

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0253
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot C DP 90826, 18 Jenner Street SEAFORTH NSW 2092
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Matthew Grant Rae Catherine Mary Rae
Applicant:	Add-Style Home Additions

Application Lodged:	13/03/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	24/03/2020 to 07/04/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 4.1%
Recommendation:	Approval

Estimated Cost of Works:	\$ 368,165.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the alterations and additions to an existing dwelling house.

Demolition

The demolition works include the following:

- Demolish an existing upper level.

First Floor

Construct a First Floor addition comprising of:

- A master bedroom with a walk-in robe and ensuite,

- New balcony servicing the main bedroom,
- New living room and a bathroom,
- Two additional bedrooms, and
- Internal staircase accessing lower level.

Ground Floor

The alterations to the Ground Floor of the existing dwelling include the following:

- New entry portico and front steps,
- Reconfiguration of lower floor plan,
- New kitchen and laundry,
- New roof over the existing rear patio, and
- New carport.

The submitted plans reference a front fence and cabana that was approved under a previous application. These items do not form a part of proposed works of this application.

After assessment of the submitted plans, discussions were undertaken with the applicant in regards to the planning concerns with the overall non-compliant building height. As a result, amended plans and documentation were received that redesigned the upper roof to demonstrate a lower building height, with a reduced variation to the 8.5m building height requirement. The assessment report is undertaken with these amended plans.

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 Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

Manly Development Control Plan - 3.4.2 Privacy and Security

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

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

SITE DESCRIPTION

Property Description:	Lot C DP 90826 , 18 Jenner Street SEAFORTH NSW 2092
Detailed Site Description:	<p>The site is legally identified as Lot C within Deposited Plan 90826, and is known as 18 Jenner Street Seaforth. The site is located within the R2 Low Density Residential zone as per the Manly Local Environment Plan 2014.</p> <p>The subject site is located on the northern side of Jenner Street, is regular in shape with a size area of 748.6sqm. The front boundary to Jenner Street measures 13.5m, along with side boundaries of 56.1m.</p> <p>The site is orientated to the south with a slope of approximately 8.8m falling from the north-western corner towards the street frontage. Stormwater drains to the Jenner Street frontage.</p> <p>The site has canopy trees located within the rear setback between the pool and rear boundary line.</p> <p>The subject site currently contains a two storey dwelling house, with a pool at the rear of the site.</p> <p>Surrounding properties consist of multi storey dwelling houses, of varying ages, within landscaped settings.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant Development Applications:

- Development Application **DA2019/1135** for the alterations and additions to a dwelling house was approved by Northern Beaches Council on the 29 November 2019.
- Development Application **10.2002.176.1** for the new building alterations and additions to a dwelling was approved by Manly Council on 30 July 2002.

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&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>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 matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a</p>

Section 4.15 Matters for Consideration'	Comments
	<p>condition of consent.</p> <p>Clause 98 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>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) 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>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The plans indicate removal of 1 x Callistemon sp. to provide for separate pedestrian access into the site. The tree appears to be exempt via its height being less than 5 m.

Internal Referral Body	Comments
	No objections are raised to approval subject to conditions.
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following conditions of consent.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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. A371966 dated 5 March 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A371966 dated 5 March 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	Pass
Thermal Comfort	Pass	Pass
Energy	50	Pass

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 proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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	8.85m	4.1%	No
Floor Space Ratio	FSR: 0.4:1	FSR: 0.28:1	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes

Clause	Compliance with Requirements
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	8.85m
Percentage variation to requirement:	4.1%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings OR Clause 4.4 - Floor space ratio development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

"The only breach to the 8.5m height limit is on the Eastern elevation and it is very minor at 350mm. All other elevations comply.

The variation to the height control arises because of the topography of the site and general cross fall in the land from the rear boundary to the street. Also, the existing dwelling includes a sub floor across the frontage, which contributes to the building height. The encroachment into the height plane is for a portion of the roof ridge line only, which is centralised on-site.

It is significant to note that the variation does not result in excessive floor space or development density. The variation does not manifest in an overdevelopment of the site.

No adverse planning consequences (shadowing, privacy, visual impact, urban design/streetscape, heritage, neighbourhood character) arise from the variation with the proposed development sitting comfortably on-site within the required setbacks. Rather, in this particular case the variation facilitates a good design outcome in terms of amenity, streetscape, built form and outlook from the proposed upper level.

In view of the above, the proposed variation from the development standard is reasonable in this instance. A standard roof profile is proposed maintaining a consistent built form with other dwellings in the vicinity and appropriately addressing site circumstances. The proposed development is appropriate in consideration of the streetscape objectives, siting requirements and protecting neighbour amenity."

It is considered that the written submission addresses the reasons that strict compliance would be considered unreasonable and unnecessary, particularly as the development complies with the maximum building height control for the vast majority of the development.

A variation is justifiable in this case, as the proposed development will result in a maximum building

height of 8.85 metres. This is a very minor exceedance and the proposed built form is aesthetically pleasing, consistent with the existing and surrounding dwellings.

In this respect, it has been demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard. In doing so, the written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018]* NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see *Four2Five Pty Ltd v Ashfield Council [2015]* NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicant's written request argues, in part, that there are sufficient grounds to permit the variation of the development standard. In particular:

The proposed variation is very minor 0.35 metres or 4.1%.

- The area of the exceedance does not present a dominant built form to the street (see figure 1 below).

- It has no impact on solar access or privacy of neighbouring sites.
- It is compatible in scale to surrounding properties.

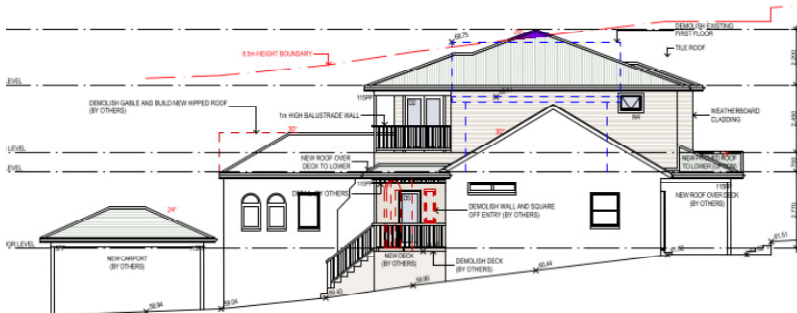


Figure 1: Area on building height non-compliance shown in purple.

The grounds cited by the author of the Clause 4.6 are concurred with.

In this regard, the applicant’s written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant’s written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

- a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*

Comment:

The proposed alterations and additions to the building are appropriate to the site and will fit with the bulk and scale of both the site and the immediate locality. The proposal has a non-complaint maximum height of 8.85 metres, at the highest point of the hipped roof on the eastern elevation. The proposal is of a similar scale to surrounding properties and the variation does not present as a dominant built form to the street.

The development, as amended, is considered to be compatible with the height and scale of surrounding and nearby development.

It is considered that the development satisfies this objective.

b) to control the bulk and scale of buildings,

Comment:

The proposed additions have a minimal visual impact, in that they are consistent with the existing built form on the site. The minor building height non-compliance will be visible along the eastern elevation, as a result of the hipped roof element of the dwelling and the slope of the site.

The proposed alterations and additions will retain the existing levels for the ground floor and replacement first floor and therefore will generally maintain the existing bulk and scale when viewed from Jenner Street, retaining a compatible scale to the street.

The proposed development does not result in loss of privacy or loss of solar access for neighbours or the subject site.

It is considered that the development satisfies this objective.

c) to minimise disruption to the following:

(i) views to nearby residential development from public spaces (including the harbour and foreshores),

(ii) views from nearby residential development to public spaces (including the harbour and foreshores),

(iii) views between public spaces (including the harbour and foreshores),

Comment:

The proposed additions have a minimal visual impact, in that they are consistent with the existing built form on the site. The minor building height non-compliance will be visible along the eastern elevation, as a result of the hipped roof element of the dwelling and the slope of the site.

The proposed alterations and additions will retain the existing levels for the ground floor and replacement first floor and therefore will generally maintain the existing bulk and scale when viewed from Jenner Street, retaining a compatible scale to the street.

The proposed development does not result in loss of any existing view lines, for neighbours or the subject site

Therefore, the proposed development, as amended, minimises the disruption of views.

It is considered that the development satisfies this objective.

d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The proposed additions have a minimal visual impact, in that they are consistent with the existing built form on the site. The minor building height non-compliance will be visible along the eastern elevation, as a result of the hipped roof element of the dwelling and the slope of the site.

The proposed alterations and additions will retain the existing levels for the ground floor and replacement first floor and therefore will generally maintain the existing bulk and scale when viewed from Jenner Street, retaining a compatible scale to the street.

There is a minor level of additional overshadowing to the western adjoining site, No. 20 Jenner Street between 9am and 12 noon. However, this minor level of solar impact is compliant with clause 3.4.1 Sunlight Access and Overshadowing within the Manly Development Control Plan, and is considered to be reasonable in this instance.

The proposed development does not result in an unreasonable loss of any solar access for neighbours or the subject site.

Therefore, the proposed development, as amended, minimises visual impact, loss of privacy and loss of solar access.

It is considered that the development satisfies this objective.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The development, as amended, will provide for the housing needs of the community within a low density residential environment.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

This is not applicable to the existing detached dwelling.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Manly.*

Comment:

The landscaped setting will be improved with the alterations and additions to the dwelling that are proposed. In particular the improvement to the landscaped area fronting Jenner Street.

Despite the proposal seeking an exception to the building height clause, the bulk and scale of the building will have minimal effects as it represents a minor exceedance and is consistent with surrounding development.

Therefore, the development, as amended, ensures that the low density residential environment is characterised by landscaped settings that is in harmony with the natural environment of Manly.

It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 748.6sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings	1	-	Yes
4.1.2.1 Wall Height	E: 7.1m (based on gradient 1:10)	5.9 - 6.9m	-	Yes
	W: 7.2m (based on gradient 1:9)	5.9m - 7m	-	Yes
4.1.2.2 Number of Storeys	2	2	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	2m	-	Yes
	Pitch: maximum 35 degrees	20 degrees	-	Yes
4.1.4.1 Street Front Setbacks	6m	6.4m Carport	-	Yes

		13m - 18m Ground Floor 18.49m First Floor	- -	Yes Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	East 2.36m (based on wall height 7.1m) West 2.4m (Based on wall height 7.2m)	East - Ground Porch 1.169m East - First Floor Dwelling 1.19m - 1.69m West - Ground Carport 1.186m West - First Floor Dwelling 1.335 - 1.368m	50.4% up to 49.5% 50.5% up to 44.3%	No No No No
	Windows: 3m	Eastern - 1.19m Western - 1.368m	60.3% 54.4%	No No
	4.1.4.4 Rear Setbacks	8m	23.8m Ground Floor 25.6m - 26.2m First Floor	- -
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area (449.16sqm)	61.5% (460.4)	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% of open space (184.16)	60% (276.4sqm)	-	Yes
	3 native trees	2 trees (existing)	-	Yes*
4.1.5.3 Private Open Space	18sqm per dwelling	> 18sqm	-	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	5m	-	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	-	Yes

* Address via Landscaping Condition for additional native canopy tree.

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	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 Stormwater Management	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	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

3.1.1 Streetscape (Residential areas)

The alterations to the existing two storey dwelling house is consistent with predominant built form of the Jenner streetscape. The visual presentation of the newly constructed first floor, amended ground floor and car parking structures enhances the visual presentation to the streetscape, and whilst the proposed design may mimic what currently exists, the new design it is sympathetic and responsive to the character of the local area and with the form of other development within the visual catchment of the site.

3.4.2 Privacy and Security

Description of Non-compliance

The proposed development includes windows on the eastern and western side elevations at 1.2m and 1.4m respectively from the side boundaries. Additionally, the proposal includes an upper level deck 1.2m from the eastern side boundary.

Whilst the existing development includes windows at a very similar existing setbacks on the ground floor (i.e 1m to the east and 1.1m to the west), these additional windows, balconies and doors are additional elements on the elevations and non-compliant with numerical controls,

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 proposed development includes additional windows on both the eastern and western side elevations. In doing so, the proposed development results in some additional overlooking to adjacent sites.

On the western elevation, the proposed development proposes two additional windows (W9, W10). These windows service the access stairs, and a new lounge area. Direct overlooking could occur via these windows. As a result, mitigation measures to raise the the sill height of window W9 and W10 to be 1.5m above finished floor. The increase in the sil height will mitigate direct viewing whilst continuing to allow for access to light and air, with an appropriate glazing area.

On the eastern elevation, there is an additional window (W4), door (D2), and a balcony on the first floor, with an additional elevated entry balcony on the ground floor. The first floor window W4 services a bathroom and displays a sil height of 1.5m above the finished floor. As a result, the window has incorporated sufficient mitigation measures to ensure privacy.

The new door (D2) and first floor balcony service the new master bedroom. Applying the visual privacy planning principals of the Land and Environment Court Case *Meriton v Sydney City Council [2004] NSWLEC 313*, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time. However, the balcony area serves a purpose beyond that which the Court considered to be typically intended for bedroom use, as the balcony is designed to be used as an outdoor area in which to actively stand and/or sit (i.e. not sleep).

Due to the significantly elevated nature of the First Floor balcony, the spatial distance (i.e. 1.2m to the eastern boundary) and the orientation of the additional doors to the east, there is real potential to overlook the existing upper level balcony, and front setback open space area of the eastern neighbouring property. It is recommended that a privacy screen is installed on the eastern elevation to prevent overlooking.

The new elevated ground floor front balcony services the entryway to the dwelling and a bedroom. However, the balcony adjoins the two storey wall plane of the eastern neighbouring site, with landscaping and boundary fencing assisting to mitigate any potential unreasonable

privacy impacts. As this decking will ultimately be utilised as a transitional entry area, combined with the boundary fencing and landscaping, it is not considered that additional privacy treatments are required.

As such, the proposed development (as conditioned) is design for privacy, and mitigates direct viewing between properties.

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

Comment:

The proposed development (as conditioned) includes windows to allow for greater access to light and air without resulting in unreasonable privacy outcomes, and while retaining suitable outlooks and views.

- **To encourage awareness of neighbourhood security.**

Comment:

The development proposes sufficient windows and open balcony areas to the south (front) elevation, thereby allowing passive surveillance and encouraging awareness of neighbourhood security.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of MLEP 2013 / 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 not supported, in this particular circumstance.

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

Applicable Clauses

Clause 4.1.4.1 - Street Front Setbacks.

Clause 4.1.4.2 - Side Setbacks and Secondary Street Frontages.

Clause 4.1.4.4 - Rear Setback.

Description of non-compliance

Clause 4.1.4.2 - Side Setbacks and Secondary Street Frontages

Clause 4.1.4.2 requires development to provide variable side setbacks based on the proposed wall height. In this respect, the development provides the following side setbacks to the north and south:

- Dwelling House Ground Floor East: side setbacks of 1.169m to the porch/balcony. Variation of 50.4%
- Dwelling House First Floor East: side setbacks of 1.19m - 1.69m to the dwelling. Variation of up to 49.5%.
- Dwelling House First Floor West: side setback of 1.335m - 1.368m. Variation of up to 44.3%.
- Carport West: side setback of 1.186m. Variation of up to 50.5%.

As a result of mimicking the existing side setbacks, further variation is demonstrated.

There are additional windows on the first floor of the proposal that are located within the 3m setback to the side boundaries. These windows are as follows:

- Eastern elevation - one window that services a bathroom (W4), and additional door (D2) that open to the front deck area.
- Western elevation - two windows, one services a lounge room (W10), the other services the access stairs (W9).

Merit Consideration

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

- ***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 development is consistent with the objectives of Clause 3.1 Streetscapes and Townscapes of the MDCP 2013. The proposed development generally retains the existing building footprint and form, which in turn respects the existing and desired spatial proportions of the street, the street edge and the landscape character of Jenner Street.

Similarly, the open style carport with respect to the side boundary setbacks provides desired spatial proportions to respond to the landscape character of the locality.

The development satisfies this objective.

- ***To ensure and enhance local amenity by:***

- providing privacy.

- providing equitable access to light, sunshine and air movement.

- 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.

- facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.

Comment:

The separation of the built form enables the development to satisfactorily respond to this objective as follows:

- The proposed building windows (as conditioned see clause 3.4.2 Privacy) and building design is reasonably offset from the property boundaries such that direct overlooking is avoided into private open space areas thereby providing reasonable levels of privacy.
- The proposal enables the development to provide equitable access to light, sunshine and air movement through the site and through the neighbouring private and public properties.
- The proposal does not unreasonable impact on existing view sharing and limits impacts on vistas from private and public spaces.
- The modernised design of the development (which steps into the the site from Jenner Street), together with the incorporation of open style balcony areas adds to the character of the streetscape and creates a rhythm of spaces when viewed from the neighbouring private and public properties.

- The development proposes a new carport, with no change to the existing driveway which allows for satisfactory sightlines along Jenner Street.

The development satisfies this objective.

- ***To promote flexibility in the siting of buildings.***

Comment:

The proposed setbacks are reflective of the existing format of the dwelling house development and its attempt to respond to the existing structures on the site. In this way, the development adopts a similar siting of the buildings to preserve the natural features and areas of the site and its relationship to its surrounds.

The development satisfies this objective.

- ***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 design enables the development to satisfactorily respond to this objective as follows:

- The separation of the built form from the front boundary and rear boundary enables the retention and provision of consolidated deep soil zones which can accommodate appropriate plantings including native vegetation and native trees, including the western area between the carport and side boundary. There is no change to the ground floor side setbacks, therefore, no additional areas within the side setbacks can be accommodated.
- The spatial arrangement of the development enables plantings to be provided within the front setback which ensures that a satisfactory landscape transition is provided at the interface with the Jenner Streetscape.
- The development satisfies the provisions of State Environmental Planning Policy No 19 - Urban Bushland.

The development satisfies this objective.

- ***To assist in appropriate bush fire asset protection zones.***

Comment:

The site is not identified as bush fire prone land and therefore does not require the establishment of bush fire asset protection zones.

This objective is not applicable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 and MDCP 2013 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.

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

There is no change to the previous tandem parking arrangement that currently exists onsite. The new carport will be located over the existing hardstand and improves the livability of the occupants on the subject site. Landscaping will continue to provided a landscape buffer to the western side boundary.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$3,682 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$368,165.

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2020/0253 for Alterations and additions to a dwelling house on land at Lot C DP 90826, 18 Jenner Street, SEAFORTH, 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
Plans, Elevations and Sections Issue C	16/04/2020	Add-Style Home Additions
Site Analysis Issue A	16/04/2020	Add-Style Home Additions

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

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

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

2. **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) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,681.65 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$368,165.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

5. **Security Bond**

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

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

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

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

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

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

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

6. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

7. **Amendments to the approved plans**

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

1. The sill height of window W9 and W10 is to be a minimum height of 1.5m above the finished floor level.
2. A 1.65 metre privacy screen (measured from the finished floor level) is to be erected along the eastern edge of the First Floor balcony as shown on the approved plans. The privacy screens shall be of louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development or glass screens fitted with obscured glazing.

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. **Waste Management Plan**

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

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

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

9. **Compliance with Standards**

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

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

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

10. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

11. **Sydney Water "Tap In"**

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. **Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **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.

14. **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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

15. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

16. **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.

17. **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**

18. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

19. Required Planting

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Pot Size
1	Tree capable of attaining a minimum height of 5 metres at maturity	Front Yard	200mm

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

Reason: To maintain environmental amenity.

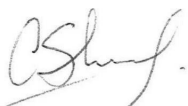
20. Waste Management Confirmation

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.

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

Signed



Catriona Shirley, Planner

The application is determined on 21/05/2020, under the delegated authority of:



A handwritten signature in blue ink, appearing to read "R. Piggott".

Rodney Piggott, Manager Development Assessments