

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/0438
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<b>Responsible Officer:</b>	Stephanie Gelder
<b>Land to be developed (Address):</b>	Lot 13 DP 5305, 50 West Street BALGOWLAH NSW 2093
<b>Proposed Development:</b>	Alterations and additions to an existing dual occupancy development.
<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>	Frances Pauline Andrews Eloise Kate McGilligan Hugh Patrick McGilligan
<b>Applicant:</b>	Frances Pauline Andrews

<b>Application Lodged:</b>	01/04/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	11/04/2022 to 25/04/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 674,455.29
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### PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following works:

#### Lower Ground Floor

- Retain the existing laundry, WC, garage, study, storeroom, staircase and undercroft area;

#### Ground Floor

- Demolish the existing brick front fence and construct a new 1.8m pool fence, seat and storage;

- Retain the existing pool;
- Resurface the existing cabana and balcony;
- Construction of a double carport, storage area and bin area;
- Construction of a covered walkway along the southern boundary;
- Construction of a new deck on the northern boundary;
- Addition of new louvred window to bedroom 1;
- New windows to the dining and living room;
- Extend the existing deck to the east (rear);
- Upgrade the existing staircase in accordance with the BCA Report;

#### First Floor

- Addition of a new glass balustrade to the existing balcony;
- Reconfigure the internal walls to create an open plan kitchen, dining, living room and study, including a new sloping ceiling lining;
- New side and rear windows to the kitchen, dining and living room;
- Extend the existing deck to the east (rear); and
- Upgrade the existing staircase in accordance with the BCA Report.

### 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 - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

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

Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features

Manly Development Control Plan - 4.1.10 Fencing

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 13 DP 5305 , 50 West Street BALGOWLAH NSW 2093
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of West Street.</p> <p>The site is regular in shape with a frontage of 15.24m along West Street and a depth of 45.72m. The site has a surveyed area of 696.7m<sup>2</sup>.</p> <p>The site is located within the R1 General Residential zone from MLEP 2013 and accommodates an existing dual occupancy, attached garage, and swimming pool.</p> <p>The site slopes from the front western boundary downwards to the rear eastern boundary over approximately 3 metres.</p> <p>The site contains lawn areas, garden beds, hedges, and trees. There are no details of any threatened species on the subject site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by dwelling houses, residential strata units, and dual occupancies varying in architectural style and design.</p>

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's

records has revealed the following relevant history:

### DA2018/1183

Development Application for Alterations and Additions to a dual occupancy and strata subdivision.  
Approved 27 August 2018.

### Application History

Following the preliminary assessment of the application, Council requested that the applicant provide further information in relation to Clause 4.4 of Manly Local Environmental Plan 2013, Clause 3.4.2 Privacy and Security of Manly Development Control Plan 2013 (MDCP 2013), Clause 3.1.1 Streetscape of MDCP 2013, and Clause 4.1.10 Fencing of MDCP 2013. Furthermore Council's Development Engineer requested further information in relation to Access and Stormwater. Council's Landscape Officer requested further information information in relation to Clause 3.1.1 Streetscape (Residential areas), and Clause 4.1.10 Fencing of MDCP 2013. Subsequently, the applicant provided a set of Plans - Master Set - Amended.

The amended plans constituted 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). Notwithstanding the provisions of the CPP, Council's Assessment Planner informed the neighbouring property at No.52 West Street of the amended plans via written email correspondence. There were no further comments provided from the neighbouring property at No.52 West Street.

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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&amp;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&amp;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</p>



Section 4.15 Matters for Consideration	Comments
	<p>application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to Clause 4.4 of Manly Local Environmental Plan 2013, Clause 3.4.2 of Manly Development Control Plan 2013 (MDCP 2013), Clause 3.1.1 of MDCP 2013, and Clause 4.1.10 of MDCP 2013. Furthermore Council's Development Engineer and Council's Landscape Officer requested further information. The applicant provided the additional information as requested that satisfied Council's requirements.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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&amp;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&amp;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&amp;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) <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>
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	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Matters for Consideration	Comments
accordance with the EPA Act or EPA Regs	
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 11/04/2022 to 25/04/2022 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 1 submission/s from:

Name:	Address:
Mr Richard Ernest Wallace Mrs Robyn Anne Wallace	52 West Street BALGOWLAH NSW 2093

The following issues were raised in the submissions:

- **Privacy**
- **Maintenance of Views**
- **Side Boundary Setback of Northern Deck**

The above issues are addressed as follows:

- **Privacy**

A submission raised concerns surrounding Privacy as a result of the proposed alterations to rear decks located on the ground and first floor. Furthermore concern is raised in relation to the replacement of the existing windows along the northern façade on the ground floor and first floor.

### Comment:

The applicant provided amended plans that increased the northern side setback of the rear decks from 2.15m to 4.0m. The amendments have resulted in the proposed rear deck alterations to be distanced further from the side boundary of No.52 West Street. The amended plans were provided to No.52 West Street via written email correspondence for further comment, however no additional comments were made. Notwithstanding, Clause 3.4.2 Privacy of Manly Development Control Plan 2013 has been addressed within this report. In summary, as

amended via recommended conditions the proposal demonstrates compliance with the objectives of the control and therefore it is considered that the proposal provides reasonable acoustic and visual privacy.

- **Maintenance of Views**

A submission raised concerns surrounding Clause 3.4.3 Maintenance of Views of Manly Development Control Plan 2013.

Comment:

A detailed view assessment has been undertaken under Clause 3.4.3 of MDCP 2013 within this report. It is considered that the amended plans will not result in any unreasonable view impacts.

- **Side Boundary Setback of Northern Deck**

A submissions raised concerns that the proposed northern deck is numerical non-compliant with Clause 4.1.4.2 of Manly Development Control Plan 2013.

Comment:

A detailed assessment of the side setback requirements has been undertaken under Clause 4.1.4.2 contained within this report. In summary, the proposed deck located along the northern boundary on the ground floor level has been conditioned to require a 2.15m setback from the northern side boundary. The increased side setback will allow for greater acoustic and visual privacy to the adjoining neighbours to the north. As amended via condition the proposal demonstrates compliance with the objectives of the control and therefore the northern deck is supportable.

**Concluding Comment**

In summary, the concerns raised have been addressed and do not warrant the refusal of the proposed application.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Landscape Officer	<p>The development application is for alterations and additions to the existing dual occupancy dwelling, as described and illustrated in the reports and plans.</p> <p>Council's Landscape Referral section have considered the application against the Manly Local Environment Plan, and the following Manly</p>

Internal Referral Body	Comments
	<p>DCP 2013 controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• 3.1.1 Streetscape (Residential areas)</li> <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>• 4.1.10 Fencing</li> </ul> <p><i>updated comments 2 June 2022:</i> Amended Master Set plans are submitted to address the Landscape Referral concerns raised previously. The amended plans include a planting zone 600mm in width from the front boundary to the proposed 1.8m high pool fencing. This planting zone is capable in time of supporting dense hedge planting to soften and cover the proposed fencing, and Landscape Referral raise concerns should be application be approved, subject to a merit consideration by the Assessing Planning Officer in regards to the non-compliant fencing height noting the previous comments from Landscape Referral, and subject to imposed conditions for species type and densities.</p> <p><i>previous comments:</i> No Landscape Plans are submitted and the development application documents indicate retention of existing vegetation within the property and new garden areas, without providing further information. The existing street tree shall be retained and protected should the application be approved.</p> <p>Of concern is the landscape streetscape outcome impact from the proposed 1.8 metre high brick wall along the front boundary. The existing front brick fence estimated to be appropriately 1.6 metres in height, is currently setback from the front boundary and dense planting is located in front along the boundary and thus the existence of the brick fence is hardly noticed along the streetscape and thus the combination is appropriate. Along West Street no properties exhibit 1.8 metre high solid fences as proposed in this development application along the front boundary and are instead compliant to the Manly DCP control 4.1.10.</p> <p>The proposal, with essentially a front setback devoid of landscape area, will alter the landscape outcome and appeal of the streetscape and is not complimentary to the streetscape, and the front setback as proposed is unable to support soft landscape treatment. Manly DCP control 3.1.1 Streetscape (Residential areas) identifies that development should recognise predominant streetscape qualities, such as building form, scale, patterns, materials and colours and vegetation which contributes to the character of the local area, and it is noted that front setbacks with landscape areas planted with vegetation are typical.</p>
NECC (Development Engineering)	The proposal is for the alterations and additions to an existing dual occupancy including widening the existing crossover and a new



Internal Referral Body	Comments
	<p>carport in the front setback.</p> <p><u>Access</u> The proposal includes widening the existing crossover and providing a carport in the front. Insufficient information has been provided with regard to the proposed access driveway. The Applicant shall provide a long-section at both edges of the proposed access driveway to the proposed carport and demonstrate compliance with AS2890. The existing footpath levels are to be maintained.</p> <p><u>Stormwater</u> The site falls to the rear and as such the stormwater management for the development shall be in accordance with of Council's Water Management for Development Policy Clause 5.5: Stormwater Drainage from Low Level Properties. All stages are to be satisfied. An easement refusal letter has been provided but it is unclear if any of the other methods have been investigated. A charged system will only be considered when the methods listed in the Clause 5.5. are not feasible.</p> <p><b>Review 27/5/2022</b> <u>Access</u> The Applicant's Consultant has requested if the longsections requested above can be conditioned as part of the CC approval. However there is an existing footpath adjacent to the boundary which is at RL59.45 and the architectural elevations shows the carport at RL59.22. It is unclear how this level difference is achieved within the 1meter setback. Hence engineering longsections must be provided for the proposed vehicular access to the carport to demonstrate compliance with AS2890.1. The existing footpath levels are to be maintained.</p> <p><u>Stormwater</u> The applicants consultant engineer has indicated that alternate methods of discharge were investigated and was not feasible due to site constraints of the adjacent property. Hence the proposed stormwater plan is acceptable subject to conditions.</p> <p><b>Amended Plans Provided on 1/6/2022</b> Amended architectural plans raised the proposed level of the carport and hence the proposed driveway profile is satisfactory subject to conditions. No objections to approval subject to conditions as recommended.</p>

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

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

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

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

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

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

Two BASIX certificate's have been submitted with the application (see Certificate No.A443020\_03 dated 9 March 2022 and Certificate No.A451607 dated 9 March 2022).

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

#### **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.

#### **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
Height of Buildings:	8.5m	3.65m (Carport) 6.2m (Dwelling 2 Deck)	- -	Yes Yes
Floor Space Ratio	FSR: 0.5:1 (348.35m <sup>2</sup> )	FSR: 0.46:1 (323.5m <sup>2</sup> )	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
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	Yes
6.12 Essential services	Yes

### Manly Development Control Plan

#### Built Form Controls

Built Form Controls - Site Area: 696.7m <sup>2</sup>	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 300m <sup>2</sup> of site area	2 dwellings per 696.7m <sup>2</sup> (unaltered)	-	Yes
4.1.2.1 Wall Height	N: 7.0m (based on gradient 1:12)	5.6m to 7.5m (unaltered)	-	N/A
	S: 7.0m (based on gradient 1:12)	5.6m to 7.5m (unaltered)	-	N/A
4.1.2.2 Number of Storeys	2	3 (unaltered)	-	N/A
4.1.2.3 Roof Height	Height: 2.5m	2.2m (Dwelling) 0.8m (Carport)	- -	Yes Yes
	Pitch: maximum 35 degrees	<35 degrees	-	Yes

4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	1.0m (Carport) 8.8m (Dwelling - unaltered)	83.33% (5.0m) -	<b>No</b> Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	N: 2.2m-2.5m (based on 1/3 wall height)	0.9m (Deck) 4.0m (Extended Deck 1 & Deck 2)	59.09% (1.3m) -	<b>No</b> Yes
	S: 1.87m-2.5m (based on 1/3 wall height)	0m (Carport) 2.5m (Covered Walkway)	100% (2.5m)	<b>No</b> Yes
	Windows: 3m	4.1m	-	Yes
4.1.4.4 Rear Setbacks	8m	13.3m	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (383.19m <sup>2</sup> )	64.62% (450.2m <sup>2</sup> )	-	Yes
	Open space above ground 25% of total open space (112.55m <sup>2</sup> )	7.69% (34.6m <sup>2</sup> )	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (157.57m <sup>2</sup> )	48.00% (216.1m <sup>2</sup> )	-	Yes
	3 native trees	unaltered	-	N/A
4.1.5.3 Private Open Space	12m <sup>2</sup> per dwelling	>12m <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	6.0m	-	Yes
Schedule 3 Parking and Access	Dual Occupancies: 2.9 resident spaces (rounded to 3 spaces) 0.5 visitor spaces (rounded to 1 space)	2 spaces	2 spaces	<b>No</b>

#### 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



Clause	Compliance with Requirements	Consistency Aims/Objectives
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	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.1.10 Fencing	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

### Detailed Assessment

#### **3.4.2 Privacy and Security**

##### Description of non-compliance

A submission from No.52 West Street (site located to the north) raised concerns surrounding privacy from the proposed alterations to the balconies. Further concern was raised regarding the reconstructed windows (WG-1 & WF-1) located along the northern façade of the decks on the ground floor and first floor.

After Council's Preliminary Assessment, further information was requested in relation to Clause 3.4.2 Privacy and Security. In response, the applicant provided amended plans altering the location of the balcony extensions to be increased from 2.15m to 4.0m from the northern side boundary. In accordance with Clause 3.4.2.2 Balconies and Terraces of Manly Development Control Plan 2013, recessed design of balconies and terraces can also be used to limit overlooking and maintain privacy.

Therefore, it is considered the amended plans and recommended conditions as outlined below will meet the objectives of the control and is supportable in this regard.

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:

The proposal has minimised loss of privacy to adjacent and nearby development by providing an increased side setback to the extended decks of 4.0m from 2.15m to reduce any unreasonable privacy concerns to the neighbouring property at No.52 West Street. It is important to note, the balconies are orientated to take advantage of the view towards North Harbour. Therefore, it is considered the loss of privacy has been mitigated by an increased side setback to the extended deck, creating a greater physical separation between properties.

The proposal includes a new deck along the northern side of the Dwelling 1. The proposed deck is located 0.9m from the northern side boundary. A condition has been recommended to increase the side setback of the new deck to 2.15m to be in line with the existing deck. By increasing, the side setback, additional screen planting will provide greater screening to the adjoining property to the north. As amended, via condition the proposed new deck along the northern side will provide appropriate acoustical and visual privacy to the adjoining neighbour to the north. As discussed with the applicant, the floor level of the deck has been conditioned to be at minimum above the existing natural ground level with a maximum height of RL 59.09. The condition includes the option to lower the deck height or to retain the deck height at the RL 59.09. Therefore, as amended via condition the proposed new deck along the northern side of Dwelling 1, will provide a reasonable level of acoustic and visual privacy.

Furthermore, the reconstructed windows (WG-1 & WF-1) are located further away from the outdoor living spaces and dwelling of No.52 West Street. In accordance with Clause 4.1.4.2 of MDCP 2013, all new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries. The proposed reconstruction of windows are located 4.1m from the northern side boundary, demonstrating compliance with the control. The relocation of the windows are distanced further east than the existing windows and are subsequently distanced further from the dwelling of No.52 West Street, promoting greater privacy. Therefore, it is considered that the reconstruction of the windows will not result in an unreasonable privacy impact.

***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:

The proposal will increase the privacy without comprising access to light and air as demonstrated by the accompanied shadow diagrams. The proposal has appropriately balanced outlook and views from habitable rooms and private spaces.

***Objective 3) To encourage awareness of neighbourhood security.***

Comment:

The proposal will not compromise casual surveillance of the street from the property.

### 3.4.3 Maintenance of Views

A submission from No.52 West Street raised concerns surrounding view loss. It is important to note, the submission was in relation to the Plans - Master Set that were provided with the Development Application. The Plans - Master Set have since been amended as requested by Council, with the proposed balcony alterations being relocated from 2.15m from the northern side setback to an increased 4.0m from the northern side setback.

As such, the amended Master Plans demonstrate that the proposal will not result in any unreasonable view loss impacts. The objector from No.52 West Street provided photos to assist with Council's assessment. Furthermore, Council conducted a site visit on 8 June 2022 to review the view impact concerns.

Notwithstanding, a detailed view assessment has been undertaken.

#### 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 obtained from No.52 West Street are distanced partial water views of North Harbour (see Figure 1, Figure 2, Figure 3, and Figure 4).





**Figure 1. Views from First Floor Bedroom of No.52 West Street.**





**Figure 2. View from First Floor Bedroom/Study of No.52 West Street.**



**Figure 3. View from Ground Floor Balcony of No.52 West Street.**



**Figure 4. View from Ground Floor Living Room of No.52 West Street.**

*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 view of North Harbour is obtained from the ground floor balcony, ground floor living room, and the first floor bedrooms of No.52 West Street. The views obtained are in an easterly direction across the side boundary between No.52 West Street and No.50 West Street and over the eastern rear boundary of No.50 West Street. The view is obtained from both sitting and standing positions.

*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 of the views has been minimised by the amended plans that alter the location of the balcony extension on the ground and first floor to be located 4.0m from the northern side boundary of the subject site. As amended, the proposed balconies will not encroach into the view corridor that is current for No.52 West Street. Therefore, it is considered the view loss is negligible in this instance.

*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 has been amended to demonstrate appropriate compliance with the side setback control that has reduced any unreasonable view impact. In summary, as the proposed side setback to the balcony extensions are compliant, the proposal demonstrates reasonableness that has reduced any unreasonable view impacts.

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

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

Description of non-compliance

Under Clause 4.1.4.1 of Manly Development Control Plan 2013 (MDCP 2013), the requirements for street front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity. Where the street front building lines of neighbouring properties are variable and there is no prevailing building line in the immediate vicinity i.e. where building lines are neither consistent nor established, a minimum 6m front setback generally applies. In this instance the proposed carport is located 1.0m from the front building line. The existing prevailing building line varies along West Street, however there are example of carports located in the front setback area. In this instance a merit assessment has been undertaken and it is considered that the proposed carport is supportable as amended via condition as the objectives of the control have been met as outlined below.

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 wall height of the northern and southern façade vary from 5.6m to 7.5m, resulting in the side setback requirement to be 2.2m for the northern side boundary and 2.5m for the southern boundary. The proposed deck located along the northern side boundary is 0.9m from the northern side boundary line, resulting in a variation of 59.09%. The proposed carport is located 0m from the southern side boundary line, presenting a variation of 100%. In this instance the variations to the side setbacks have been assessed against the objectives of the control. In this regard, the variations are considered to be supportable as amended via appropriate conditions to satisfy the objectives of the 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 maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.***



Comment:

The proposed carport is considered enhance the existing streetscape including appropriate desired spatial proportions that are similar to other carports located within the vicinity. However, to provide a more consistent streetscape, a condition has been recommended to increase the front setback from 1.0m to 1.5m to allow for greater spatial separation from the front building line. The carport design ensures appropriate amenity to neighbouring properties is maintained and the street view will result in a contemporary design that will enhance the character of the street. The addition of the planting to soften the reconstructed front fence will further add to the aesthetics of the streetscape. Therefore, as amended via condition the proposal will demonstrate enhancement of the existing streetscape including desired spatial proportions of the street and the street edge.

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

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

Comment:

The proposed carport will ensure privacy, equitable access to light, sunshine and air movement. the proposed carport will not result in any unreasonable view sharing impacts. The proposed carport is consistent with a pattern of carports located within the front setback and create a pattern of carports in this front setback location that is apparent along West Street. Furthermore, the carport will continue to provide safe and adequate traffic conditions when entering and exiting the subject site.

The new deck that is located along the northern boundary located off the ground floor is setback 0.9m. A suitable condition has been recommended to increase the setback of the new deck to be 2.15m, in line with the existing deck. As amended via condition, the proposal will not result in any unreasonable privacy impacts as the greater side setback will ensure appropriate acoustic and visual privacy to adjoining neighbours. As outlined under Clause 4.1.4.2, projections into the side setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, and the like, if it can demonstrate there will be no adverse impact on adjoining properties including loss of privacy from a deck or balcony. However, in this instance the proposed side boundary setback of 0.9m is not sufficient to ensure reasonable acoustic and visual privacy to adjoining neighbours.

Furthermore, the existing screen planting is to be retained along the northern side boundary, providing supplementary privacy between neighbouring properties. Council's Landscape Officer has recommended an On-going Condition for Landscape Maintenance that will ensure the landscaping will be maintained and replace in the instance the planting fails. Therefore, as amended via condition, the increased side setback of the new deck, will ensure the existing privacy is maintained to the adjoining property to the north. The new deck will continue to provide equitable access to light, sunshine and air movement. The new deck will not result in any impacts to view sharing and will not alter the streetscape character as it is located along the side boundary.

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

Comment:



Flexibility is afforded in this circumstance as the front setback variation and side setback variation will not result in unreasonably amenity impacts to adjoining sites.

**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 an increase of landscaping on the subject site 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.

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

Description of non-compliance

In accordance with Schedule 3 of Manly Development Control Plan 2013, dual occupancies require the following car spaces:

In LEP Residential Zones and all other Zones except LEP Business Zones

- *1 resident parking space for each dwelling (irrespective of number of bedrooms), plus*
- *0.2 resident parking spaces for each 2 bedroom dwelling, plus*
- *0.5 resident parking space for each 3 (or more) bedroom dwelling, and plus*
- *0.25 visitor parking space for each dwelling (irrespective of number of bedrooms).*

Therefore, in this instance, residential spaces equate to 2.9 (rounded to 3) and the visitor parking required is 0.5 (rounded to 1), requiring a total of 4 spaces.

The existing site provides 2 spaces in the rear garage, and the proposal provides 2 spaces in the proposed carport located at the front of the dwelling. Whilst the rear garage is retained, it is no longer accessible due to the new carport and garden, therefore these spaces are not included.

In this instance a variation to the car parking is sought and as such a merit assessment has been undertaken. In this instance, the proposal demonstrates that the objectives of the control are achieved and therefore the variation is supportable

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 accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).***

Comment:

The relocation of the existing 2 spaces from the rear garage to the new proposed carport will provide greater accessibility for the dual occupancy. The current parking arrangement is difficult to access due to the minimal driveway width. Therefore, the new carport will provide 2 car spaces that are accessible for the residents and is considered an improvement to the existing parking arrangements on site.

***Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.***

Comment:

The relocation of the existing 2 spaces will provide parking requirements to meet the needs of the residents. The provision of 1 parking space per dwelling will meet the needs of the residents as per the existing conditions.

***Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.***

Comment:

The proposed carport provides 2 spaces that is located in an efficient, safe and convenient location compared to the existing rear garage. The proposed carport is considered to integrate into the existing design of the development and is single storey in nature that will not unduly detract the visual impact of the streetscape.

***Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.***

Comment:

The proposed 2 car spaces within the carport will not result in an excessive amount of excavation.

***Objective 5) To ensure the width and number of footpath crossings is minimised.***

Comment:

The proposed carport will retain the existing vehicular crossover from West Street.

***Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.***

Comment:

The proposed carport is integrated in the dwelling to allow residents to access the dwelling easily. Furthermore, the relocation of the car spaces to the front of the dwelling will provide for a reduction in impervious surfaces as the existing driveway will be converted into soft landscaping treatments.

***Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.***

Comment:

The proposal provides area for bicycle storage to encourage the use of bicycle use. Furthermore, there is available public transport located in vicinity of the site that can be used by the residents to reduce the demand for onsite parking requirements.

#### **4.1.9 Swimming Pools, Spas and Water Features**

The existing swimming pool is located within the front setback area and is therefore non-compliant with Clause 4.1.9.2 of Manly Development Control Plan 2013. However, as the swimming pool is existing and there are no changes to the swimming pool no further assessment is required.

#### **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 the replacement of an existing front fence to a height of 1.8m. The proposed front fence is required to be 1.8m as it is a boundary fence to a swimming pool. The proposed front fencing has been set back 0.6m from the front boundary line to allow for planting.

In this instance, the objectives of the control have been met as outlined below and the proposed fencing and pedestrian gate is supportable.

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 is located 0.6m from the front building line to allow for planting to soften the fencing. Council's Landscape Officer has reviewed the proposal and is supportive of the planting zone located in front of the primary boundary fence. The proposed front fencing is required to be a height of 1.8m and the setback of the front fence is appropriate as it has allowed for planting to soften any unreasonable visual impacts.

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

Comment:

The height of the fence and supplementary planting, will ensure the development compliments the identified streetscape.

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

Comment:

The inclusion of soft landscaping in front of the proposed fencing has encouraged softening of the

required fencing. Therefore, the front fence is considered appropriate in this instance, as the fencing is a replacement of the existing fence that will improve the aesthetics and visual appearance.

## **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**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$6,745 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$674,455.

## **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 DA2022/0438 for Alterations and additions to an existing dual occupancy development. on land at Lot 13 DP 5305, 50 West Street, BALGOWLAH, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site / Roof Plan - DA03, Rev B	30 May 2022	Hobbs Jamieson Architecture
Lower Ground Floor Plan - DA04, Rev B	30 May 2022	Hobbs Jamieson Architecture
Ground Floor Plan - DA05, Rev B	30 May 2022	Hobbs Jamieson Architecture
First Floor Plan - DA06, Rev B	30 May 2022	Hobbs Jamieson Architecture
Elevations - DA07, Rev B	30 May 2022	Hobbs Jamieson Architecture
Section - DA08, Rev B	30 May 2022	Hobbs Jamieson Architecture

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Stormwater Drainage General Notes - D01, Rev A	16 February 2022	NB Consulting Engineers
Ground & Lower Ground Floor Drainage Plan - DA02, Rev B	2 March 2022	NB Consulting Engineers
First Floor & Roof Drainage Plan - DA03, Rev A	16 February 2022	NB Consulting Engineers
Stormwater Drainage Details - DA04, Rev B	2 March 2022	NB Consulting Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate - Dwelling 1 (No.A443020_03)	30 May 2022	Efficient Living Pty Ltd
BASIX Certificate - Dwelling 2 (No.A451607)	9 March 2022	Efficient Living Pty Ltd

BCA Report	30 November 202	John J Briggs Associates
Materials Board - DA12, Rev B	30 May 2022	Hobbs Jamieson Architecture

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:

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Report	15 March 2022	Hobbs Jamieson Architecture

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

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

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

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

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	5 May 2022

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

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

## 3. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been



completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

#### 4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. **Policy Controls**

#### Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$6,744.55 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$674,455.29.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount

unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

## 6. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

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

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

## 7. **Amendments to the approved plans**

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

- The room name of the "Garage" on the Lower Ground Floor Plan (DA04) is to be amended to "Storage Area".
- The setback of the carport on the Ground Floor is to be increased to 1500mm from the western front boundary line.
- The setback of the new deck on the Ground Floor is to be increased to 2150mm from the northern side boundary line as annotated on DA05.
- The floor level of the new northern deck on the Ground Floor is to be at a minimum floor level above the existing natural ground level and at a maximum floor level of RL 59.09

(Ground Floor Floor Level).

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.

8. **Building Code of Australia Fire Safety Requirements**

The Building Code of Australia fire safety measures for the building as detailed and recommended in the BCA Assessment Report prepared by John J Briggs, dated 30/11/2021 and as signed on 2/12/2021, are to be carried out in full to the building and are to be included as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

9. **On-site Stormwater Disposal Details**

The Applicant is to provide a certification of drainage plans detailing the on site disposal of stormwater in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by NB Consulting Engineers, job number 210939, drawing number D01, D02, D03, D04, dated 2/3/2022. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

i. Discharge of stormwater from the site boundary to the kerb shall be via gravity.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

10. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

11. **Waste Management Plan**

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

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

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

**12. 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.

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

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**14. Protection of Existing Street Trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree (Water Gum) fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length and located within the edge of the kerb and existing footpath upon the grass area, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.



Reason: Street tree protection.

**15. Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Reason: Tree and vegetation protection.

**16. Road Reserve**

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

Reason: Public safety.

**17. 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.

**18. Vehicle Crossings**

The Applicant is to construct one vehicle crossing 4.5 metres wide at the kerb and 5.5m wide at the boundary in accordance with Northern Beaches Council Drawing No A4-3330/ 1N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

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

**19. Required Screen Planting**

Screen shrub planting between the front boundary and the proposed pool fencing shall be planted in accordance with the following:

- i) selected dense species planted at a minimum 200mm pot container, installed at no more than 700mm apart, and in a garden bed with a minimum 600mm garden bed width prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
- ii) the species may be selected from the following suggested list: Syzygium 'varieties, Murraya paniculata, or Viburnum tinus, or as otherwise selected,
- iii) the planting shall be located along the fence line approximately 450mm from the front boundary,
- iv) the screen planting shall be maintained to the front property boundary without encroachment upon the public footpath and shall be maintained at no less than 2 metres in height,
- v) the existing Rhipidolepis species existing along the front boundary shall be removed as the species is known to self-seed into natural bushland areas.

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

Reason: To maintain environmental amenity.

**20. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Council's Water Management for Development Policy by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

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

21. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

22. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

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

23. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent. All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

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

**Signed**



**Stephanie Gelder, Planner**

The application is determined on 16/06/2022, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**