

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0880
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 21 DP 508707, 63 Alexander Street MANLY NSW 2095
Proposed Development:	Alterations and additions to existing building and change of use to a dwelling house and secondary dwelling
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Paul John Taylor Angela Maree Tesoriero
Applicant:	D R Design (Nsw) Pty Ltd

Application Lodged:	16/08/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	28/08/2019 to 11/09/2019
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	4.4 Floor space ratio: 58.3%
Recommendation:	Approval

Estimated Cost of Works:	\$ 95,000.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the following:

1. Change of use from a commercial building to a residential dwelling with attached secondary dwelling.
2. Internal alterations including the demolition works of the commercial facilities and construction of facilities suitable to a residential dwelling and secondary dwelling.
3. External works including boundary fencing along the eastern side boundary and a small portion of the southern rear boundary, some landscaping works and the construction of a deck.

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 - 4.1.1.1 Residential Density and Dwelling Size

Manly Development Control Plan - 4.1.3 Floor Space Ratio (FSR)

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles

SITE DESCRIPTION

Property Description:	Lot 21 DP 508707 , 63 Alexander Street MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the corner of Alexander Street and Balgowlah Road.</p> <p>The site is irregular in shape with a frontage of 14.1m along Alexander Street and a depth of 36.5m. The site has a surveyed area of 410.6m².</p> <p>The site is located within the R1 General Residential zone as stipulated under <i>Manly Local Environmental Plan (MLEP) 2013</i> and accommodates a one (1) and two (2) storey structure that has previously been used as an educational facility.</p> <p>The site has a northerly orientation and is located on a relatively flat ground.</p> <p>The site has little to no vegetation within the front setback. No trees are located on the site.</p>

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached and semi-detached residential dwellings. Adjacent to the subject site is Andrew 'Boy' Charlton Swim Centre.

A site visit was conducted on 10 September 2019, with the owner present.

Map:



SITE HISTORY

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

5 June 2000

A Development Application was lodged with Manly Council for the change of use to an educational facility. This application was approved, subject to conditions.

17 September 2019

The subject site is mapped as being located within medium to high flood risk zone. As such, this triggers the need for a Flood Risk Management Report. The applicant, being Dickson Rothschild, did not provide such a report and as such Council's Flood Engineer could not support this application. A Withdrawal Request was sent to the applicant.

Following receipt of the Withdrawal Request, the applicant requested an extension to the deadline to withdraw the application and further requested Council accept additional information in this instance. Council approved an extension to the 7 day withdrawal deadline and allowed the applicant to provide additional information and amended plans.

The applicant provided a Flood Risk Management Report and amended plans on 14 October 2019. Council's Flood Engineer reviewed the additional information and amended their comments

accordingly.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, allows Council to request additional information. No additional information was requested.</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 condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Robert Alexander Atkinson	61 Alexander Street MANLY NSW 2095
Mr David Lawton	58 Pacific Parade MANLY NSW 2095

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

- Use of structure
- Parking
- Window along southern elevation
- Eastern boundary fence during and after construction
- Eastern boundary inconsistency

The matters raised within the submissions are addressed as follows:

- **Use of structure**

Comment:

The property owner to the rear of the subject site, being 58 Pacific Parade, has raised concern with regards to the future use of the structure as a residential dwelling should this application be approved. This development application seeks consent to change the use from an educational facility to a principal dwelling and a secondary dwelling - this is permissible within the zone being R1 General Residential under the Manly Local Environmental Plan 2013. Should this application be approved, a condition of consent will be recommended to ensure the land use consent refers to one (1) principal dwelling and one (1) secondary dwelling.

It is noted that the internal floor plans cannot be made available to the public as a matter of safety and security for the future occupants of the dwelling.

- **Parking**

Comment:

The property owner at the rear of the subject site, being 58 Pacific Parade, has raised concern with regards to the existing and proposed vehicle parking for the subject site. There is one (1) existing vehicle space located within the existing structure. This is proposed to be retained. A further discussion on the vehicle parking requirements can be found under Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles.

This application does not propose to modify the timed street parking in the immediate vicinity. Additionally, amendments to the existing timed parking on Balgowlah Road, and other roads within the immediate vicinity of the subject site, cannot be made through the submission of objection to this application - nor can a condition of consent be made under this consent to modify the timed vehicle street parking in the surrounding roads.

- **Window along southern elevation**

Comment:

The property owner at the rear of the subject site, being 58 Pacific Parade, has raised concern with regard to the existing frosted glass window along the southern elevation. The owner of 58 Pacific Parade noted that, when the existing structure on the subject site was being used as residential accommodation, the artificial light from within the subject site impacted upon the amenity of their property. A resolution to this was to paint the external area of the window black, and the internal area of the window was covered with plywood. This window in question is proposed to be retained, and no additional works are associated with the southern wall.

A discussion between the owners is likely required to discuss the use of this window.

- **Eastern boundary fence during and after construction**

Comment:

Concern has been raised by the property owner to the east, being 61 Alexander Street, with regards to the eastern boundary fence - primarily during construction. The owners of 61 Alexander Street have requested the proposed eastern boundary fence be erected first, prior to any construction works to ensure safety and privacy for the them. Construction fencing should be erected prior to the commencement of any construction to ensure the community is protected from construction works. With regards to the proposed fence along the eastern elevation, consent cannot be given by Council for this fence as it is a boundary fence - this is a civil matter that both owners (of 63 and 61 Alexander Street) must agree to prior to the erection of the fence.

- **Eastern boundary inconsistency**

Comment:

The property owners at 61 Alexander Street have raised concern with regards to the survey plan submitted showing inconsistencies with their survey. As the proposed permeable deck located along the eastern elevation will result in a nil setback to the eastern side boundary, should this application be approved a condition of consent will be recommended to ensure a boundary survey is acquired prior to the issue of a construction certificate to ensure the works remain wholly within the subject site, being 63 Alexander Street.

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><i>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.</i></p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Updated Comments - 17 October 2019</p> <p>The proposed development generally complies with the flood requirements of the Manly DCP and Manly LEP 2013.</p> <p>Original Comments - 16 September 2019</p> <p>The proposed change of use and alteration of an existing commercial building to a dwelling house and a secondary dwelling does not comply with the flood requirements of the Manly Local Environmental Plan 2013 (MLEP) and Manly Development Control Plan (MDCP). The property is affected by the High Flood Risk Precinct, and the following levels apply:</p> <p>1% AEP Flood Level: 3.15m AHD</p> <p>Flood Planning Level (FPL): 3.65m AHD</p>

Internal Referral Body	Comments
	<p>Probably Maximum Flood (PMF) level: 5.65m AHD</p> <p>Ground Floor Level: 2.25m AHD</p> <p>First Floor Level: 4.95m AHD</p> <p>The existing ground floor level of 2.25m AHD is below the FPL of 3.15m AHD.</p> <p>The proposed secondary dwelling would be flooded inside to a depth of 2.7m AHD, which would prevent access to the upper floor. However, the proposed secondary dwelling option, and there would be nowhere to safely shelter in place.</p> <p>A Flood Management Report is required to support this Development / E2 of Flood Emergency Response.</p> <p>E1: Development shall comply with Council's Flood Emergency Response Assessment Report where it applies to the land.</p> <p>E2: New development must provide an appropriately sized area to safely store floodwater, which must be available from all areas within the development.</p> <p>The Flood Management Report must also address Part 6.3 of the MLEI.</p> <p>3) <i>Development consent must not be granted to development on land to which the Flood Hazard Overlay applies, unless:</i></p> <ul style="list-style-type: none"> <i>(a) is compatible with the flood hazard of the land, and</i> <i>(b) is not likely to significantly adversely affect flood behaviour, and</i> <i>(c) incorporates appropriate measures to manage risk to life and property.</i>

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

External Referral Body	Comments
	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 commercial (educational) 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 commercial (education) and residential land use.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
 - (d) *any other development.*

Comment:

This Clause is not relevant to the subject site.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

This Clause is not relevant to the subject site.

12 Development on land within the coastal vulnerability area

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

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
 - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*

- (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures
are in
place
to
ensure
that
there
are
appropriate
responses
to, and
management
of,
anticipated
coastal
processes
and
current
and
future
coastal
hazards.*

Comment:

This Clause is not relevant to the subject site.

13 Development on land within the coastal environment area

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

Comment:

This Clause has been assessed against the proposed development and no issues were raised.

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

Comment:

This Clause has been assessed against the proposed development and no issues were raised.

14 Development on land within the coastal use area

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

This Clause is not relevant to the subject site.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development is unlikely to increase the risk of coastal hazards.

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

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	8m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1	FSR: 0.95:1 (existing & unchanged)	58.3%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes
6.22 Development for the purposes of secondary dwellings in certain residential and environment protection zones	Yes

Detailed Assessment

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 410.6m ²	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings	2 dwellings	50%	No
	Dwelling Size: 90m ²	394m ²	N/A	Yes
4.1.2.1 Wall Height	W: 6.5m (based on gradient 0)	6.4m	N/A	Yes
	E: 6.5m (based on gradient 0)	6.3m	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.5m (existing & unchanged)	N/A	Yes

	Parapet Height: 0.6m	0.6m (existing & unchanged)	N/A	Yes
	Pitch: maximum 35 degrees	10.2 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line	Consistent with prevailing setback	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.1m (based on wall height)	Dwelling (existing & unchanged): Eastern Elevation: 1.3m Deck Nil	38% 100%	No No
	Windows: 3m	1.3 - 1.4m (eastern elevation)	56 - 53%	No
	Secondary Frontage: Prevailing setback	Consistent with prevailing setback (western elevation)	N/A	Yes
4.1.4.4 Rear Setbacks	8m	Dwelling (existing & unchanged): Nil Deck: Nil	100% 100%	No No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (225.5m ²)	21% (86.2m ²) (existing and unchanged)	61.8%	No
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (30.1m ²)	39% (33.6m ²)	N/A	Yes
	1 native trees	0 trees	100%	No
4.1.5.3 Private Open Space	18m ² per dwelling	18.5m ²	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	3.2m (secondary frontage)	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	1 space (existing)	50%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	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	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	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
5.4.3 Flood Prone Land	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes
Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles	No	Yes

Detailed Assessment

4.1.1.1 Residential Density and Dwelling Size

The subject site is mapped as being within the D3 Residential Density area. This requires a minimum land size for maximum permissible residential density of 250m². The land size is 410.6m², therefore the land size does not permit more than one (1) dwelling.

This application requests consent for a secondary dwelling, which would result in two (2) residential dwellings on the lot. However, this control notes that this does not apply to Secondary Dwellings, as this is subject to their own development standard for minimum floor area at *Manly Local Environmental Plan (MLEP) clause 5.4(9)*.

4.1.3 Floor Space Ratio (FSR)

The site, as existing, has a floor space area of 394m², which results in a floor space ratio of 0.95:1. The

proposed development will not result in an increased or decreased floor space, therefore the floor space ratio will remain as existing and unchanged.

A Clause 4.6 Request to Vary a Development Standard was provided with this application as a precautionary measure. In this instance, the Clause 4.6 is not required and the existing variation to the development standard is considered to be acceptable.

It is noted that the applicant's calculations and those of Council differ slightly. The applicants calculations show the Gross Floor Area (GFA) as 429m², resulting in a Floor Space Ratio (FSR) of 1.05. This represents a non-compliant variation of 74%. Council's calculations show the GFA as 394.0m², resulting in a floor space ratio of 0.95:1. This represents a non-compliant variation of 58.3%.

It can be assumed that this difference is attributed to the inclusion of stairwells in the calculation of the GFA by the applicant. Council has conducted an independent assessment of the application, inclusive of all calculations that exclude stairwells and the garage from GFA calculations, which is consistent with the definition of Gross Floor Area as it appears in the dictionary of *Manly Local Environmental Plan 2013*.

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

Description of non-compliance

4.1.4.2 Side Setbacks and Secondary Street Frontages

The control requires side setbacks to be one third of the wall height. The proposed (and existing) wall height along the eastern elevation is 6.3m, and the wall height along the western elevation is 6.4m. Therefore, the required side setbacks along the eastern and western elevations is 2.1m. The proposed development is largely internal alterations and additions with no major works associated with the external structure. It is noted that the western elevation is the secondary street frontage.

The proposed (and existing) eastern side setback is 1.3m which is numerically non-compliant. This represents a variation to the control of 38% (to the dwelling), and 100% (to the deck). The western side setback (existing) is nil, also numerically non-compliant. This represents a variation to the control of 100%.

Furthermore, additional windows and glass doors are proposed along the eastern elevation with a side setback of 1.3m, which is numerically non-compliant with the 3.0m required side setback. This represents a variation to the control of 56%.

4.1.4.4 Rear Setbacks

This control requires rear setbacks to be 8m. The existing (and unchanged) rear setback is nil. This represents a variation to the control of 100%. The proposed deck along the eastern elevation will achieve a nil rear setback. This represents a variation to the control of 100%. The rear wall of the building has been used, essentially, as a rear fence for some time. The proposed development does not involve any changes to this wall.

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 non-compliant side setbacks are unlikely to impact upon the existing streetscape. Dwellings in the immediate vicinity are generally semi-detached dwellings, therefore the spatial proportions of the street reflect dwellings within close proximity to each other. The retention of the non-compliant western side setback (secondary street frontage) achieves spatial consistency with the property to the rear, being 58 Pacific Parade, therefore limiting the impact upon the existing street frontage along Balgowlah Road. The retention of the eastern side setback will not impact upon the landscape character of the street. No landscape features exist along the western elevation of the site. The non-compliant rear setback does not impact upon the street frontage of Alexander Street, nor does it impact upon Balgowlah Road.

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 existing external structure is largely unchanged as a result of the proposed development. However, the proposed development includes a 1.8m in height eastern side boundary fence to separate the private open space of the subject site and the adjoining property, being 61 Alexander Street. Side boundary fences are considered to be a civil matter, and as such, Council cannot grant approval to the erection of the eastern side boundary fence without the owners consent of 61 Alexander Street. When the fence is erected, it will provide a reasonable level of privacy for the occupants of the subject site, and those of the adjoining property. Furthermore, the proposed development is largely located within the existing structure, therefore no impacts upon existing views will arise as a result of the development. The existing eastern side setback is unlikely to negatively impact upon the existing streetscape, achieving a desirable building separation when viewed from the street. Vehicle entrance to the site is obtained from Balgowlah Road. This remains unchanged in the proposed development, thus maintaining the facilitation of safe and adequate traffic conditions.

The retention of the rear boundary wall will continue to provide a reasonable level of privacy for the occupants of the subject site, and those of surrounding properties, primarily 58 Pacific Parade. The proposed deck along the eastern elevation is proposed to be bound by a 2.8m fence (measured from the ground level). This fencing will maintain the existing privacy obtained by surrounding properties.

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

Comment:

No unreasonable amenity impacts will arise as a result of the development.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The subject site currently has very limited natural features, with only small planter boxes located in the front setback area. New landscaping is proposed along the eastern elevation between the building structure and side boundary, however what this landscaping will be is unclear and not further specified on the plans provided to Council. A condition of consent will be recommended to ensure permeable surfaces are located in this area to enhance natural features and facilitate stormwater infiltration to the water table.

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

Comment:

The subject site is not located within a bush fire zone, therefore this objective is not relevant.

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.

4.1.5 Open Space and Landscaping

Description of non-compliance

4.1.5.1 Minimum Residential Total Open Space Requirements

The subject site is located within the OS3 of the Residential Open Space Area map and is therefore required to have 55% (225.5m²) of the site as total open space. The proposed development will achieve a total open space of 21% (86.2m²). This represents a variation to the control of 61.8%.

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 retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment:

The subject site does not have important landscape features and vegetation, nor does it have native flora and fauna. Small planter boxes are located within the front setback that are proposed to be retained.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Comment:

The proposed development includes an area of new landscaping along the eastern elevation between the existing building structure and the side boundary line. No landscape plan has been provided with this application therefore it is unclear as to what new landscaping is to be proposed. A condition of consent will be recommended within this report that turf is to be laid in this area to enhance the soft surface at ground level.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

Comment:

The existing amenity of the site, streetscape and surrounding areas are unlikely to be impacted as a result of the proposed development.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

Comment:

The proposed development will increase the landscaped area of the site, however a comprehensive landscaped plan has not been submitted with this application so it is unclear as to what is proposed to be planted along the eastern elevation between the dwelling and side boundary line. Therefore, a condition of consent will be recommended to ensure this area is turfed, thus maximising the water infiltration to the site, and minimising stormwater runoff.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

Comment:

It was noted upon a site visit that the existing planter boxes within the front setback are unkempt and overrun by weeds. A condition of consent will be recommended within this report to ensure all noxious weed species are removed from the site. Private and public open space will not be impacted as a result of the proposed development.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Comment:

The subject site is void of any trees or significant native vegetation. The proposed development does not involve the planting of additional trees, or significant vegetation. Therefore the proposed development is unlikely to impact upon wildlife habitat or wildlife corridors.

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.

Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles

This control requires dwelling houses and secondary dwellings to have two (2) off-street vehicle parking per dwelling. The site currently has one (1) off-street vehicle parking spaces and this application does not propose additional off-street parking provisions. State Environmental Planning Policy (Affordable Rental Housing) 2009, Division 2, 22(4)(b) states that the consent authority (in this instance, Council) cannot refuse an application for a secondary dwelling based on parking - that is, if no additional parking is to be provided on the site. In this instance, it would be unreasonable to request the applicant amend plans to show additional off-street parking.

The retention of the existing off-street vehicle parking will continue to provide safe and convenient vehicular access to the site.

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

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

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

Accordingly Council as the consent authority grant Development Consent to DA2019/0880 for Alterations and additions to existing building and change of use to a dwelling house and secondary dwelling on land at Lot 21 DP 508707, 63 Alexander Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-0-181 Revision H Demolition Plan - Ground Floor	22 February 2019	Dickson Rothschild
DA-0-182 Revision H Demolition Plan - Level 1	22 February 2019	Dickson Rothschild
DA-0-211 Revision J Ground Floor Plan	22 February 2019	Dickson Rothschild
DA-0-212 Revision K Level 1 Floor Plan	22 February 2019	Dickson Rothschild
DA-0-213 Revision F Roof Plan	22 February 2019	Dickson Rothschild
DA-0-301 Revision I Western Elevation	22 February 2019	Dickson Rothschild
DA-0-302 Revision I Eastern Elevation	22 February 2019	Dickson Rothschild
DA-0-303 Revision H Northern Elevation	22 February 2019	Dickson Rothschild
DA-0-304 Revision H Southern Elevation	22 February 2019	Dickson Rothschild

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Flood Risk Management Report	10 October 2019	Wilson Consulting Engineers
BASIX Certificate A350476	26 July 2019	Philip Bull

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	26 July 2019	Philip Bull

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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house and attached secondary dwelling.

A dwelling house is defined as:

“means a building containing only one dwelling”
(development is defined by the Manly Local Environment Plan 2013 (as amended) Dictionary)

A secondary dwelling is defined as:

“secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling”

(development is defined by the Manly Local Environment Plan 2013 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

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) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative

change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

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

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

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. Flooding

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 3.65m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 3.65m AHD unless adequately protected from floodwaters in accordance with industry standards.

Flood Emergency Response – E2

Appropriate access to the upstairs floor level for the purpose of sheltering in place is to be available from all areas of both the primary and the secondary dwellings. In

particular, access is to be available from the secondary dwelling to the stairwell as shown on Drawing DA-0-211 Rev J (30.9.2019).

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

7. **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.

8. **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:

- "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.

9. **Change of Building Class / Building Upgrade**

The existing building that is proposed to be converted to a secondary dwelling will result in a change of classification to a Class 2 building and will be required to be upgraded to comply with Parts C, D, E & F (specifically sound transmission ratings) of the Building Code of Australia.

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 fire safety and for building occupant safety.

10. **Laundry Facilities**

The existing building that is proposed to be converted to a secondary dwelling is required to comply with *Part F 2.1 Facilities in Residential Buildings of the Building Code of Australia*. That is, prior to the issue of the Construction Certificate, the plans are to be amended to reflect laundry facilities within the secondary dwelling.

Reason: to ensure adequate provision is made for building occupant health and amenity.

11. BCA Report (Class 2 - 9)

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be prepared by an appropriately accredited Certifier * is to be provided prior to the issue of a Construction Certificate, addressing the following:

- The Report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed to satisfy provisions of Sections C, D, E and F of the Building Code of Australia.
- The Report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:
 - i) restrict the spread of fire from the building to other buildings nearby, and
 - ii) protect persons using the building, and to facilitate their egress from the build
 - iii) where appropriate, provide access for persons with a disability, and
 - iv) provide facilities and services appropriate for the development

* To be regarded as an 'appropriately qualified accredited certifier' the certifier must hold the relevant level of accreditation that would enable the certifier to issue a Construction Certificate for the subject building.

Reason: to ensure adequate provision is made for health, amenity, access and fire safety for building occupant health and safety.

12. Side and Rear Boundary Fence

Owners consent is required from all relevant property owners for shared boundary fences. As Owners Consent was not submitted with this application, it is then considered to be a civil issue under the *Dividing Fences Act 1991*, and as such, Council cannot grant consent for the proposed permeable fence.

Prior to the issue of the Construction Certificate, the proposed side and rear fence is to be deleted from all plans.

Reason: to ensure development remains wholly within the subject site, being 63 Alexander Street, Manly.

13. Boundary Survey

A Boundary Survey is to be conducted of the subject site prior to the issue of a Construction Certificate. The Boundary Survey is to be prepared and signed by a registered surveyor.

Reason: to ensure the proposed works are contained wholly within the subject site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

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:

- Work Health and Safety Act
- Work Health and Safety Regulation
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002

(1998)

- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.
- 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. **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

16. **Change of Use**

A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

Reason: Statutory requirement under S109N of the Environmental Planning & Assessment Act 1979.

17. **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.

18. **Change of Building Class / Building Upgrade**

Prior to the issue of an interim or Occupation Certificate, details demonstrating implementation

and compliance with Parts C, D, E & F (specifically sound transmission ratings) of the Building Code of Australia in relation to the conversion of the existing building into a Class 2 building are to be provided to the Principal Certifying Authority.

Reason: to ensure adequate provision is made for fire safety and for building occupant safety.

19. **Sound Transmission and Insulation (Class 2)**

Prior to the issue of any interim or final Occupation Certificate, details demonstrating implementation and compliance with *Part F5 Sound Transmission and Insulation of the Building Code of Australia* are to be provided to the Principal Certifier.

Reason: to ensure adequate provision is made for building occupant health and amenity.

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

20. **Blank condition for on going**

The finished works are to be contained wholly within the property boundaries of 63 Alexander Street.

Reason: to ensure there is no impact upon neighbouring properties.

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

Signed



Megan Surtees, Planner

The application is determined on 29/10/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments