

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0945
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Responsible Officer:	Kelsey Wilkes
Land to be developed (Address):	Lot 70 DP 14521, 43 Eurobin Avenue MANLY NSW 2095
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Peter Gordon Green Georgina Ruth Green
Applicant:	Georgina Ruth Green

Application Lodged:	30/08/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	10/09/2019 to 24/09/2019
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 176,900.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for alterations and additions to an existing dwelling house including:

- Ground floor internal alterations
- Reconfiguration of existing rear external wall and addition of new door and window
- New 22.8m² timber deck to adjoin the rear of the dwelling at 44mm above existing ground level
- Timber bargeboard over deck
- Construction of a first floor addition to accommodate two bedrooms, two bathrooms and living room. The addition is set back from the street and confined to above the rear, northern portion of the existing dwelling.

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 - 4.1.4 Setbacks (front, side and rear) and Building Separation
Manly Development Control Plan - 4.1.5 Open Space and Landscaping

SITE DESCRIPTION

Property Description:	Lot 70 DP 14521 , 43 Eurobin Avenue MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of Lot 70 within DP 14521 and is located on the northern side of Eurobin Avenue, Manly. The site is listed within Heritage Item I154 being a group of 2 storey residential flat buildings.</p> <p>The site is regular in shape with a frontage of 14.325m along Eurobin Avenue and a depth of 30.480m. The site has a surveyed area of 436.6m².</p> <p>The site is located within the R1 General Residential zone and accommodates an existing single storey 1930's interwar bungalow with an attached single car garage and single carport adjoining the western side of the dwelling.</p> <p>The site has minimal slope and is characterised by areas of lawn and small to medium shrubs. The dwelling facade is screened by two large native trees within the public road reserve. The rear of the site adjoins Lagoon Park and overlooks Manly Lagoon.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development on both the northern and southern sides of Eurobin Avenue is characterised by residential flat buildings and dwelling houses. The college campus Convent of the Good Samaritan: Stella Maris (Heritage Item I159) is located to the east of the site, on the southern side of Eurobin Avenue.

Map:



Section 4.15 Matters for Consideration'	Comments
planning agreement	
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 clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of</p>

Section 4.15 Matters for Consideration'	Comments
	the proposal. (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.
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 1 submission/s from:

Name:	Address:
Mrs Rebecca Ann Cook Mr Matthew James Cook	45 Eurobin Avenue MANLY NSW 2095

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

- Privacy relating to eastern elevation louvre windows
- Privacy relating to northern elevation windows
- Proposed colours and materials

The matters raised within the submissions are addressed as follows:

- Privacy relating to eastern elevation louvre windows
The objector requests that the eastern elevation louvre windows facing their property be obscure glass to avoid overlooking into their private open space.
Comment:
The eastern elevation windows referred to by the objector are highlight windows with a sill

height of 1.8 meters above first floor level. Due the height of the window, direct overlooking is prevented and it is considered that the objectors privacy will not be unreasonably or adversely impacted. Requesting that the window contain obscure glazing would be unreasonable in this particular circumstance.

- Privacy relating to northern elevation windows

The objector requests that the northern elevation windows overlooking Lagoon Park and their private open space / swimming pool be obscure glass to prevent overlooking.

Comment:

Sufficient and established screen landscaping is located within Lagoon Park, adjacent to the subject site's rear boundary and for this reason it is considered that an acceptable and reasonable level of privacy is maintained to park users.

The proposed northern elevation windows are angled to directly overlook the subject sites rear boundary and are off-set to the objectors private open space and swimming pool which avoids direct overlooking. It is considered that these windows have been designed to consider privacy due to their modest in size and as they are distributed as tall but narrow openings across the rear facade which functions to break up the line of site when utilising these rooms. For these reasons, and as the preferred location of windows is to overlook the subject site's own rear yard, it is considered unreasonable to request that these windows contain obscure class in this particular circumstance. Furthermore, obscuring solar access and any view from these windows would severely impact on the amenity of the subject site. Council is satisfied that the design and location of these windows will not result in an adverse or unreasonable impact to adjoining sites.

- Proposed colours and materials

The objector seeks clarification as to the colours and materials which will be used for the proposed development.

Comment:

The application was referred to Council's Heritage Advisor for comment. Conditions have been included within this consent which require that the original face brickwork is not rendered or painted and that external colours and materials for the first floor and roof are recessive colours. These colours are required to be submitted to Council's Heritage Advisor for comment prior to construction. This will ensure that new colours do not dominate the existing character of the house and the original character of the existing dwelling within the grouped heritage item is preserved.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>Does not appear that this development will disturb the potential acid soil</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Landscape Officer	The plans indicate that no significant landscape features are affected

Internal Referral Body	Comments
	<p>by the proposed works</p> <p>No objections to approval subject to conditions as recommended.</p>
NECC (Bushland and Biodiversity)	<p>The subject land has been included in the 'Coastal Environment Area' Map under the State the Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13 of the CM SEPP apply for this DA.</p> <p>The development is designed, sited and will be managed to avoid an adverse impact on the ecological environment, native vegetation and public open space. As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</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 (SREP), 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005 and also been assessed against requirements of the Manly LEP 2013 and DCP.</p> <p>State Environmental Planning Policy (Coastal Management) 2018</p> <p>12 Development on land within the coastal vulnerability area</p> <p><i>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:</i></p> <ul style="list-style-type: none"> (a) <i>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</i> (b) <i>the proposed development:</i> <ul style="list-style-type: none"> (i) <i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i> (ii) <i>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</i> (iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i> (c) <i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i> <p><u>Comment:</u> The subject land is not located in the Sydney Harbour Catchment and hence not covered under the SREP 2005.</p>

Internal Referral Body	Comments
	<p>The subject land has been included both in the 'Coastal Environment Area' and 'Coastal Use Area' map but not been included on the Coastal Vulnerability Area Map under the State the Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 12, 13, 14 and 15 of the CM SEPP apply for this DA</p> <p>On internal assessment, the proposed development meets the requirements of the clauses 13 (Coastal Environment) and 14 (Coastal Use). In regard to clauses 12 and 15 of the CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.</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>
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following condition of consent.
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against the following:</p> <ul style="list-style-type: none"> • SEPP (Coastal Management) 2018 • Manly LEP 2013 • Manly DCP 2013 <p>So long as erosion and sediment controls are in place prior to any work on site and maintained until all work is complete and ground cover is re-established, the application has been assessed as meeting the requirements of SEPP (Coastal Management) 2018.</p> <p>This application is recommended for approval subject to conditions.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed alterations and additions generally comply with the flood related requirements of the DCP and LEP.</p> <p>The extension of 4.6m² below the FPL at the rear of the dwelling, at a level of 3.48 mAHD to match the existing floor level, is permissible under Clause F4 of Section 5.4.3 of the DCP.</p> <p>The available flood storage below the 1% AEP flood level of 3.1 mAHD is maintained, with calculations of compensatory works detailed in the Flood Risk Assessment by Waddington Consultants (28.08.19).</p> <p>No flood related objections.</p>
Parks, reserves, beaches, foreshore	No issues with the proposal.

Internal Referral Body	Comments		
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS		
	Discussion of reason for referral		
	<p>The proposal has been referred to Heritage as the site is listed as heritage item with local significance - Group of 2 storey residential flat buildings - in Schedule 5 of Manly Local Environmental Plan 2013. Although the property is a single storey dwelling the listing covers all properties on the north side of Eurobin Avenue as well as 55 Collingwood Street.</p> <p>The site is also located adjacent to the listed heritage item I166 - Row of Norfolk Island Pine trees (<i>Araucaria heterophylla</i>) at Lagoon Park, Manly.</p>		
	Details of heritage items affected		
	<p>Details of the item as contained within the Pittwater heritage inventory:</p> <p><u>Statement of significance:</u> A fine example of flat buildings.</p> <p>The listing covers the residential flat buildings on the northern side of the street and 43 Eurobin Avenue is a single storey dwelling house. However Heritage considers that given the property was constructed in a similar period and maintains many elements of an interwar Californian Bungalow that it is of heritage value.</p> <p><u>Physical Description:</u></p> <p>The dwelling is a single storey house with a concrete tiled (resembling terracotta tiles and not original) hipped roof with projecting gabled box front, dark coloured face brick walls and lead light glazed casement windows. Internal details include timber floors and timber detailing. A row of Norfolk Island Pine trees planted between the boundary of private allotments and the Lagoon Park. Visually prominent landscape elements.</p>		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
RAIA Register of 20th	No		

Internal Referral Body	Comments		
	Century Buildings of Significance		
	Other	No	
	Consideration of Application		
	The proposal seeks consent for alterations and additions to the existing building and construction of a second storey. Overall the approach is considered acceptable subject to the following matters that were raised in the PLM:		
	<ul style="list-style-type: none">• Metal roof and window frames: Recessive colours to be preferred rather than the proposed black window frames and Dulux - monument roof colour.• Rendered second floor walls: Again a recessive colour to be preferred rather than black.• Original face brick walls to be retained as existing.		
	Consider against the provisions of CL5.10 of MLEP.		
	Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes		
Further Comments			
COMPLETED BY: Oya Guner, Heritage Advisor			
DATE: 14 November 2019			

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A354706 dated 29 August 2019).

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

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:

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
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hazards.

Comment:

The application was referred to Council's Coast and Catchments Team who determined the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

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:

A full assessment has determined that the proposed development is unlikely to cause an adverse impact on the above-mentioned characteristics of the coastal environment.

- (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:

Council is satisfied that the development is designed, sited and will be managed to avoid an adverse impact on that referred to in subclause (1).

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:

A full assessment has determined that the proposed development is unlikely to have an adverse impact on that mentioned above and Council is satisfied that the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a).

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

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:

Following a full assessment and referral to Council's relevant natural environment bodies, Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on that land or other land.

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	7.9m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1	FSR: 0.48:1	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Stormwater management	Yes
6.6 Riparian land and watercourses	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
Schedule 5 Environmental heritage	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 436.6m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	E: 6.5m (based on flat land)	6m	N/A	Yes
	W: 6.5m (based on flat land)	5.9m	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.6m	N/A	Yes
	Pitch: maximum 35 degrees	20 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	6m	11.1m	N/A	Yes

4.1.4.2 Side Setbacks	E: 2m (based on wall height) W: 1.96m (based on wall height)	2m 4.6m	N/A N/A	Yes Yes
	Windows: 3m	E: 2m W: 4.6m	33% N/A	No Yes
4.1.4.4 Rear Setbacks	8m	7.9m	N/A	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (240.13m ²)	33% (147.6m ²)	40%	No
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (84m ²)	36% (86.6m ²)	N/A	Yes
	2 native trees	0 trees	N/A	Existing and unchanged
4.1.5.3 Private Open Space	18sqm per dwelling	88sqm	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.6 Accessibility	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
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.3 Flood Prone Land	Yes	Yes
5.4.4 Riparian Land and Watercourses	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

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

- The proposal fails to comply with the 8 meter rear setback requirement. Demolition of the ground floor rear external wall and subsequent location of the first floor addition in fact increases the existing setback from 7.3 meters to 7.9 meters. While this is still a 100mm departure from the requirement, this is considered an improved outcome. The development will maintain an acceptable level of solar access to the subject site and adjoining properties. The location of proposed windows overlooking the rear boundary are offset from adjoining private open spaces and will not allow for direct overlooking. These windows do directly overlook Lagoon Park to the north of the site however as the non-compliance is minimal, plant screening is well established and the setback has been increased from existing, it is considered that a reasonable level of privacy and amenity will be maintained to the public recreation space. The increased setback will also expand open space within the subject site.

While the proposal is numerically non-compliant, it presents an improvement to the existing setback and is also considered to be consistent with the underlying objectives of the control. For these reasons, the proposal is supported on merit.

- Within the eastern elevation, the proposed first floor windows are located 2 meters from the eastern side boundary, failing to comply with the requirement which states *all new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3 meters from side boundaries*. As these windows are located 1.8 meters above first floor level, Council is satisfied that the privacy of adjoining property owners will not be adversely or unreasonably affected and for this reason, the non-compliance is supported on merit.

4.1.5 Open Space and Landscaping

The subject site features an existing non-compliance to total open space being 32% (143.4m²), failing to comply with the 55% requirement. The site as proposed, presents a total open space of 33% (147.6m²) of the site, and also fails the numerical requirement of this clause. The proposed works involves partial demolition of existing structures, resulting in an additional 4.2m² of open space on site, a minor improvement to the existing non-compliance. However, as the non-compliant total open space is an existing feature of the site and is not exacerbated by the proposed works, the non-compliance is supported this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$ 885 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 176,900.

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 DA2019/0945 for Alterations and additions to a dwelling house on land at Lot 70 DP 14521, 43 Eurobin Avenue, 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-01 Site Plan and Site Analysis Plan	August 2019	Duffy Regan Design
DA-02 Demolition Plan	August 2019	Duffy Regan Design
DA-03 Ground Floor Plan	August 2019	Duffy Regan Design
DA-04 First Floor Plan	August 2019	Duffy Regan Design
DA-05 Elevations	August 2019	Duffy Regan Design
DA-06 Elevations	August 2019	Duffy Regan Design
DA-07 Sections	August 2019	Duffy Regan Design
DA-08 Landscape Plan and Sediment Erosion Plan	August 2019	Duffy Regan Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Flood Report	28 August 2019	Waddington Consulting Pty Ltd
Heritage Report	16 September 2019	Cracknell & Lonergan Architects Pty Ltd
BASIX Certificate no. A354706	29 August 2019	Duffy Regan Design
Sediment Control Plan	Undated	Green Leaf Construction Pty Ltd

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	Undated	Green Leaf Construction Pty Ltd

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) 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

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$884.50 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 \$176,900.00.

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

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

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

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

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

5. Security Bond

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

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

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

prior to the issue of the Construction Certificate.

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

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

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

6. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003.

Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

7. **Colours are to be recessive**

<Details of alternative colours for the second floor walls, window frames and the metal roof to be submitted the Council's Heritage Advisor for approval. >

Reason: <Colours are to be recessive and not to dominate the existing character of the house.> (DACHECPCC1)

8. **Waste Management Plan**

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

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

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

9. **Flooding**

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

Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity

up to the Probable Maximum Flood Level of 5.6 mAHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

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 3.6 mAHD. 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 3.6 mAHD unless adequately protected from floodwaters in accordance with industry standards.

Floor Levels – F2

The area below the new deck is to be lowered by approx 0.2m to provide compensatory available flood storage, as described in Section 3 of Waddington's Flood Risk Assessment (28.08.19). The underfloor area of the new deck is to be open, to allow flood waters to pass underneath.

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.

10. Compliance with Standards

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. Tree protection

(a) Existing trees which must be retained

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

(b) Tree protection

- i) No tree roots greater than 30mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.

- ii) All structures are to bridge tree roots greater than 30mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

12. Installation and Maintenance of Sediment and Erosion Control

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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. Road Reserve

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

Reason: Public Safety.

14. 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

15. 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.

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

16. **Original face brick work to be retained**

<Original face brick work is not to be rendered or painted.>

Reason: <To preserve the original character of the original dwelling within the heritage item of the group of the houses.> (DACHEGOG1)

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

Signed



Kelsey Wilkes, Planner

The application is determined on 27/11/2019, under the delegated authority of:



Anna Williams, Manager Development Assessments