

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

|                            |              |
|----------------------------|--------------|
| <b>Application Number:</b> | Mod2020/0208 |
|----------------------------|--------------|

|                                           |                                                                                                                                     |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| <b>Responsible Officer:</b>               | Nick Keeler                                                                                                                         |
| <b>Land to be developed (Address):</b>    | Lot 2 DP 528368, 2 Ellery Parade SEAFORTH NSW 2092                                                                                  |
| <b>Proposed Development:</b>              | Modification of Development Consent DA2019/0541 granted for demolition works and construction of a dwelling house and swimming pool |
| <b>Zoning:</b>                            | Manly LEP2013 - Land zoned R2 Low Density Residential                                                                               |
| <b>Development Permissible:</b>           | Yes                                                                                                                                 |
| <b>Existing Use Rights:</b>               | No                                                                                                                                  |
| <b>Consent Authority:</b>                 | Northern Beaches Council                                                                                                            |
| <b>Land and Environment Court Action:</b> | No                                                                                                                                  |
| <b>Owner:</b>                             | Neil Edward Cooke                                                                                                                   |
| <b>Applicant:</b>                         | Boston Blyth Fleming Pty Ltd                                                                                                        |

|                                  |                                         |
|----------------------------------|-----------------------------------------|
| <b>Application Lodged:</b>       | 21/05/2020                              |
| <b>Integrated Development:</b>   | No                                      |
| <b>Designated Development:</b>   | No                                      |
| <b>State Reporting Category:</b> | Residential - Alterations and additions |
| <b>Notified:</b>                 | 03/06/2020 to 17/06/2020                |
| <b>Advertised:</b>               | Not Advertised                          |
| <b>Submissions Received:</b>     | 0                                       |
| <b>Clause 4.6 Variation:</b>     | Nil                                     |
| <b>Recommendation:</b>           | Approval                                |

### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify development consent DA2019/0541 for demolition works and construction of a dwelling house and swimming pool. The proposed modifications include integration of the approved rainwater tank on the southern garage elevation into the garage structure, the addition a new skylight, changes to the pool house including the re-pitching of the roof and the modification of the approved swimming pool to include a spa.

### ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act

1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

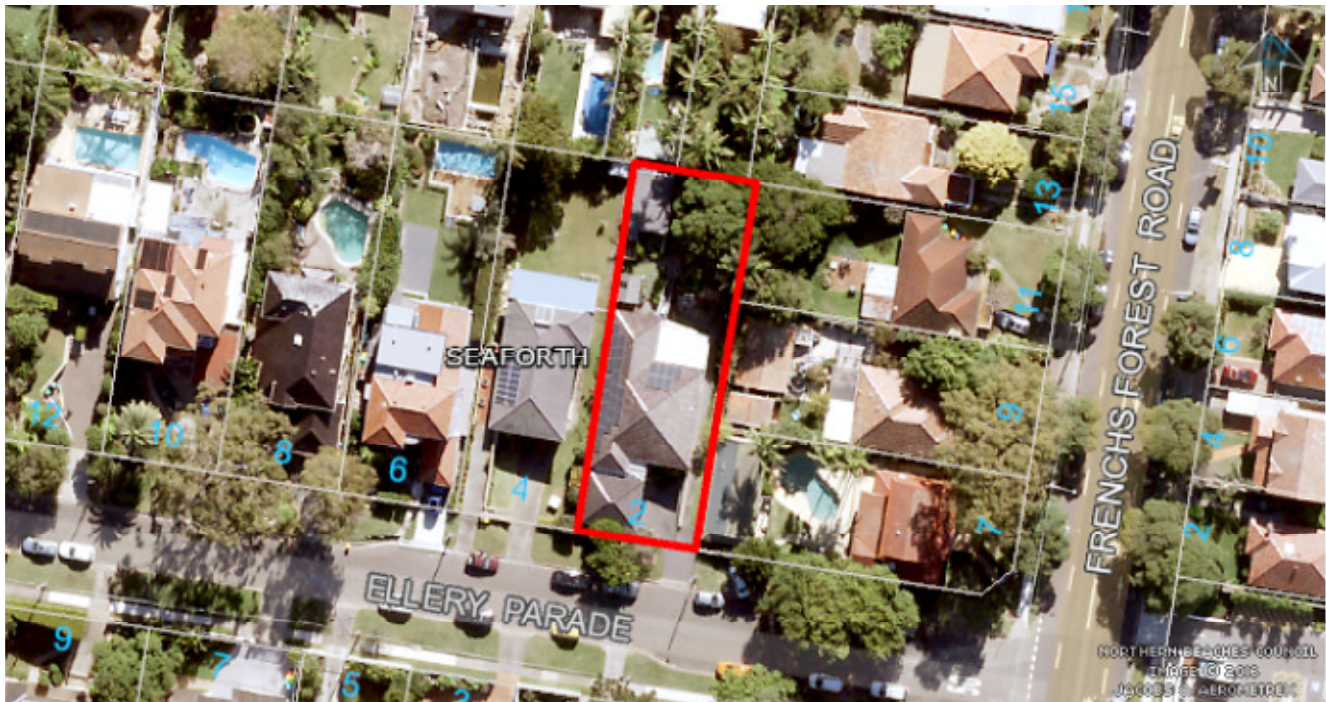
## SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

## SITE DESCRIPTION

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property Description:</b>      | Lot 2 DP 528368 , 2 Ellery Parade SEAFORTH NSW 2092                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one (1) allotment located on the northern side of Ellery Parade.</p> <p>The site is regular in shape with a frontage of 15.555m along Ellery Parade and a depth of 47.605m. The site has a surveyed area of 739m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two-storey residential dwelling with a detached double carport at the front of the site and a shed structure at the rear.</p> <p>The site falls approx. 2m from the western boundary towards the east.</p> <p>The site contains grassed areas in the rear yard with some large trees in the northeast corner. A large proportion of the site contains hardstand or impervious surfaces in the front setback area, along the eastern boundary and at the rear of the dwelling.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by low density residential development and ancillary structures.</p> |

Map:



## SITE HISTORY

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

Application **DA0372/2006** for a double carport and access ramp was approved on 24/11/2006 by the former Manly Development Assessment Unit.

Application **DA2019/0541** for demolition works and construction of a dwelling house and swimming pool was approved on 07/08/2019 by Council staff under delegated authority.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/0541, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

| Section 4.55(1A) - Other Modifications                                                                                                                                                                                                                                                                      | Comments                                                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:                                                                         |                                                                                                                                                                                                                                                                                                                                                       |
| (a) it is satisfied that the proposed modification is of minimal environmental impact, and                                                                                                                                                                                                                  | <p><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reason:</p> <p>The modifications do not result in a built form that causes any additional environmental impact to adjacent properties or the public domain.</p>                                         |
| (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and                                             | <p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/0541 for the following reason:</p> <p>The modifications remain substantially the same as the approved low density residential land use and built form on the site.</p> |
| (c) it has notified the application in accordance with:                                                                                                                                                                                                                                                     | The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environment Plan 2013 and Manly Development Control Plan.                                                                                                       |
| (i) the regulations, if the regulations so require, or<br><br>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and |                                                                                                                                                                                                                                                                                                                                                       |
| (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.                                                                                                            | See discussion on "Notification & Submissions Received" in this report.                                                                                                                                                                                                                                                                               |

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

| Section 4.15 'Matters for Consideration'                                                                                  | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument                                             | See discussion on “Environmental Planning Instruments” in this report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan                                                    | Manly Development Control Plan applies to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement                                                         | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;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 in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;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 in the original consent.</p> |

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

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

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

## REFERRALS

| Internal Referral Body | Comments                                                                                                                                                                |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Landscape Officer      | No objections are raised to the proposed modifications. Existing conditions and approved landscape plans are considered adequate and no new conditions are recommended. |

| Internal Referral Body         | Comments                                                                                                                                                                                 |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| NECC (Development Engineering) | Development Engineering has no objection to the proposed amendment.<br>The original condition 6 of DA2019/0541 shall be amended to reflect the change on the stormwater management plan. |

## 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.

## 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                    | Approved                       | Proposed  | Complies |
|----------------------|--------------------------------|--------------------------------|-----------|----------|
| Height of Buildings: | 8.5m                           | 7.23m                          | Unaltered | Yes      |
| Floor Space Ratio:   | 0.45:1 (332.55m <sup>2</sup> ) | 0.446:1 (330.1m <sup>2</sup> ) | Unaltered | Yes      |

## Compliance Assessment

| Clause | Compliance with Requirements |
|--------|------------------------------|
|        |                              |

| Clause                    | Compliance with Requirements |
|---------------------------|------------------------------|
| 4.3 Height of buildings   | Yes                          |
| 4.4 Floor space ratio     | Yes                          |
| 6.2 Earthworks            | Yes                          |
| 6.4 Stormwater management | Yes                          |
| 6.8 Landslide risk        | Yes                          |
| 6.12 Essential services   | Yes                          |

## Manly Development Control Plan

### Built Form Controls

| Built Form Controls - Site Area: 739m <sup>2</sup>   | Requirement                                    | Approved                                 | Proposed                                 | Complies         |
|------------------------------------------------------|------------------------------------------------|------------------------------------------|------------------------------------------|------------------|
| 4.1.1.1 Residential Density and Dwelling Size        | Density: 1 dwelling / 500m <sup>2</sup>        | 1 dwelling                               | Unaltered                                | Yes              |
|                                                      | Dwelling Size: 134m <sup>2</sup>               | 330.1m <sup>2</sup>                      | Unaltered                                | Yes              |
| 4.1.2.1 Wall Height                                  | N: 6.5m (based on nil gradient)                | 6.5m                                     | Unaltered                                | Yes              |
|                                                      | E: 6.5m (based on nil gradient)                | 6.2m                                     | Unaltered                                | Yes              |
|                                                      | S: 7.2m (based on gradient 1:9)                | 5.9m                                     | Unaltered                                | Yes              |
|                                                      | W: 6.5m (based on nil gradient)                | 6.2m                                     | Unaltered                                | Yes              |
| 4.1.2.2 Number of Storeys                            | 2                                              | 2                                        | Unaltered                                | Yes              |
| 4.1.2.3 Roof Height                                  | Height: 2.5m                                   | 0.9m                                     | Unaltered                                | Yes              |
|                                                      | Pitch: maximum 35 degrees                      | 5.8 degrees                              | Unaltered                                | Yes              |
| 4.1.4.1 Street Front Setbacks                        | Prevailing building line                       | 4.0m, consistent with prevailing setback | 2.6m, consistent with prevailing setback | Yes              |
| 4.1.4.2 Side Setbacks and Secondary Street Frontages | E: 2.05m (based on wall height)                | 2.15m - 2.28m                            | Unaltered                                | Yes              |
|                                                      | W: 2.05m (based on wall height)                | 1.54m - 2.42m                            | Unaltered                                | Yes              |
|                                                      | Garage - W: 0.71m (based on 2.15m wall height) | 0.9m                                     | Unaltered                                | Yes              |
| 4.1.4.4 Rear Setbacks                                | 8m                                             | Dwelling - 14.59m                        | Unaltered                                | Yes              |
|                                                      |                                                | Cabana - 1.1m (existing)                 | Unaltered                                | Yes, as approved |
| 4.1.5.1 Minimum Residential Total Open               | Open space 55% of site area                    | 38.3% (283.1m <sup>2</sup> )             | 32.7% (241.5m <sup>2</sup> )             | No               |

|                                                           |                                                       |                            |                            |     |
|-----------------------------------------------------------|-------------------------------------------------------|----------------------------|----------------------------|-----|
| Space Requirements<br>Residential Open Space<br>Area: OS3 | Open space above<br>ground 25% of total<br>open space | Nil                        | Unaltered                  | Yes |
| 4.1.5.2 Landscaped Area                                   | Landscaped area 35%<br>of open space                  | 66% (186.9m <sup>2</sup> ) | 53% (127.8m <sup>2</sup> ) | Yes |
| 4.1.5.3 Private Open<br>Space                             | 18m <sup>2</sup> per dwelling                         | 241.5m <sup>2</sup>        | Unaltered                  | Yes |
| 4.1.9 Swimming Pools,<br>Spas and Water Features          | 1m height above<br>ground                             | Nil                        | Unaltered                  | Yes |
|                                                           | 1m curtilage/1.5m<br>water side/rear setback          | W: 1.8m                    | Unaltered                  | Yes |
| Schedule 3 Parking and<br>Access                          | Dwelling 2 spaces                                     | 2 spaces                   | 2 spaces                   | Yes |

#### Compliance Assessment

| Clause                                                                                                     | Compliance<br>with<br>Requirements | Consistency<br>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                            |
| 3.4.4 Other Nuisance (Odour, Fumes etc.)                                                                   | Yes                                | Yes                            |
| 3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design) | Yes                                | Yes                            |
| 3.5.1 Solar Access                                                                                         | Yes                                | Yes                            |
| 3.5.3 Ventilation                                                                                          | Yes                                | Yes                            |
| 3.5.5 Landscaping                                                                                          | Yes                                | Yes                            |
| 3.5.7 Building Construction and Design                                                                     | Yes                                | Yes                            |
| 3.6 Accessibility                                                                                          | 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                                                                       | Yes                                | Yes                            |
| 4.1.1 Dwelling Density, Dwelling Size and Subdivision                                                      | Yes                                | Yes                            |
| 4.1.1.1 Residential Density and Dwelling Size                                                              | Yes                                | Yes                            |
| 4.1.2 Height of Buildings (Incorporating Wall Height, Number of                                            | 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              | Yes                          | 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                         |
| 4.1.9 Swimming Pools, Spas and Water Features                              | Yes                          | Yes                         |
| 4.4.1 Demolition                                                           | Yes                          | Yes                         |

#### Detailed Assessment

#### **4.1.5 Open Space and Landscaping**

##### Description of non-compliance

##### *4.1.5.1 Minimum Residential Total Open Space Requirements*

The requirement for total open space is to be 55% of the total site. The original consent approved a variation of 30.3% to the total open space requirement.

The proposed modification will result in a further reduction in total open space due to the altered front setback of the garage being 2.6m from the front boundary. As the minimum dimension for total open space in any direction is 3m, the front setback area can no longer be included in the total open space calculation. The proposed modification will result in 32.7% (241.5m<sup>2</sup>) total open space, representing a variation of 40.6% (164.95m<sup>2</sup>).

##### Merit consideration:

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

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

##### Comment:

The modified proposal retains substantial areas of landscaping.

*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:

An reasonable amount of soft landscaping is retained under the proposed modification.

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

Comment:

The proposed modification is not expected to cause any additional amenity impact to that of the original approved development.

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

Comment:

The site retains substantial areas of soft landscaping to minimise stormwater runoff.

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

Comment:

The proposed modification is not expected to result in the spread of weeds on the site or surrounding land.

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

Comment:

The proposed landscaping will assist in providing habitat to wildlife.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in s1.3 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 effect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

Section 7.12 contributions were levied on the Development Application.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2020/0208 for Modification of Development Consent DA2019/0541 granted for demolition works and construction of a dwelling house and swimming pool on land at Lot 2 DP 528368,2 Ellery Parade, SEAFORTH, subject to the conditions printed below:

### A. Add Condition No. 1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

#### a) Modification Approved Plans

| Architectural Plans - Endorsed with Council's stamp |              |                  |
|-----------------------------------------------------|--------------|------------------|
| Drawing No.                                         | Dated        | Prepared By      |
| DA.02 Revision A                                    | 1 April 2020 | Brick Architects |
| DA.03 Revision A                                    | 1 April 2020 | Brick Architects |
| DA.04 Revision A                                    | 1 April 2020 | Brick Architects |
| DA.05 Revision B                                    | 21 May 2020  | Brick Architects |
| DA.06 Revision B                                    | 21 May 2020  | Brick Architects |

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

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

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

**B. Modify Condition No. 6 - On-site Stormwater Management Compliance to read as follows:**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater Management in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003, and generally in accordance with the concept drainage plans prepared by Stellen Consulting, drawing number DR-000 to DR- 004, dated 20/4/2020 and Rev 3. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer.

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.

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

**Signed**



**Nick Keeler, Planner**

The application is determined on 23/06/2020, under the delegated authority of:



**Matthew Edmonds, Manager Development Assessments**