

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2020/1324 |
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| Responsible Officer: | Adam Croft |
| Land to be developed (Address): | Lot 2 DP 236331, 135 Seaforth Crescent SEAFORTH NSW 2092 |
| Proposed Development: | Alterations and additions to a dwelling house including swimming pool |
| 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: | Paul Dennis Barrett |
| Applicant: | Urban Escape |

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| Application Lodged: | 19/10/2020 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 29/10/2020 to 12/11/2020 |
| Advertised: | Not Advertised |
| Submissions Received: | 2 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 300,000.00 |
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for works as follows:

- New swimming pool/spa and deck
- New stair access from dwelling to swimming pool
- Landscaping works including planting and stone retaining walls

Insufficient detail has been provided in relation to the proposed cantilevered pergola indicated on the plans. As such, a condition is included requiring the deletion of the pergola from the proposal.

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 - 5.10 Heritage conservation
 Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils
 Manly Local Environmental Plan 2013 - 6.2 Earthworks
 Manly Local Environmental Plan 2013 - 6.5 Terrestrial biodiversity
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Development Control Plan - 3.3.1 Landscaping Design
 Manly Development Control Plan - 3.3.2 Preservation of Trees or Bushland Vegetation
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 3.9 Mechanical Plant Equipment
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping
 Manly Development Control Plan - 4.1.8 Development on Sloping Sites
 Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features
 Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

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|-----------------------------------|--|
| Property Description: | Lot 2 DP 236331 , 135 Seaforth Crescent SEAFORTH NSW 2092 |
| Detailed Site Description: | <p>The subject site consists of one allotment located on the western side of Seaforth Crescent.</p> <p>The site is irregular in shape with a frontage of 5.08m along Seaforth Crescent and a depth of 56.78m. The site has a surveyed area of 649.8m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates an existing four storey dwelling house.</p> |

The site slopes steeply away to the west from Seaforth Crescent and contains several rocky cliff outcrops, with a total fall of 35.86m from east to west.

The site is heavily vegetated and contains a total of 14 significant trees.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by multi-storey detached dwellings in a landscaped setting.

Map:



SITE HISTORY

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

DA0077/2013 - Alterations and additions to an existing two (2) level dwelling including an additional two (2) levels with rear decks, access stairs and tree removal - Approved 6 November 2013.

DA0077/2013 - Part 2 - Section 96 to modify approved Alterations and additions to an existing two (2) level dwelling including an additional two (2) levels with rear decks, access stairs and tree removal – involving the deletion of condition 35 in relation to On Site Detention and condition 36 in relation to a positive covenant - Approved 8 December 2014.

DA2019/1111 - Alterations and additions to a dwelling house including a swimming pool - Withdrawn.

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)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. 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 clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |

| 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 not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 29/10/2020 to 12/11/2020 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 Ian Graham | 133 Seaforth Crescent SEAFORTH NSW 2092 |
| Mr Peter John Nicholson | 135 A Seaforth Crescent SEAFORTH NSW 2092 |

The matters raised within the submissions are addressed as follows:

- Construction management - access to the site

Comment:

A condition of consent is included requiring the preparation of a Construction Management Plan, including details of access and transportation of equipment and materials to and across the site.

- Biodiversity impact

Comment:

The development has been assessed by Council's Biodiversity and Landscape teams. The proposed works and tree removal on the site is found to be acceptable in relation to the relevant controls, subject to the recommended conditions including the provision of replacement native planting.

- Site stability

Comment:

The development proposes minimal excavation of the site and a geotechnical report has been provided, including recommendations to be incorporated into the development. Conditions are included to ensure that suitable sediment and erosion controls are in place during construction until the site has been stabilised with vegetation.

- Amenity impacts and screen planting

Comment:

The proposed swimming pool location and height is appropriate in the context of the site and is suitably screened by the existing and proposed vegetation. A condition is included requiring the replacement of the proposed bamboo planting with a native screening species.

REFERRALS

| Internal Referral Body | Comments |
|------------------------|---|
| Landscape Officer | <p>The proposal is for the construction of a proposed swimming pool and associated deck, shade structure and landscape works.</p> <p>Council's Landscape Referral section have assessed the application against the Manly Local Environment Plan, and against the following landscape controls of Manly DCP 2013 (but not limited to):</p> <ul style="list-style-type: none"> • section 3: General Principles of Development, including but not limited to clauses 3.3.1 Landscape Design, and 3.3.2 Preservation of Trees and Bushland Vegetation, • section 4: Development Controls and Development Types, including but not limited to clauses 4.1.5 Open Space and Landscaping. <p>The existing landscape character of the site is a typical suburban garden with structures, stairs access, retaining walls, lawn and gardens, and exposed rock outcrops.</p> <p>A Landscape Plan is provided with the application that includes replacement tree planting and screening for the proposed works. The proposed plant schedule shall be amended to remove the Bamboo planting as sufficient area is available for an alternative native screening species to utilised, and additionally Agave shall be removed and replaced with a non self-spreading species.</p> |

| Internal Referral Body | Comments |
|----------------------------------|---|
| | <p>A Arboricultural Impact Assessment is provided with the application reporting on existing trees within 5 metres of development works. The report recommends the removal of six existing trees impacted by the works. All existing trees proposed for removal are assessed in poor condition. Removal of the existing trees shall be subject to replacement as imposed by conditions of consent. All existing trees within adjoining properties shall be protected.</p> <p>Landscape Referral raise no objections, subject to conditions of consent.</p> |
| NECC (Bushland and Biodiversity) | <p>Council's Bushland and Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Manly Local Environmental Plan (MLEP) - 6.5 Terrestrial Biodiversity</p> <p>The application seeks to remove six (6) prescribed trees (Standfast Tree Services 2020), including two (2) locally-indigenous trees (<i>Glochidion ferdinandi</i>), to be replaced in accordance with the submitted landscape plan (Urban Escape 2019) which includes a minimum of 5 <i>Acmena smithii</i> (Lilly Pilly) and 10 <i>Casuarina glauca</i>. The provision of these replacement plantings ensures consistency with 6.5 of the Manly LEP.</p> <p>Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p> |
| NECC (Coast and Catchments) | <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP.</p> <p>The application has also been assessed using Northern Beaches SREP assessment template.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Coastal Environment</p> |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13 (coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under Clause 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005 Harbour Foreshores & Waterways Area</p> <p>The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 2, Clause 14 and Part 3, Division 2 apply in assessing this DA.</p> <p>On internal assessment, it is determined that the Planning Principles and Matters for Consideration of the Area have been met.</p> <p>Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005</p> <p>The subject site is located within a foreshore area identified on the map and therefore the DCP applies to the proposed development.</p> <p>As the proposal is to construct a swimming pool/spa, the development needs to follow Section 5.13: Swimming Pool of the Chapter 5: Design Guidelines for Land-Based Development of the Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. This will be conditioned.</p> <p>Manly LEP 2013 and Manly DCP Foreshores Scenic Protection Area Management</p> <p>The subject site is also shown to be as "Manly Foreshores Scenic Protection Area" on Council's Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site.</p> <p>On internal assessment, the DA satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013.</p> |

| Internal Referral Body | Comments |
|--------------------------------|---|
| | <p>As such, it is considered that the application does comply with the requirements of the Manly DCP 2013.</p> <p>Swimming Pool/Spa As the proposal is to construct a swimming pool/spa, the development needs to follow objectives and requirements of the Clause 4.1.9: Swimming Pools, Spa and Water Features of the Manly DCP 2013. This will be conditioned.</p> |
| NECC (Development Engineering) | Development Engineering has no objection to the application subject to the following condition 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. |
| Aboriginal Heritage Office | <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, , Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p> |

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 (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.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject property is located within the Foreshores and Waterways Area therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), and Clause 26 (relating to maintenance, protection and enhancement of views) has been undertaken. The proposal is considered by Council's Coast and Catchments Officer to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

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:

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 proposal is unlikely to result in increased risk of coastal hazards on the site and surrounding land.

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 | 4.8m | N/A | Yes |
| Special height provisions | RL 62.92 | Works: RL 41.25 | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|--------------------------------------|------------------------------|
| 4.3 Height of buildings | Yes |
| 4.3A Special height provisions | Yes |
| 5.10 Heritage conservation | Yes |
| 6.1 Acid sulfate soils | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Stormwater management | Yes |
| 6.5 Terrestrial biodiversity | Yes |
| 6.9 Foreshore scenic protection area | Yes |
| 6.12 Essential services | Yes |

Detailed Assessment

5.10 Heritage conservation

The site is mapped as high potential for Aboriginal sites and the application was referred to the Aboriginal Heritage Office for comment. No objection was raised to the proposal, subject to conditions.

6.1 Acid sulfate soils

Clause 6.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land is required to be assessed to determine if any impact will occur.

The proposed development will not significantly affect the watertable.

6.2 Earthworks

The development is designed to minimise the need for excavation and fill works. The application is accompanied by a geotechnical report confirming that the development is suitable for the site. The swimming pool is located on an existing leveled lawn area and the base of the pool sits largely at or above natural ground level. The proposal is considered to be acceptable in relation to this control.

6.5 Terrestrial biodiversity

Council's Biodiversity Officer concluded that the proposal is consistent with the applicable controls, subject to the proposed replacement planting and recommended conditions of consent.

6.9 Foreshore scenic protection area

The proposed works are ancillary to the existing dwelling and are located below the level of the existing dwelling and tree canopy. The proposal will not result in unreasonable impact in relation to visual aesthetic amenity or views to and from Sydney Harbour.

Manly Development Control Plan

Built Form Controls

| Built Form Controls - Site Area: 649.8m ² | Requirement | Proposed | Complies |
|---|---|------------------------------|----------|
| 4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4 | Open space 60% of site area 389.88m ² | 71% 461.4m ² | Yes |
| 4.1.5.2 Landscaped Area | Landscaped area 40% of open space 184.56m ² | 51.6% 238.3m ² | Yes |
| 4.1.5.3 Private Open Space | 18m ² per dwelling | > 18m ² | Yes |
| 4.1.9 Swimming Pools, Spas and Water Features | 1m height above ground | 3.6m | No |
| | 1m curtilage side/rear setback | 1.1m | Yes |
| | 1.5m water side/rear setback | 3.8m | Yes |

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

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 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 |
| 3.4.1 Sunlight Access and Overshadowing | Yes | Yes |
| 3.4.2 Privacy and Security | Yes | Yes |
| 3.4.3 Maintenance of Views | Yes | Yes |
| 3.7 Stormwater Management | Yes | Yes |
| 3.9 Mechanical Plant Equipment | Yes | Yes |
| 4.1.5 Open Space and Landscaping | Yes | Yes |
| 4.1.8 Development on Sloping Sites | Yes | Yes |
| 4.1.9 Swimming Pools, Spas and Water Features | No | Yes |
| 4.4.5 Earthworks (Excavation and Filling) | Yes | Yes |
| 5.4.1 Foreshore Scenic Protection Area | Yes | Yes |

Detailed Assessment

3.3.1 Landscaping Design

Council's Landscape Officer raised no objection to the proposed landscape design and tree removal, subject to the recommended conditions of consent.

3.3.2 Preservation of Trees or Bushland Vegetation

The proposed tree removal is assessed as acceptable, subject to the conditions of consent and proposed replacement planting.

3.4.1 Sunlight Access and Overshadowing

Merit consideration

The proposed swimming pool is set back 5.2m from the southern boundary and adjoins the access handle to No. 133A Seaforth Crescent. As such, the proposal will not result in any material overshadowing of dwellings or private open space areas on adjoining sites, and no shadow diagrams are considered necessary in this case.

3.4.2 Privacy and Security

Compliance with control

The proposed swimming pool is appropriately located in the context of the site. The proposed southern side setback of 5.2m and integrated feature wall provides screening between the pool and the inclinator rail and adjoining properties to the south. The northern boundary of the site adjoins an access handle to No. 135A Seaforth Crescent and the proposed pool location will not adversely impact the amenity of any dwellings or private open space areas. A landscape screen is also provided to the northern

boundary as a visual buffer.

Given the above assessment the proposal is considered to be acceptable in relation to privacy.

3.9 Mechanical Plant Equipment

The proposed pool pump is located within a filter box under the pool structure, and is sufficiently separated from any adjoining dwellings and private open space areas.

4.1.5 Open Space and Landscaping

The proposed total open space and landscaped area calculations comply with the requirements of this control.

In order to maintain consistency with objective 1 and ensure the retention and augmentation of important landscape features, the proposed stone retaining walls and landscaping works atop the sandstone rock outcrop to the east of the swimming pool/deck are to be deleted. Further, all rock outcrops outside of the development footprint are to be retained and protected, with suitable conditions of consent imposed in this regard.

4.1.8 Development on Sloping Sites

The development application is accompanied by a Geotechnical Report confirming that the development is suitable for the site. A condition of consent is included to ensure consistency with the recommendations of the report.

4.1.9 Swimming Pools, Spas and Water Features

Description of non-compliance

Clause 4.1.9.1 requires that swimming pools and their curtilage not exceed more than 1m above natural ground level, except where the boundary setbacks are equivalent to the proposed height above ground level.

The proposed swimming pool and decking are non-compliant with this control, with a maximum height of 3.6m above ground level at the northern elevation and setback of 1.1m from the northern side boundary.

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 be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;

Comment:

The proposed swimming pool location is appropriate given the steeply sloping nature of the site and the locations of the existing inclinator rail and rock outcrops. The pool and deck are sufficiently separated from all dwellings and private open space areas on adjoining properties. The pool filter is suitably located within a filter box under the pool structure.

Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;

Comment:

The proposed swimming pool is located at the rear of the dwelling and will not adversely impact the streetscape or character of the locality.

Objective 3) To integrate landscaping; and

Comment:

The proposal incorporates landscaping works to visually screen the development from adjoining properties.

Objective 4) To become an emergency water resource in bush fire prone areas.

Comment:

N/A

4.4.5 Earthworks (Excavation and Filling)

4.4.5.1(a) requires that earthworks be limited to the development footprint of the site to protect significant natural features including prominent rock outcrops. As such, a condition of consent is included requiring the deletion of the proposed stone retaining walls and landscaping atop the sandstone rock outcrop to the east of the swimming pool/deck. A further condition requires that all rock outcrops outside of the development footprint be retained and protected.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$3,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$300,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/1324 for Alterations and additions to a dwelling house including swimming pool on land at Lot 2 DP 236331, 135 Seaforth Crescent, 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 |
| Site Analysis Plan | 23 September 2020 | Urban Escape |
| North Elevation | 29 September 2020 | Urban Escape |
| South Elevation | 29 September 2020 | Urban Escape |
| Western Elevation | 29 September 2020 | Urban Escape |
| Swimming Pool Plan | 23 September 2020 | Urban Escape |
| Swimming Pool Section AA | 29 September 2020 | Urban Escape |
| Swimming Pool Section BB | 29 September 2020 | Urban Escape |

| | | |
|--------------------------|-------------------|--------------|
| Swimming Pool Section CC | 29 September 2020 | Urban Escape |
|--------------------------|-------------------|--------------|

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|-------------------|--------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Geotechnical Investigation | 30 September 2020 | White Geotechnical Group |
| Arboricultural Impact Assessment | 12 October 2020 | Standfast Tree Services |

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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:

| Landscape Plans | | |
|------------------------|-------------------|--------------------|
| Drawing No. | Dated | Prepared By |
| Landscape Concept Plan | 23 September 2020 | Urban Escape |
| Planting Plan | 23 September 2020 | Urban Escape |

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

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

2. Prescribed Conditions

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

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

following information:

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

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

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

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

Reason: Legislative requirement.

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are

breaking up/removing materials from the site).

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

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or

adjustments as those Authorities may deem necessary.

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

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

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

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

4. **Geotechnical Report**

The development shall be carried out in accordance with all recommendations, including the required inspections, contained within the Geotechnical Report prepared by White Geotechnical Group dated 30 September 2020.

Reason: To ensure the development is consistent with the report and good engineering and building practice.

5. **Approved Works**

All works shall be contained wholly within the subject site and must not encroach onto adjoining properties.

Reason: To ensure consistency with the approval.

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,000.00 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 \$300,000.00.

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.

7. Security Bond

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

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

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

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

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

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

8. 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 WATER MANAGEMENT FOR DEVELOPMENT POLICY.

Details 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.

9. **Amendment of Landscape Plans**

The submitted Landscape Plan (Urban Escape 2020) is to be amended in accordance with the following:

- Replacement of the following proposed species, considered environmental weeds (Agave attenuata and Bambusa multiplex) with locally indigenous species found within the Native Gardening Booklet available on Council's website. <https://www.northernbeaches.nsw.gov.au/node/34930>

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

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

10. **Boundary Identification Survey**

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

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

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

11. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

12. Swimming Pools

The backwash of Swimming Pool water must be discharged to Sydney Water's sewer in accordance with Australian/New Zealand Standard AS/NZS 3500. Detailed plans and specification must be submitted prior to the issue of the Construction Certificate. The drawings must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with Australian/New Zealand Standard AS/NZS 3500.

Reason: To ensure compliance with legislation and Australian Standards and to protect public health, amenity and to ensure the protection and preservation of receiving waters.

13. Swimming Pool Design Considerations

Construction of swimming pool should meet the design guidelines described in Clause 5.13 of the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005.

To minimise the visual impact of swimming pools when viewed from the waterway the following requirements apply:

- swimming pools and surrounding areas shall not be cantilevered over the waterway;
- construction of swimming pools should avoid reshaping of the terrain and removal of native vegetation or significant cultural trees;
- swimming pools should be sited away from native vegetation to avoid chemical splash; and • where a swimming pool protrudes beyond natural ground level, mitigation measures to minimise the visual impact are to be implemented. These include: – landscaping to screen the exposed sides of the pool, and – colour and texture of the materials comprising the exposed sides are to match natural elements such as tree trunks and stone or where there is a seawall, any exposed sides of the pool should match the seawall.

This should also comply with objectives and requirements of the Clause 4.1.9: Swimming Pools, Spa and Water Features of the Manly DCP 2013

Reason: Swimming pool is designed and constructed considering the landscape and view from the waterways.

14. Pergola

No consent is granted for the proposed pergola indicated on the plans.

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

Reason: To ensure consistency with the proposed development.

15. Rock Outcrop

The proposed stone retaining walls and planting atop the existing rock outcrop located between

the swimming pool and dwelling are not permitted and shall be deleted from the plans.

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

Reason: To retain and protect significant natural features on the site.

16. Construction Management Plan

A Construction Management Plan is to be prepared for the development given its constrained location and access arrangements.

The Construction Management Plan should include relating to (but not be limited to) the following:

- i) details regarding access to the site for trucks and construction vehicles
- ii) the proposed method of loading and unloading demolition, excavation and construction machinery, equipment and materials
- iii) the proposed method of access to and across the subject site for demolition, excavation and construction machinery, equipment and materials
- iv) details regarding the storage of machinery, equipment and building materials on the site
- v) details regarding the provision of parking for workers and construction vehicles
- vi) details regarding the maintenance of access to adjoining properties, noting that the shared inclinator must remain accessible for use by adjoining residents at all times.

The Management Plan is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate and complied with for the duration of works.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

17. Soil and Water Management Program

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. Dead or Injured Wildlife

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

19. Tree removal within the property

This consent approves the removal of the following trees within the property (as recommended in the Arboricultural Impact Assessment):

- T2, T3, T5 and T7 - *Callitris rhomboidea*, subject to at least two tree replacements of the species within the site,
- T6 and T8 - *Glochidion ferdinandi*, subject to at least one tree replacement of the species within the site.

Reason: to enable authorised building works

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

20. 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.

21. Removing, Handling and Disposing of Asbestos

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

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

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

22. 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.

23. Traffic Control During Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be

maintained at all times during the works

Reason: Public Safety.

24. Tree and vegetation protection

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

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, as listed in the following sections:

- i) section 2 - Findings,
- ii) section 3 - Conclusions/Recommendations,
- iii) section 4 and Appendix 1 - Tree Protection Plan,
- iv) Appendix 3 - Stem Protection,
- v) Appendix 4 - Tree Protection Measures.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

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

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: tree and vegetation protection.

25. **Protection of rock and sites of significance**

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: preservation of significant environmental features.

26. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

27. **Shared Inclinor**

The shared inclinor must be accessible for use by residents and visitors of the adjoining properties at all times.

Reason: To maintain access and minimise inconvenience to adjoining properties.

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

28. **Landscape completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive of the following conditions:

- i) the planting schedule shall include at least two *Callitris rhomboidea* tree species and at least one *Glochidion ferdinandi* tree species,
- ii) all trees shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,

- iii) tree planting shall be located within a 9m² deep soil area within the site and be located a minimum of 3 metres from existing and proposed buildings and other trees, and located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views,
- iv) the nominated Bamboo planting shall be deleted and replaced as sufficient area is available for native screening species to be utilised,
- v) the nominated Agave planting shall be removed and replaced with a non self-spreading species.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: environmental amenity.

29. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: tree protection.

30. **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.

31. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Urban Escape 2019) and these conditions of consent.

To mitigate effects on biodiversity from the removal of 2 *Glochidion ferdinandi* measuring 8-10m in height (Standfast Tree Services 2020), at least 2 *Acmena smithii* (Lilly Pilly) must be allowed to reach heights of 8-10 metres.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

32. **No Weeds Imported On To The Site**

No Priority or environmental weeds are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

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

33. **Landscape maintenance**

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

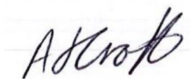
If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: to maintain local environmental amenity.

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

Signed



Adam Croft, Planner

The application is determined on 22/02/2021, under the delegated authority of:



Anna Williams, Manager Development Assessments