littlemore	31 Kangaroo Street MANLY NSW 2095
Planning Progress	Po Box 213 AVALON NSW 2107
Mr Nigel G Burgess	37 Kangaroo Street MANLY NSW 2095

The following issues were raised in the submissions:

- Visual and acoustic privacy
- Overbearing visual appearance
- Overshadowing
- Bulk and scale, and overdevelopment of the site
- Existing non-compliant Floor Space Ratio (FSR), and proposed setbacks (front and side), wall heights, landscaped open space and impacts upon the existing streetscape, and by this virtue, significantly impacts upon the amenity of adjoining properties
- Request for past approvals of the subject site
- Deviation from past consent, and issues raised by Council at that time and other development consents on the subject site
- Precedent setting development
- Request for height poles
- Proximity to heritage conservation area
- Stormwater management

It is noted that four (4) submissions were technically provided, however two submissions are provided from one (1) residence (one written by the owners of the property, and the other prepared by an external Planning consultant on behalf of those owners). In accordance with Council's Community Participation Plan (CPP), these submissions are considered as one.

Furthermore, amended plans were provided to Council. These amendments proposed a reduced scope of works and, in accordance with Council's CPP, was not formally re-notified. In this instance, all objectors were provided the additional information and amended plans via email on 12 May 2022, and were given seven (7) days to provide additional comments. From this, two (2) submissions were received from previous objectors.

The above issues are addressed as follows:

- **Visual and acoustic privacy**

The submissions raised concerns that the proposed rear deck will have an adverse impact upon the acoustic and visual privacy of the adjoining properties, being 33 and 37 Kangaroo Street. (Amended plans were received which indicate privacy screens along the southern and northern elevations of the rear deck) Subsequent concerns have been raised that the proposed privacy screens do not extend for the entire length of the northern and southern elevations of the deck, and thus those using the rear deck will be able to directly view the rear yards of both adjoining properties, as well as the laundry entrance of 37 Kangaroo Street (which is sited to the west). Of further concern is that the use of the rear deck would increase acoustic levels of everyday living (as the deck is located off the existing internal living area), thus affecting the amenity of the occupants of adjoining properties.

It is noted that one (1) submission requests that, should the application (as amended) be approved, then a condition shall be installed restricting the size of the door along the western elevation gaining access from the internal living area to the proposed rear deck. This is to mitigate any potential additional noise emitted from the subject site.

Furthermore, one (1) submission requests that, if the rear deck is approved, that privacy screens of 1.8m in height shall be installed on the northern and southern elevations of the deck to mitigate potential privacy and overlooking into the rear yards and private open spaces of 33 and 37 Kangaroo Street.

Comment:

Amended plans were provided to Council which addressed the concerns raised with regards to potential privacy impacts. As amended, the proposed works to the front deck were removed, and the proposed rear deck now includes 1.8m high privacy screens along the northern and southern elevations. These privacy screens, however, do not extend for the entirety of these elevations. To ensure privacy concerns have been mitigated appropriately, a condition of consent will be included to ensure the privacy screens are extended for the entirety of the side elevations. Furthermore, the privacy screen on the southern elevation will be conditioned to a reduced height of 1.7m to minimise the marginal additional overshadowing to the rear private open space of 33 Kangaroo Street.

As amended, the proposed development has satisfactorily addressed Council's concerns regarding the potential privacy impacts.

This issue does not warrant reason for refusal of the application.

- **Overbearing visual appearance**

One submission raised concern that the proposed privacy screens would result in an overbearing visual appearance.

Comment:

The proposed privacy screen, along the southern elevation, will be setback 1.4m from the southern side boundary. This is numerically compliant with the side setback requirement of 1.4m. The proposal, inclusive of the privacy screen, will have a height of 4.5m, when measured from the finished floor level. There is an existing side fence/screen which is approximately 3.35m in height, when measured from the ground level. In this instance, 1.2m of the 1.8m high privacy screen will be viewed from the property to the south. The proposed compliant southern side setback allows for an adequate spatial separation between buildings. Thereby reducing the

visual appearance of the proposed privacy screen.

This does not warrant reason for refusal of the application.

- **Overshadowing**

One submission raised concern that the proposed privacy screens to the rear deck will create additional, and unreasonably, overshadowing to the rear of the property to the south, inclusive of the landscaped open space and deck. Of further concern is that there is no evidence that the shadow diagrams are certified. A request has been made that the Applicant provide hourly shadow diagrams to ascertain the extent of overshadowing. Furthermore, this submission notes that if the application were to be approved, then a condition shall be included to ensure the privacy screen is reduced in height from the proposed 1.8m, to 1.7m, and extended along the entirety of the side elevations.

Comment:

In accordance with the Environmental Planning and Assessment Act 1979, the Environmental Planning and Assessment Regulation 2021 and requires all information provided for a DA to be true and correct and Council's Lodgment Requirements shadow diagrams to be certified as accurate and may be prepared by an Architect. Upon receipt of the amended architectural plans, Council requested updated shadow diagrams. The updated shadow diagrams indicate a marginal increase in shadows to the southern property at 12noon on June 21, which is the winter solstice whereby the sun is lower in the sky than during the summer solstice. As such, shadow diagrams show the worst case of overshadowing. Notwithstanding, privacy screens are generally installed at a maximum height of 1.65m. As such, to attempt to reduce the minor overshadowing, yet maintain an acceptable level of privacy, Council will include a condition of consent that lowers the privacy screen to 1.7m along the southern elevation.

Hourly shadow diagrams will not be requested, in this instance, as the scope of works are minor in nature and are unlikely to result in severe adverse impacts upon the adjoining property.

Furthermore, dwellings that are orientated east-west are far more vulnerable to experiencing overshadowing.

This issue does not warrant the refusal of this application.

- **Bulk and scale, and overdevelopment of the site**

The submissions raised concerns that past development application assessments noted the dwelling would result in an excessive bulk and scale, and subsequently an overdevelopment of the site. As such, the proposed rear deck (inclusive of privacy screens) would add to excessive and existing built form.

Comment:

The comments regarding the previous consent relate to the construction of a new 4 bedroom dwelling and associated works. It is appreciated that at that time, the new dwelling may have been considered as excessive. Notwithstanding, the application was approved. This current development application relates to the construction of a rear deck approximately 6.0m², and is sited over the existing building footprint. The proposed development is minor in nature, and it is considered that this addition is unlikely to result in a dwelling that is of an unreasonable built form. In this instance, the built form will be consistent with surrounding and adjoining properties.

This issue does not warrant the refusal of this application.

- **Existing non-compliant Floor Space Ratio (FSR), and proposed setbacks (front and side), wall heights, landscaped open space and impacts upon the existing streetscape, and by this virtue, significantly impacts upon the amenity of adjoining properties**

The submissions raised concerns that the FSR is excessive and non-compliant, excessive wall heights, inadequate (or non-existing) setbacks, and a lack of landscaped open space. One submission notes that additional information is required to ascertain the FSR of the subject site. Further, concerns were raised that the proposed extension to the eastern deck will adversely impact upon the street frontage.

As detailed in one (1) submission, the proposed development is non-compliant with the MDCP control 4.1.3.3 Exceptions to FSR for Open Balconies as it does not contribute to the articulation of the building façade, and subsequently creates significant bulk that impacts upon the front and side setbacks. As such, an exemption to the FSR requirement shouldn't apply, and a request of the FSR calculations has been made.

As further detailed in one (1) submission, calculations were provided with regards to the total open space and landscaped area, which indicated non-compliance. It was stated in this submission that above ground open space should not include the proposed rear deck as it has not been designed for privacy.

Comment:

As detailed within the 'Built Form Table' section of this report, the proposed development is compliant with the secondary frontage setback requirement (which under the MDCP indicates that this shall be the numeric requirement of the side setback) of 1.4m, with a setback of 11.1m to Augusta Lane. The proposed rear deck does retain the existing side setbacks, which will result in a numerical non-compliant northern side setback distance.

Regarding the FSR, the definition of gross floor area is '*the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor...*' (Manly LEP 2013, Dictionary 'Gross Floor Area'). Therefore, the provision of Clause 4.4 Floor Space Ratio of the *Manly LEP 2013* is not applicable to the assessment of this development application as terraces and balconies are excluded from the definition of gross floor area as it appears under the *Manly LEP 2013*. Further, as stipulated in control 4.1.3.3 Exceptions to FSR for Open Balconies, it expressly notes that in calculating the Gross Floor Area under the Manly LEP 2013 dictionary meaning for the purpose of calculating FSR, balconies that are enclosed will *not* be excluded from the LEP Definition of Gross Floor Area (meaning, that the balcony *will* be included in the FSR calculation) if the balcony is enclosed to the extent that it is part of the building envelope as defined by the Building Code of Australia; and considered by Council to have the character of a habitable room. In this instance, the proposed rear deck along the western elevation of the existing dwelling is characterised as an open-style structure with no roof and no walls and can, therefore, not be considered as a habitable room.

A privacy screen is not considered a wall, and the deck is an open external feature that is ancillary to a dwelling house, therefore consideration of the wall height is not applicable under this development application.

As the proposed rear deck is sited over the existing building footprint, consideration of the landscaped open space is not required as the proposal will not impact upon the existing landscaped open space of the site. Further, the amended plans show privacy screens to the southern and northern elevation, which elevates privacy between the dwellings. An independent assessment of the proposed plans was conducted by Council's Assessment Planner.

The amended plans provided no longer show works to the existing eastern elevation deck. Therefore, there is no impact upon the existing streetscape of Kangaroo Street, nor will there be an adverse impact to Augusta Lane as the existing garage on the subject site, and adjoining properties, appropriately screen the rear of the dwellings.

This issue does not warrant refusal of this application.

- **Request for past approvals of the subject site**

One submission requested documentation relating to previous approvals on the subject site, particularly DA40/2000, which sought consent for demolition of the existing residence, and construction of a new 2 storey home. Multiple submissions relay the history of this past development application and subsequent approval.

Comment:

One submission received during the first formal notification period requested documentation related to the past approval of DA40/2000. During a phone conversation with the objector requesting this information, they were advised that a formal request is required to be made to view these records. After advising the neighbours of the updated plans, an additional submission continued to request documents related to DA40/2000. Past approvals can be found on Council's website. However, if it is not readily available, then a member of the public may lodge a GIPA request in accordance with the Government Information (Public Access) Act 2009. This can be done so by visiting Council's website at www.northernbeachescouncil.nsw.gov.au, clicking on 'forms', and typing in 'Informal Access' and lodging an online form. Alternatively, Council's Customer Service staff may assist with the lodgment of this form.

This issue does not warrant refusal of this application.

- **Deviation from past consent, and issues raised by Council at that time (such as privacy, bulk and scale, extension of front deck [fronting Kangaroo Street] and non-trafficable roof area at the rear of the dwelling [front Augusta Lane] etc).**

The submissions noted the complex history of past approvals to the subject site. Of particular concern was that the house was approved notwithstanding concerns raised by Council's Planners at the time (being 2000) and that the proposed works under the current development application will exacerbate the current building. Further concern is that there has been many development applications, ultimately attempting development stealth.

Comment:

Each new development application is subject to a separate assessment on its merits. Previous development consents do not have any bearing on the assessment of new development applications. It must be noted that amended plans were provided which no longer propose works to the front deck (that is, the deck fronting Kangaroo Street).

This issue does not warrant refusal of this application.

- **Precedent setting development.**

One submission noted that, should the front deck be approved, it would no longer be consistent with the alignment of the existing dwellings to the eastern (Kangaroo Street frontage) boundary.

Comment:

The front deck has been removed from the amended plans. Therefore, there is no impact upon the existing established eastern front boundary line.

This issue does not warrant refusal of this application.

- **Request for height poles**

One (1) submission requested that height poles be erected to show the height of the proposed eastern deck extension.

Comment:

Amended plans were provided which no longer seeks consent to extend the front (eastern) deck.

This issue does not warrant refusal of this application.

- **Proximity to heritage conservation area**

One (1) submission raised concern that the proposed extension to the eastern deck will adversely impact upon the heritage conservation area within proximity to the subject site. Further, this submission notes that a Heritage Management Report or Heritage Impact Report has not been provided with this development application.

Comment:

The amended plans provided no longer show works to the existing eastern deck. The provision of a Heritage Impact Report, or a similar report of the like, is not required in this instance.

This issue does not warrant refusal of this application.

- **Stormwater management**

One (1) submission noted that the proposed front (eastern) deck will impact upon the infiltration of stormwater into the existing landscaped area. Concern is that the subject site, particularly along the stone steps fronting Kangaroo Street, currently shows evidence of stormwater seepage and/or runoff.

Comment:

The amended plans provided no longer show works to the existing eastern deck. Therefore, there is no anticipated unreasonable impact upon the current stormwater management of the subject site. Notwithstanding, relevant conditions have been applied to ensure the appropriate management of stormwater on the site.

REFERRALS

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	The proposal has been referred to Heritage as the subject property is located opposite a heritage conservation area and a heritage item
	Pittwater Road Conservation Area - Manly
	Kangaroo Sculpture - Kangaroo Reserve Park Manly
	Details of heritage items affected
	<p>Details of the items as contained within the Manly inventory is as follows:</p> <p>Pittwater Road Conservation Area <u>Statement of Significance</u> This street pattern is distinctive and underpins the urban character of the area. The streets remain unaltered in their alignment, although the names of Malvern, Pine and North Steyne are now names for what were Whistler, Middle Harbour and East Steyne respectively.</p> <p><u>Physical Description</u> The streetscape of Pittwater Road is a winding vista of late 19th and early 20th century commercial and residential architecture of generally one or two floors - although there are exceptions such as the four storey private hotel. The streetscape provides a 19th century atmosphere due to it's scale, width and the number of extant Victorian structures. Within the streetscape there are a number of individually significant buildings which are listed separately. Adjacent streets generally comprise a consistent pattern of one and two story residential cottages, with the occasional terrace. Some streets have intermittent street plantings and remnant stone kerbs. The flat topography is accentuated by the escarpment to the west which provides an important visual, vertical and vegetated backdrop.</p> <p>Kangaroo Sculpture <u>Statement of Significance</u> Early cultural expression by HG Smith to provide attraction to Manly, Reserve and local streets associated by name and planning layout.</p> <p><u>Physical Description</u> Sandstone carving formed into sculpture of Kangaroo by one of Manly's first residents H Pickering. Plaque attached with some interpretative information by Manly Warringah and Pittwater Historical Society. Natural landscape context to the Reserve together with natural rock outcrop. Significant remnant indigenous flora.</p>

Internal Referral Body	Comments
	Other relevant heritage listings
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
	Australian Heritage Register
	NSW State Heritage Register
	National Trust of Aust (NSW) Register
	RAIA Register of 20th Century Buildings of Significance
	Other
	Consideration of Application
	<p>The proposal seeks consent for the creation of an upper level deck at the Augusta Lane rear of the dwelling and an upper level deck extension at the Kangaroo Street front of the property. The heritage conservation area and heritage item are located opposite the site across Kangaroo Street. The deck to the rear is of no impact to the heritage items. The deck extension to the rear is relatively modest and without a roof. Given its small scale and separation from the items, it considered to not impact upon the heritage items or their significance.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of MLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>
	Further Comments
	<p>COMPLETED BY: Brendan Gavin. Principal Planner</p> <p>DATE: 4 February 2022</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposed development was referred to Ausgrid. A response was received detailing that a decision from Ausgrid was not required.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A413922, dated 29 October 2021).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposed development was referred to Ausgrid. A response was received detailing that a decision from Ausgrid was not required.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Rear Deck: 4.4m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1	FSR: N/A External works only.	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	
6.8 Landslide risk	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 251.0m ²	Requirement	Proposed	% Variation*	Complies
4.1.4.2 Side Setbacks and Secondary Street Frontages	1.4m (based on wall height)	Northern boundary: <i>Western Balcony:</i> 0.95m	32.1%	No
		Southern boundary: <i>Western Balcony:</i> 1.44m	N/A	Yes
	Secondary frontage (Augusta Lane) 1.4m	11.1m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements	Open space above ground 25% (62.75m ²) of site area	0.9% (8.4m ²)	N/A	Yes

Residential Open Space Area: OS3				
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

Description of non-compliance

As concerns regarding solar access were raised within the submissions, an assessment of the proposed development is considered against the underlying objectives of this control.

Merit consideration:

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

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

Comment:

This control stipulates that solar access to windows or glazed doors to living rooms is required for a period of at least 2 hours from 9am to 3pm on the winter solstice. The proposed development will cast a small shadow to the rear deck in the south-eastern corner of 33 Kangaroo Street at 12noon. It was not indicated in the submission provided, nor was it evident during a site visit at 33 Kangaroo Street, that the potential overshadowing would impact upon existing windows or glazed doors into living rooms. Rather, concern was raised for the solar access to the existing rear ground floor deck at 33 Kangaroo Street. The subject site is within a relatively dense area and the sites experience an east-west orientation. The protection of solar access to the rear ground floor deck, in this instance, is difficult.

It is noted that the proposed privacy screens contribute to the marginal additional overshadowing. The privacy screens, and deck to which they will be affixed, is setback 1.4m from the southern side boundary, and will have a maximum height of 4.4m, which is well below the maximum 8.5m height limit. Further, the proposed deck is setback 11.1m from the rear boundary line (or secondary street frontage). The rear setback distance and height are the greatest contributors to overshadowing. As both are significantly compliant, the impact to overshadowing is minor.

Notwithstanding the above, a condition of consent will be included to reduce the privacy screen along the southern elevation to a maximum height of 1.7m. This is expected to reduce the additional overshadowing to 33 Kangaroo Street.

Objective 2) To allow adequate sunlight to penetrate:

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

Comment:

See above comment. As conditioned, and notwithstanding the site constraints, while it is expected that a marginal shadow will be cast, the proposed development is considered acceptable.

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

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

Comment:

The proposed southern side setback is compliant, at 1.4m from the boundary line, thus considering the solar access available to penetrate the rear private open space of 33 Kangaroo Street. Further, a condition of consent will be included to reduce the maximum height of the privacy screen to the western elevation to 1.7m.

As conditioned, the proposed development meets the underling objectives of this control, and can therefore be supported.

3.4.2 Privacy and Security

Description of non-compliance

As concerns regarding privacy were raised within the submissions, an assessment of the proposed development is considered against the underlying objectives of this control.

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 minimise loss of privacy to adjacent and nearby development by:

- *appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

Comment:

Amended plans were provided to Council on 12 May 2022. The amendments include the retention of the rear deck, and the inclusion of privacy screens with a maximum height of 1.8m, when measured from the finished floor level of the deck, along the northern and southern elevations. These privacy screens are an appropriate mitigation and are consistent with this objective.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Comment:

Updated shadow diagrams were provided to Council to reflect the inclusion of privacy screens to the rear deck. It is shown that at 12noon, a marginal increase in shadows is expected for the rear deck of the adjoining property, being 33 Kangaroo Street. It is noted that the subject site, and adjoining properties, experience an east to west orientation. In this instance, properties to the south are considered more vulnerable with regards to solar access.

However, to ensure that an acceptable level of privacy is achieved, as well as an acceptable level of solar access to adjoining properties is achieved, a condition of consent has been included to reduce the maximum height of the privacy screen along the western elevation to 1.7m. The proposed privacy screens at the rear of the dwelling are unlikely to adversely impact upon the outlook and views from habitable rooms and private open space of adjoining properties.

As conditioned, the proposal meets this objective.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed development, as amended and conditioned, is unlikely to obstruct residents' passive surveillance of the Augusta Lane and Kangaroo Street frontages, thus encouraging awareness of neighbourhood security.

As amended and conditioned, the proposed development meets the underlying objectives of this control and can therefore be supported.

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

Description of non-compliance

Based on the height of the privacy screens, the overall proposed development results in a height of 4.4m. As such, the side setback requirement is 1.4m. The proposed setback distance to the northern boundary is 0.9m. This aligns with the existing side setback distance of the dwelling. Notwithstanding, the proposed rear balcony is numerically non-compliant with the side setback requirement, and a merit assessment is conducted 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:

Views of the dwelling from Augusta Lane are obscured by the existing garage. As such, the proposed balcony will not adversely impact upon the existing streetscape of Augusta Lane.

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:

Amended plans were provided to Council on 3 May 2022 which indicated two (2) 1.8m high privacy screens (fixed and louvred) along the northern and southern elevations (sides) of the proposed balcony. The installation of these privacy screens will provide an acceptable level of privacy between buildings. Updated shadow diagrams were also provided to Council on 12 May 2022 to reflect, and be consistent with, the amended architectural plans. The shadow diagrams show that the proposed amendments (including the privacy screens) are consistent with the requirements for solar access as detailed in section 3.4.1 Sunlight Access and Overshadowing of the Manly Development Control Plan (MDCP). Some dwellings on the western side of Kangaroo Street experience views of the ocean, the Manly district and Manly Town Centre. In this instance, the proposed development at the rear of the property (the western elevation) will not adversely impact upon those views currently obtained by adjoining properties (both public and private). As detailed under Objective 1 of this control, the proposed development is unlikely to adversely impact upon the character of the Augusta Lane streetscape. The

proposed development will not impact upon the safety of traffic conditions along Augusta Lane.

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

Comment:

The proposed development will continue to allow flexibility throughout the site.

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 is sited over the existing building footprint. As such, the natural features of the site will be retained.

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

Comment:

The subject site is not located in bush fire prone land. This objective is, therefore, not applicable.

Notwithstanding the minor non-compliance to the northern side setback, the proposed development satisfactorily achieves the underlying objectives of this control. In this instance, the proposal is considered acceptable and can be supported on its merits.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

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

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/2146 for Dwelling House on land at Lot 1 DP 115714, 35 Kangaroo Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
01 Site and Site Analysis Plan (Issue: B)	29 April 22	Red Rock Design
03 Proposed First Floor Plan (Issue: B)	29 April 22	Red Rock Design
04 Proposed North Elevation and Proposed South Elevation (Issue: B)	29 April 22	Red Rock Design

06 Demolition Plan (Issue B)	29 April 22	Red Rock Design
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Engineering Plans		
Drawing No.	Dated	Prepared By
05 Stormwater Drainage Plan (Issue B)	29 April 22	Red Rock Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate A413922	29 October 2021	Red Rock Design
Preliminary Geotechnical Assessment (Ref: J3828)	27 October 2021	

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	28 October 2021	Not indicated.

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

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

2. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

FEES / CHARGES / CONTRIBUTIONS

4. **Security Bond**

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

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is

located on Council's website at www.northernbeaches.nsw.gov.au).

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

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

5. **Stormwater Drainage Disposal**

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

6. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The approved privacy screen along the southern elevation of the approved rear (western elevation) deck, shall be reduced in height to a max. 1.7m, when measured from the finished floor level.
- Both approved privacy screens, along the southern and northern elevations of the approved rear (western elevation) deck, shall be extended for the entire length of the southern and northern elevations of the rear deck.
- The approved privacy screens, along the southern and northern elevations of the approved rear (western elevation) deck, shall be an appropriate colour, in keeping with the existing dwelling house, and be of a non-reflective material.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

7. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property

boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

8. Compliance with Standards

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. Removing, Handling and Disposing of Asbestos

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

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

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

10. Demolition Works - Asbestos

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

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

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

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

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

11. Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

12. 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.

13. Waste Management During Development

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

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

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

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

14. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

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

Signed



Megan Surtees, Planner

The application is determined on 03/06/2022, under the delegated authority of:



Phil Lane, Acting Development Assessment Manager