

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0129
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Responsible Officer:	David Auster
Land to be developed (Address):	Lot 1 DP 1125216, 107 Frenchs Forest Road SEAFORTH NSW 2092
Proposed Development:	Demolition works and construction of a dwelling house
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Michael James Molloy Kathryn Joanne Molloy
Applicant:	Icon Homes Northern Beaches

Application Lodged:	25/02/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	04/03/2021 to 18/03/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	4.4 Floor space ratio: 13.3%
Recommendation:	Approval

Estimated Cost of Works:	\$ 624,820.00
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Executive Summary

The proposal involves demolition of the existing structures on site and construction of a new two storey dwelling. The proposal results in a significant non-compliance with the Floor Space Ratio development standard, and also non-compliance with the side, front and rear setback controls, and the open space control.

Submissions were received from two neighbours to the rear, who raised issues with regard to bulk and scale, view loss, solar access, privacy, and landscaping.

During the assessment the applicant was requested to amend the plans to reduce the overall size of the dwelling, and particularly to decrease floor space and increase setbacks at the upper level. The

amendments reduced the level of non-compliance, although the building remains non-compliant with the above mentioned controls.

The assessment of the amended plans has found that the level of non-compliance proposed is generally acceptable for the reasons discussed within the report, and the application is recommended for approval.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves demolition of the existing structures on site, and construction of a new two storey dwelling. The dwelling will be comprised of the following elements:

Ground Floor:

- Double garage
- Media room
- Open plan living / dining / kitchen
- Rear alfresco

Upper Level:

- Four bedrooms
- Sitting room
- Two bathrooms
- Two walk in robes
- Front balcony off Bed 1

The applicant amended the plans during the assessment process as a result of concerns raised by Council. This resulted in an overall reduction in floor space and increase to proposed setbacks at the upper level, including side and rear setbacks. The amended plans are the subject of this assessment. Due to reducing environmental impacts because of the reduced size of the dwelling, in accordance with the Community Consultation Plan the application was not renotified.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers,

State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.4.3 Maintenance of Views

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

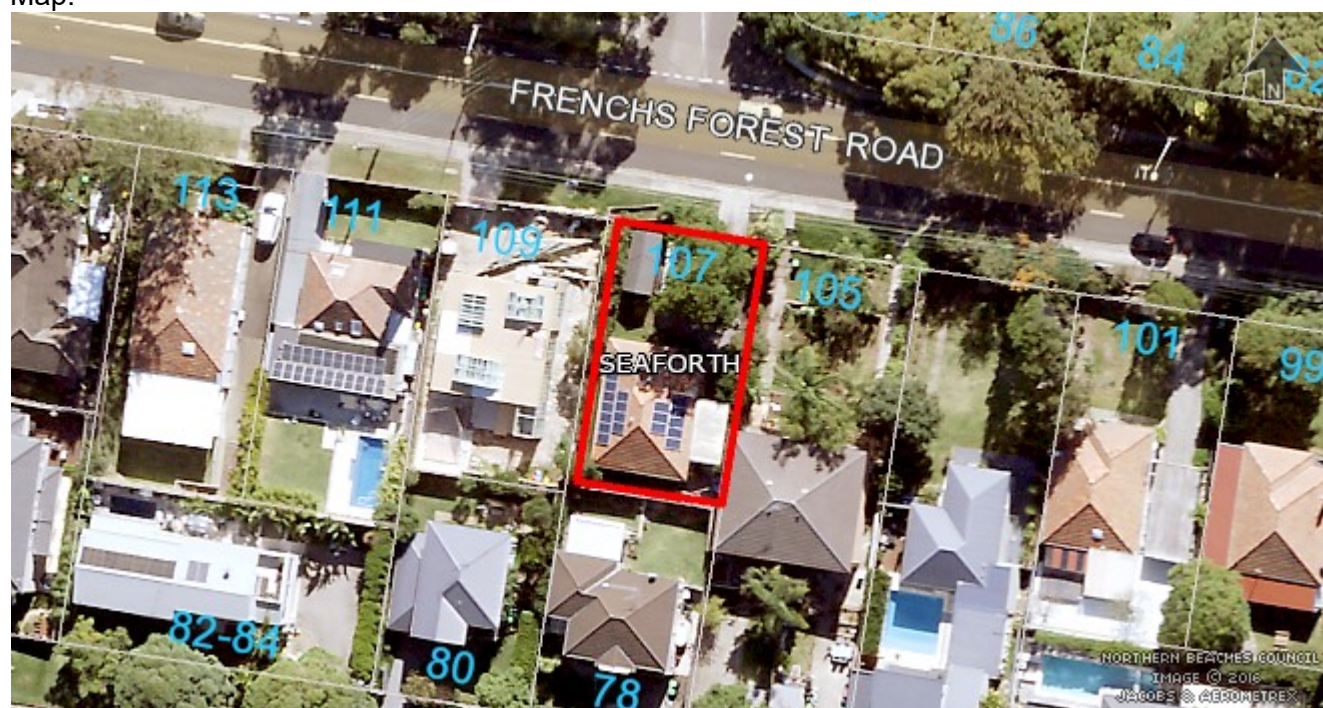
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

SITE DESCRIPTION

Property Description:	Lot 1 DP 1125216 , 107 Frenchs Forest Road SEAFORTH NSW 2092
Detailed Site Description:	The site is a regular shaped lot with an area of 362.59sqm, width of 14.24m, and depth of 25.465m, located on the southern side of Frenchs Forest Road. The site has a gentle cross fall from east to west, and also falls gently from rear to front. The site currently accommodates a single storey dwelling with outbuildings located in the front setback area. Surrounding development consists of detached dwellings of various ages and styles.

Map:



SITE HISTORY

The site has a history of residential use, with no other recorded uses. The existing dwelling appears to have been in place for an extended period of time.

CDC2021/0038 - On 15 January 2021 Complying Development Certificate 200159/01 was issued for the construction of an in-ground swimming pool at the subject address by Garnett Certifications. The applicant has submitted an email to Council requesting to withdraw this approval as a result of the assessment of the current application for a dwelling. Should the application be approved, a condition will be recommended requiring surrender of the Complying Development Certificate.

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)	<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. <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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to non-compliant elements of the proposal. The applicants submitted amended plans and an amended clause 4.6 statement, which are the subject of this assessment. <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. <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

Section 4.15 Matters for Consideration'	Comments
	relevant to this application. <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. <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. <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.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of 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 from 04/03/2021 to 18/03/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and

Assessment Regulation 2000 and the Community Participation Plan.

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

Name:	Address:
Mr Kevin Brian Sullivan	78 Macmillan Street SEAFORTH NSW 2092
Mr Colin William Bruce Ms Rhonda Andrews	80 Macmillan Street SEAFORTH NSW 2092

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

- Privacy
- Solar access
- Outlook / views
- Floor space ratio
- Height
- Landscaping
- Side and rear setbacks

The matters raised within the submissions are addressed as follows:

- **Privacy**

Concerns were raised by the neighbour to the rear (78 Macmillan) with regard to the rear facing upper level bedroom windows. Further concern was raised that the pool in the rear setback (approved by a separate Complying Development Certificate) would limit scope for screen planting.

Comment:

The ground level of the subject site is significantly lower than 78 Macmillan, and the existing rear boundary fence between the properties offers good screening at the lower levels, where both dwellings will have their main living levels. The upper level proposed rear facing windows are two bedroom windows and a bathroom window. The bathroom is noted on the plans as being obscure glazing. The closest bedroom window is setback 8m from the rear boundary in compliance with the rear setback control, and the other bedroom window is setback 9.52m. These are low use rooms, and are located well back from the rear boundary. It is a reasonable expectation to have upper level bedroom windows overlooking a rear yard area, and they will be similar to the bedroom windows located at 78 Macmillan Street which currently overlook into the subject site. The submissions are not supported in relation to this issue.

The CDC for the pool has been withdrawn by the applicant to provide extra landscaped area. No screen planting is proposed along the rear boundary. A condition could be included to provide this. However, the screen planting would need to be a significant height to block views between the upper level bedroom windows, and as a result would likely have significant impacts on solar access of the southern neighbour, which is another objection as discussed below. Given the low use nature of the upper level rooms, combined with the setbacks, the proposal is not considered to result in unreasonable privacy impacts.

- **Solar access**

Concerns were raised with the shadows cast onto 78 and 80 Macmillan Street. Further concerns

were raised that this would lead to increased energy and lighting costs.

Comment:

The shadow diagrams submitted indicate that the southern neighbours will receive compliant solar access in accordance with the requirements of clause 3.4.1 of the DCP. The development will overshadow the rear yard areas of 78 and 80 Macmillan at 9am, but by 12pm on the winter solstice there will be almost no overshadowing of the southern neighbours. At 3pm the shadows fall almost entirely on the eastern neighbour. The amended plans have set the upper level back a minimum of 8m, in compliance with the rear setback requirement in the DCP. The submissions are not supported in this regard.

- **Outlook / views**

Concerns were raised with respect to impacts on the outlook and view from 78 Macmillan Street due to non-compliance with the side boundary setback controls and FSR control.

Comment:

View loss has been discussed in detail under clause 3.4.3 Maintenance of Views in this report. In summary, the proposal is considered to maintain a reasonable sharing of views, despite the non-compliances identified above.

- **Floor space ratio**

Concerns were raised with the proposed non-compliance with the floor space ratio development standard, including impacts caused by the size of the dwellings such as shading, and visual impacts.

Comment:

Floor space ratio is discussed in detail under clause 4.6 in this report. In summary, the proposed variation to the FSR development standard is supported, and the impacts of the development are not considered to be unreasonable. The development maintains significant setbacks at the upper level in particular to the rear neighbours, which sufficiently mitigates privacy and solar access concerns. Overall, in terms of bulk and scale, the proposal will be very similar in design and scale to the neighbouring dwelling to the west, and is considered to be generally consistent with the existing character and scale of development in the area, and consistent with the FSR envisaged by the DCP under clause 4.1.3 Floor Space Ratio.

- **Height**

Concerns were raised with the height of the roof, and resulting impacts on solar access, and visual impacts.

Comment:

The proposal complies with the 8.5m height limit, and with the wall height limits in the DCP. As discussed above, the proposal also complies with solar access requirements, and is not considered to be unreasonable in terms of bulk and scale given the size and scale of neighbouring buildings in the immediate vicinity.

- **Side and rear setbacks**

Concerns were raised with regard to the proposed side and rear setbacks, and resulting impacts included limited landscaping and loss of breeze, visual impacts, and streetscape impacts.

Comment:

The amendments to the plans have increased the side and rear setbacks at the upper level. The

rear setback at the upper level is now compliant with the 8m requirement, and the side setbacks, although still non-compliant based on the wall heights, still maintain significant setbacks both the side boundaries and the neighbouring buildings to the east and west. The proposal is not considered to have unreasonable breezes, visually or on the streetscape. Landscaped area is compliant with the minimum requirements of the DCP also. The submissions are not supported in this regard.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	This application is for the demolition of an existing residential dwelling, and the construction of a new residential dwelling with double garage. Councils Landscape Referral section has considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls: • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation • 4.1.5 Open Space and Landscaping A Landscape Plan is provided with the plan and proposed works include the in-ground planting of trees, shrubs and groundcovers. The Statement of Environment Effects provided with the application notes that some existing trees have been previously been removed under a separate approval. The Architectural Plans indicate that additional trees/hedge screen planting is to be removed as a result of the proposed dwelling. This hedge is likely to be impacted by the development and construction works, which would therefore necessitate its removal. As this hedge is a grouping of more than two trees and is above 2.5m in height, they do not require Council's approval for removal. It is noted however that the existing hedge provides valuable screening and privacy between the existing dwelling and adjoining property to the east. It is therefore required that these hedges be replaced in order to provide additional screening and privacy between the two dwellings into the future. This replacement planting is necessary to satisfy condition 4.1.5 Objective 3, which seeks "to maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and surrounding area". The Landscape Plans currently propose <i>Convolvulus</i> in this area, however this species would not provide adequate screening and privacy as required. It is therefore recommended that these species be replaced with a screening hedge or trees, capable of reaching a minimum height of 3m at maturity. For a similar reason, the existing hedging located on the western boundary at the front of the property shall be retained to ensure

Internal Referral Body	Comments
	screening and privacy is maintained between the adjoining properties. The current Architectural Plans indicate that these trees/hedges are to be retained, and shall be protected accordingly. The protection of this hedge, alongside the existing street tree located within the road reserve, is necessary to comply with not only control 4.1.5, but also 3.3.2, which seeks to "protect and enhance the scenic value and character that trees provide". Although the proposed works are clear of the existing street tree, it is important to ensure that it is protected during the transportation of materials to and from site. Concern is also raised with the proposed use of <i>Fraxinus oxycarpa</i>, which is an exotic species. This tree shall be replaced by a locally native alternative in accordance with control 3.3.1, which states "landscaped areas must be capable of supporting new native tree species that are typically expected to reach a mature height of 10m". The landscape component of the proposal is therefore accepted subject to the protection of existing trees and vegetation, and the completion of landscape works as proposed on the Landscape Plans, inclusive of trees species changes and the addition of screen planting.
NECC (Development Engineering)	The existing driveway crossing is to remain. The proposed drainage design is satisfactory. No objection to approval, subject to conditions as recommended.
NECC (Stormwater and Floodplain Engineering – Flood risk)	This property is not tagged as flood affected, however it should be noted that the Manly Lagoon Flood Study (2013) did not map overland flow in this area. No flood related objections, but refer to Development Engineering comments.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 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. 1171170S).

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

Commitment	Required Target	Proposed
Water	40	45
Thermal Comfort	Pass	Pass
Energy	50	50

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.4955m	N/A	Yes
Floor Space Ratio	FSR: 0.45:1 (163.17sqm)	FSR: 0.51:1 (184.92sqm)	13.3%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	No
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	0.45:1
Proposed:	0.51:1
Percentage variation to requirement:	13.3%

Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

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

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

Comment:

Clause 4.4 - Floor space ratio development standard is not expressly excluded from the operation of this clause.

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment:

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

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part:

- Consistency with established character of the area in terms of bulk and scale,
- In consideration of the established character of the area the the coordination of the orderly and economic use and development of the land will most appropriately be achieved by supporting variations to the relevant development standards,
- As a general principle, the highest and best economic use of land which has been identified as appropriate for residential development, will conversely act to preserve the character of the area.
- Undersized nature of lot, and consistent with requirements of clause 4.1.3 Floor Space Ratio of the DCP in this regard
- Minimal adverse environmental impacts on the surrounding area,
- Consistency with the relevant objectives of clause 4.3 and the zone

These arguments are generally agreed with. It is considered that the overall bulk and scale of the dwelling will be generally consistent with the established character of the area, and particularly with the

existing dwellings to either side. Importantly, it is also consistent with clause 4.1.3 of the DCP, which states that *"The undersized nature of a lot is a matter that Council may consider in determining whether 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' and 'there is sufficient environment planning grounds to justify contravening the development standard' under LEP clause 4.6(3)."* This clause states that variations may be considered based on a lot size of up to 500sqm. Basing the proposed floor space on a 500sqm lot size gives an FSR calculation of 0.37:1, which falls well under the maximum 0.45:1 requirement.

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

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

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

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

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

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

Comment:

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

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

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

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The proposal is generally consistent in terms of bulk and scale with other nearby development, including the adjacent neighbours to the east and west. There is no specific desired future character statement, however, the proposal is considered to be generally consistent with the relevant controls (as assessed throughout this report). In particular the DCP envisages dwellings in this area of a floor space ratio that would be considered on lots of 500sqm under clause 4.1.3. As such, the proposal is considered to be generally consistent with the desired future character of

the area.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

There are no identified important landscape or townscape features that the development will obscure. The proposal will obscure some district views from the neighbours to the rear as discussed in this report, but this view loss is not considered unreasonable in the circumstances of the site.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The proposed design of the dwelling is generally consistent with other newer development in the area, particularly the adjacent neighbour to the west. Significant areas of landscaping will be maintained in front and rear setbacks, and the front setback will be improved in this regard through the removal of the existing buildings located there. The proposal is consistent with this objective.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

Environmental impacts are considered to be sufficiently minimised, as discussed throughout this report. The proposal is not considered to result in unreasonable impacts to neighbours or the public domain, and is of a scale generally consistent with expectations for the site given the applicable controls.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

The site is not in a business zone.

Zone objectives

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

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

Comment:

The proposal will provide a single detached dwelling in accordance with this objective.

It is considered that the development satisfies this objective.

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

Comment:

The proposal will not prevent other land uses from taking place in the area.

It is considered that the development satisfies this objective.

Conclusion:

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

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

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

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 24 May 2019, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Floor space ratio Development Standard associated with a single dwelling house (Class 1 building).

Mainly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 362.6sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 500sqm	1 dwelling	N/A	Yes
	Dwelling Size: 112sqm	193.33sqm	N/A	Yes
4.1.2.1 Wall Height	W: 6.9m (based on gradient 1:15)	6.2m	N/A	Yes
	E: 7.05m (based on gradient 1:11)	6.8m	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	2.06m	N/A	Yes
	Pitch: maximum 35 degrees	22.5 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	6m	5.5m	8.33%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	W: 2.1m (based on wall height) E: 2.3m	W: 1.8m E: 1.8m	14.3% 21.7%	No No

	Windows: 3m	W: 1.65m E: 1.65m	45% 45%	No No
4.1.4.4 Rear Setbacks	8m	3.281m	59%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS 3	Open space 55% of site area	51.1% (185.4sqm)	7.1%	Yes
	Open space above ground 25% of total open space	2.5% (4.6m)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	68.4% (126.8sqm)	N/A	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	96sqm	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	6m	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	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
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	No	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Storeys & Roof Height)		
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.4.3 Maintenance of Views

Merit consideration:

The development is considered against the Objectives of the Control:

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comment:

Submissions were received from neighbours to the rear at 78 and 80 Macmillan Street. The views affected are district views, mainly comprised of tree canopy to the north, and also contains dwellings, power lines and street lights. No water views are available. In the context of these principles, the views are not considered to be highly valuable.

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment:

The views from number 78 are obtained across the rear boundary, and from number 80 mainly across the rear north eastern corner of the site. The views are obtained from upper level bedroom windows, both sitting and standing, and not from the main living areas.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20 percent if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment:

From number 78, the new dwelling will obscure a substantial portion of the view, while maintaining corridors to the east and west of the new dwelling. The view impact will be moderate to severe.

From number 80, the view impact will be less than on number 78, as there is less view to be lost. The new dwelling will have a moderate impact.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Comment:

The proposal does not comply with a number of relevant controls, including floor space ratio, and side setbacks. The view loss has been assessed above as being up to the 'severe' range. However, this is as a result of the existing dwelling on site being a small single level dwelling, allowing for views straight above the dwelling and through the middle of the site. There is no reasonable expectation to retain these views given the 8.5m height limit applicable to the site. The proposal is compliant with the height control.

The non-compliance proposed with the FSR and side setback controls is considered to be of more relevance to the impact on views in this case. In this regard, the proposed FSR falls well within a variation envisaged by clause 4.1.3 of the DCP for small lots. The side setbacks of the upper level do not comply, being up to 500mm non-compliant on the eastern side, and 300mm on the western side (noting that these non-compliances are worst case and are based on the wall heights, which change as the land slopes). However, despite this non-compliance, the proposal will still maintain large view corridors to either side for the upper level windows of number 78, having a gap of 5.5m between the proposal and it's western neighbour, and a minimum of 3.4m to the eastern neighbour. Given the relative lack of value of the view (in the context of these principles), the small size of the site, and the location of the new dwelling generally in the centre of the site as is expected, the proposal is not considered unreasonable in this regard. Significant view corridors will be retained from number 78.

From number 80, due to the viewing angle diagonally across the subject site, the side setbacks do not impact significantly on view loss. The element mainly causing view loss in this regard is the height, which as discussed above is compliant with the 8.5m limit. Again, given the limited nature of the view, and the proposed location of the new dwelling generally in the centre of the subject site, the proposal is not considered to cause unreasonable view impacts.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.3 Floor Space Ratio (FSR)

The control states that *"On existing sites in Residential LEP Zones (including E3 & E4) with a site area less than the minimum lot size required on the LEP Lot Size (LSZ) Map, Council may consider exceptions to the maximum FSR under LEP clause 4.6 when both the relevant LEP objectives and the provisions of this DCP are satisfied. See LEP clause 4.6(4)(a).*

The undersized nature of a lot is a matter that Council may consider in determining whether 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' and 'there is sufficient environment planning grounds to justify contravening the development standard' under LEP clause 4.6(3)."

The site falls within Area I on the Lot Size Map, and as such, this control allows for calculation of the FSR based on a lot size of 500sqm. This would allow for floor space of up to 225sqm (0.45:1). The proposed amended plans have a floor space of 184.92sqm, resulting in an FSR under this clause of 0.37:1, which is under the maximum 0.45:1 allowed for by clause 4.4 of the LEP.

This has been taken into consideration in the discussion under clause 4.6 in this report.

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

Description of non-compliance

The proposal includes a minimum front setback of 5.5m at the upper level, which is less than the minimum 6m requirement. The proposed side setbacks of the upper level are also non-compliant, being setback 1.8m from the side boundaries on both sides (requirement of 2.1m on the western side and 2.3m on the eastern side, based on the wall height). The rear setback is compliant at the upper level with the 8m minimum requirement, but is non-compliant at the lower level where the rear alfresco is setback 3.281m, and the wall of the lower level 6.26m. The proposed side facing windows are also 1.8m from the boundary (3m requirement).

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposal will result in the demolition of existing outbuildings in the front setback area, allowing for

planting to enhance the streetscape and landscaped character. The reduced front setback at the upper level will be compensated for by an increased setback to the lower level (7m to the garage), and also by the proposed front balcony which creates a large setback to the upper level of 9m in the eastern front corner of the building. The non-compliance will not unreasonably detract from the streetscape given the existing character of buildings along Frenchs Forest Road.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

Privacy is considered to be reasonably maintained by the proposal. The proposed upper level rear facing windows are setback a minimum of 8m in accordance with the rear setback control. At the ground level, the subject site is located significantly lower than the neighbours to the rear, and the existing rear boundary fence will provide sufficient screening between neighbours. The side facing windows, while non-compliant will not cause unreasonable privacy impacts given the setbacks to neighbouring dwellings. To the west the separation between buildings will be 5.5m, and to the east, the dwelling at number 105 Frenchs Forest Road is setback behind the proposed dwelling on the subject site.

Views are considered to be maintained to a reasonable degree, as discussed under Clause 3.4.3 Maintenance of Views in this report.

Adequate space will be maintained between buildings given the locations and setbacks of neighbouring dwellings, and the proposal will improve traffic safety by providing for an onsite turning area.

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

Comment:

A degree of flexibility is considered appropriate given the small size of the site.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposal includes a significant amount of landscaped area and deep soil zones. A previously approved CDC for a swimming pool in the rear yard area has been withdrawn by the applicants. The removal of existing buildings in the front setback area will enable planting in that area to enhance the streetscape.

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

Comment:

N/A

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

The proposal provides for 185.4sqm of open space (51.1%). The control requires 55% (199.42sqm) of the site to be open space.

Merit consideration:

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

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment:

There are no particularly important landscape features or remnant populations on site. The proposal provides for significant landscaped area in both the front and rear setback areas. Council's Landscape Officer has recommended conditions to retain and/or replace existing hedging along the eastern and western boundaries.

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

Comment:

The proposal provides significant landscaped areas in both the front and rear setbacks. Planting has also been proposed. This was assessed by Council's Landscape Officer, who raised no objections to the proposal, subject to conditions of consent (see Referrals section of this report).

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

Comment:

The proposal is considered to be generally consistent with controls relating to privacy, sunlight and

views, as discussed in this report.

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

Comment:

Council's Development Engineer has assessed the drainage plan and is satisfied stormwater will be dealt with in accordance with the policy. Although the proposal falls short of the open space requirement, the amount of landscaped area that forms part of the open space measurement is well above the minimum requirements, enabling sufficient water infiltration.

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

Comment:

Subject to conditions provided by Council's Landscape Officer this objective will be met.

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

Comment:

The site is not within an identified wildlife corridor. The proposal will maintain significant areas of soft landscaped area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

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 \$6,248 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$624,820.

CONCLUSION

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

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

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

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

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

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.4 Floor Space Ratio development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2021/0129 for Demolition works and construction of a dwelling house on land at Lot 1 DP 1125216, 107 Frenchs Forest Road, 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
20225/12 Sheet 3/16 Issue M	15-07-21	Accurate Design & Drafting
20225/12 Sheet 4/16 Issue M	15-07-21	Accurate Design & Drafting
20225/12 Sheet 5/16 Issue M	15-07-21	Accurate Design & Drafting
20225/12 Sheet 6/16 Issue M	15-07-21	Accurate Design & Drafting
20225/12 Sheet 7/16 Issue M	15-07-21	Accurate Design & Drafting
20225/12 Sheet 8/16 Issue M	15-07-21	Accurate Design & Drafting
20225/12 Sheet 9/16 Issue M	15-07-21	Accurate Design & Drafting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate 1171170S_02	30 June 2021	Abeaut Design 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:

Landscape Plans		
Drawing No.	Dated	Prepared By
20225/12 Sheet 10/16 Issue M	15-07-21	Accurate Design & Drafting

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	11/02/2021	K Palmer

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Response Referral	Not dated

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

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

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

updated information.

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

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

Reason: Legislative requirement.

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer

management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018

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

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$6,248.20 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 \$624,820.00.

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.

6. **Security Bond**

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

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

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

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

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

7. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$1,000 as security against any damage to Council's stormwater drainage infrastructure works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

8. **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.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management Policy and generally in accordance with the concept drainage plans prepared by VNK Consulting Pty Ltd, drawing number 070221-01 Issue A, dated 07/02/2021. Detailed drainage plans are to be

prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. Sections through the OSD tank.
2. Design and details of the orifice plate.
3. Trash screen over the outlet from the OSD tank,
4. Connection details to the Council pipeline using a 'Flowcon Conconnect' fitting or similar.

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

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

10. **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.

11. **Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the stormwater connection from the site into Council's drainage pipeline in Frenchs Forest Road which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.

The plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for Civil Engineering.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.

The drainage plans must address the following:

1. Connection details to the Council pipeline are to be via a 'Flowcon Conconnect' fitting or similar.
2. The Council pipeline is to be located by a service locating contractor or registered surveyor with details provided on the design plans.

3. All services in the nature strip to be located and shown on the plans.

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

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

12. **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.

13. **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.

14. **Surrender of Consent**

The applicant shall surrender to Council Development Consent No: 200159/01 (Council ref: CDC2021/0038) in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

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

Reason: To prevent inconsistencies between consent applying the site (ref s80A (5) EPAA & cl97 EPA Reg).

15. **Sydney Water "Tap In"**

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

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

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. **Protection of Existing Street Trees**

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

As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture.

All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

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

Reason: Tree protection.

17. **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.

The Certifying Authority must ensure that:

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

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.

18. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

19. **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.

20. **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.

21. **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.

22. **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**

23. **Landscape Completion**

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

- i) substitute the proposed *Fraxinus oxycarpa* with a locally native canopy tree capable of reaching a minimum height of 10m at maturity. Suggested alternatives include: *Angophora costata*, *Banksia integrifolia* or *Eucalyptus haemastoma*,
- ii) substitute the proposed *Convolvulus* with a screening shrub capable of reaching a minimum height of 3m at maturity. Suggested alternatives include: *Acmena smithii* 'Minor', *Callistemon citrinus* 'Kings Park Special' or *Syzygium spp* (to match existing hedge on western boundary).

Tree planting shall be located within a 9m² deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees.

Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

Native tree planting species shall be selected from Council's list, specifically the *Native Plant Species Guide - Manly Ward*: www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide.

The selected screen planting is to comprise of native species capable of attaining a height of 3m at maturity. Plants are to be installed at minimum 1 metre intervals and be of a minimum container size of 200mm at planting in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) 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.

24. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA), a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Hydraulic Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user over the on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

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

25. 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.

