

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

|                            |              |
|----------------------------|--------------|
| <b>Application Number:</b> | Mod2020/0329 |
|----------------------------|--------------|

|                                           |                                                                                                               |
|-------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| <b>Responsible Officer:</b>               | Adam Croft                                                                                                    |
| <b>Land to be developed (Address):</b>    | Lot A DP 373783, 11 Beatty Street BALGOWLAH HEIGHTS NSW 2093                                                  |
| <b>Proposed Development:</b>              | Modification of Development Consent DA0253/2017 granted for for alterations and additions to a dwelling house |
| <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>                             | Nicholas Victor Reader<br>Karen Jane Reader<br>Renae Betty Gallen<br>Daniel Joseph Gallen                     |
| <b>Applicant:</b>                         | Peter Hurley                                                                                                  |

|                                  |                                         |
|----------------------------------|-----------------------------------------|
| <b>Application Lodged:</b>       | 27/07/2020                              |
| <b>Integrated Development:</b>   | No                                      |
| <b>Designated Development:</b>   | No                                      |
| <b>State Reporting Category:</b> | Residential - Alterations and additions |
| <b>Notified:</b>                 | 03/08/2020 to 17/08/2020                |
| <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 proposed modification includes changes as follows:

Ground floor/site

- Reconfigure/extend north-western deck & roof, remove spa, new outdoor kitchen/bbq
- Relocate carport and reconfigure entry path
- Widen driveway
- Changes to landscaping/planting and new in-ground trampoline
- Relocate pool equipment

## First floor

- Reconfigure Bedroom 2 ensuite and robe
- Changes to windows and skylights

## 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 - 6.9 Foreshore scenic protection area

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

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

## SITE DESCRIPTION

|                                   |                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property Description:</b>      | Lot A DP 373783 , 11 Beatty Street BALGOWLAH HEIGHTS NSW 2093                                                                                                                                                                                                                                                                                                                      |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one allotment located on the southern side of Beatty Street.</p> <p>The site is regular in shape with a frontage of 16.765m along Beatty Street and a depth of 39.625m. The site has a surveyed area of 684.8m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates an existing dwelling house.</p> |

The site slopes 3.3m from rear (south) to front (north).

The site a number of planted gardens and 2 significant trees.

### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by detached dwelling houses.

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:

DA0253/2017 - Alterations and additions to the existing dwelling house - Approved 29 March 2018.

Mod2019/0296 - Modification of Development Consent DA0253/2017 granted for alterations and additions to the existing dwelling house - Approved 18 September 2019.

## **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 DA0253/2017 and Mod2019/0296, 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 reasons:</p> <p>The proposed changes to the dwelling and ancillary structures are minor, there is no significant change to the approved built form of the dwelling and minimal impact to the adjoining properties.</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 DA0253/2017 and Mod2019/0296 for the following reasons:</p> <p><i>"(1A) Modifications involving minimal environmental impact<br/>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—:<br/>(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"</i></p> <p><u>Comment:</u></p> <p>The consent as proposed to be modified is substantially the same development as that for which the consent was originally granted. The proposed development retains a single residential use and does not alter the intent of the lot</p> |



| Section 4.55(1A) - Other Modifications                                                                                                                                                                                                                                                                                                                                                   | Comments                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                          | <p>to be developed. The development is materially the same as originally approved, with only minor changes to the layout/external form of the dwelling, carport, outdoor areas and landscaping.</p> <p>As such, the modified application is “substantially the same development” as the originally approved development and therefore may be considered under Clause 4.55(1A).</p> |
| <p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(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</p> | <p>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 and Manly Development Control Plan.</p>                                                                                                                                  |
| <p>(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.</p>                                                                                                                                                                                  | <p>See discussion on “Notification &amp; Submissions Received” in this report.</p>                                                                                                                                                                                                                                                                                                 |

#### 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                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument</p>        | <p>See discussion on “Environmental Planning Instruments” in this report.</p>                                                                                                                                                                                                                                                                                                                                         |
| <p>Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument</p> | <p>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.</p> |

| Section 4.15 'Matters for Consideration'                                                                                                                                           | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan                                                                                                             | Manly Development Control Plan applies to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement                                                                                                                   | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)                                                          | <p><u>Division 8A</u> of the EP&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> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) <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</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| Section 4.15 'Matters for Consideration'                                               | Comments                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                        | <p>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 from 03/08/2020 to 17/08/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## REFERRALS

| Internal Referral Body         | Comments                                                                                             |
|--------------------------------|------------------------------------------------------------------------------------------------------|
| NECC (Development Engineering) | Development Engineering has no objection to the application.<br>No additional condition is required. |

## 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. A350732\_02 dated 16 July 2020).

### SEPP (Infrastructure) 2007

#### Ausgrid

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

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

#### Comment:

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

### SEPP (Coastal Management) 2018

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

### 13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
  - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*



- (b) *coastal environmental values and natural coastal processes,*
- (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

Comment:

The proposal will result in no adverse impacts in relation to the above.

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

Comment:

The proposed changes maintain the previously approved development footprint.

#### **14 Development on land within the coastal use area**

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

Comment:

The proposed modification will not unreasonably impact foreshore access, amenity and scenic qualities or heritage values.

As such, it is considered that the application does/does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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

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

### Comment:

The proposal will not result in increased risk of coastal hazards.

### 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  | % Variation | Complies |
|----------------------|-----------------------------|-------------------------------|-----------|-------------|----------|
| Height of Buildings: | 8.5m                        | 8.4m                          | No change | N/A         | Yes      |
| Floor Space Ratio    | 0.4<br>273.92m <sup>2</sup> | 0.3971<br>271.6m <sup>2</sup> | No change | N/A         | Yes      |

### Compliance Assessment

| 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                          |
| 6.9 Foreshore scenic protection area | Yes                          |
| 6.12 Essential services              | Yes                          |

### Detailed Assessment

#### 6.9 Foreshore scenic protection area

The proposed modification will result in minimal change to the approved development and will not result in any unreasonable impact to visual aesthetic amenity or views to and from Sydney Harbour.

## Manly Development Control Plan

### Built Form Controls

| <b>Built Form Controls - Site Area:<br/>684.8m<sup>2</sup></b>                                | <b>Requirement</b>                                       | <b>Approved</b>              | <b>Proposed</b>              | <b>Complies</b> |
|-----------------------------------------------------------------------------------------------|----------------------------------------------------------|------------------------------|------------------------------|-----------------|
| 4.1.4.1 Street Front Setbacks                                                                 | Prevailing building line / 6m                            | 4m                           | 1.1                          | No              |
| 4.1.5.1 Minimum Residential Total Open Space Requirements<br>Residential Open Space Area: OS4 | Open space 60% of site area<br>410.9m <sup>2</sup>       | 62.6%<br>428.7               | 66.2%<br>453m <sup>2</sup>   | Yes             |
| 4.1.5.2 Landscaped Area                                                                       | Landscaped area 40% of open space<br>164.4m <sup>2</sup> | 48.8%<br>209.3m <sup>2</sup> | 43.4%<br>196.4m <sup>2</sup> | Yes             |
| 4.1.5.3 Private Open Space                                                                    | 18m <sup>2</sup> per dwelling                            | > 18m <sup>2</sup>           | > 18m <sup>2</sup>           | Yes             |
| Schedule 3 Parking and Access                                                                 | Dwelling 2 spaces                                        | 2 spaces                     | 2 spaces                     | Yes             |

### Compliance Assessment

| <b>Clause</b>                                                              | <b>Compliance with Requirements</b> | <b>Consistency Aims/Objectives</b> |
|----------------------------------------------------------------------------|-------------------------------------|------------------------------------|
| 3.1.1 Streetscape (Residential areas)                                      | Yes                                 | Yes                                |
| 3.3.1 Landscaping Design                                                   | Yes                                 | Yes                                |
| 3.3.2 Preservation of Trees or Bushland Vegetation                         | Yes                                 | Yes                                |
| 3.4.1 Sunlight Access and Overshadowing                                    | Yes                                 | Yes                                |
| 3.4.2 Privacy and Security                                                 | Yes                                 | Yes                                |
| 3.4.3 Maintenance of Views                                                 | Yes                                 | Yes                                |
| 3.7 Stormwater Management                                                  | Yes                                 | Yes                                |
| 4.1.4 Setbacks (front, side and rear) and Building Separation              | No                                  | Yes                                |
| 4.1.5 Open Space and Landscaping                                           | Yes                                 | Yes                                |
| 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities) | Yes                                 | Yes                                |
| 4.1.8 Development on Sloping Sites                                         | Yes                                 | Yes                                |
| 4.4.5 Earthworks (Excavation and Filling)                                  | Yes                                 | Yes                                |
| 5.4.1 Foreshore Scenic Protection Area                                     | Yes                                 | Yes                                |

### Detailed Assessment

#### 3.1.1 Streetscape (Residential areas)

The proposal will not unreasonably impact the streetscape, subject to the conditions of consent.

#### 3.4.1 Sunlight Access and Overshadowing

The proposed changes to the approved built form will result in negligible impact to overshadowing.

### **3.4.2 Privacy and Security**

#### Merit consideration

The proposal includes minor relocation of windows W06, W07 and W08 to the Bedroom 2 ensuite. The windows are sufficiently set back from the side and rear boundaries and will result in no unreasonable privacy impacts.

### **3.4.3 Maintenance of Views**

The proposed changes to the approved built form will result in negligible impact to views.

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

#### Description of non-compliance

The previously approved carport front setback of 4m is non-compliant with the 6m control. The modification proposes a further reduction to the carport front setback to 1.1m.

#### Merit consideration

Council required amendment of the original proposal under DA0253/2017 to provide a greater front setback to the carport. The amended 4m front setback was considered appropriate in the context of the streetscape and was supported.

The proposed reduction to the carport setback to 1.1m is not sufficient as the site allows scope for the provision of a greater setback, as demonstrated by the previous approval.

A condition is imposed requiring a front setback of 3.5m. The 0.5m reduction to the approved carport setback will allow practical connectivity between the private open space areas and front yard, while maintaining sufficient separation from the front boundary to minimise visual impact.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

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

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. Mod2020/0329 for Modification of Development Consent DA0253/2017 granted for alterations and additions to a dwelling house on land at Lot A DP 373783, 11 Beatty Street, BALGOWLAH HEIGHTS, 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   |
| DA02 Roof & Site Plan                               | Rev. B, July 2020 | Lawton Hurley |
| DA03 Ground Floor Plan                              | Rev. B, July 2020 | Lawton Hurley |
| DA04 First Floor Plan                               | Rev. B, July 2020 | Lawton Hurley |
| DA05 Roof & Site Plan                               | Rev. B, July 2020 | Lawton Hurley |
| DA06 Elevations - Front & Streetscape               | Rev. B, July 2020 | Lawton Hurley |



|                                             |                   |               |
|---------------------------------------------|-------------------|---------------|
| DA07 Elevation & Section - West             | Rev. B, July 2020 | Lawton Hurley |
| DA08 Elevation & Section - Rear & Bedroom 2 | Rev. B, July 2020 | Lawton Hurley |
| DA09 Elevation & Section - East & Ensuite   | Rev. B, July 2020 | Lawton Hurley |
| DA10 Long Section                           | Rev. B, July 2020 | Lawton Hurley |

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

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

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

| Landscape Plans   |              |             |
|-------------------|--------------|-------------|
| Drawing No.       | Dated        | Prepared By |
| A2 Landscape Plan | 17 July 2020 | Wyer & Co   |

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

**B. Add Condition 10A Carport to read as follows:**

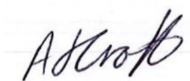
The proposed carport, including posts and roof, is to be set back 3.5m from the front property boundary. The entry pathway may be suitably amended to maintain pedestrian access between the dwelling and carport.

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

Reason: To maintain an appropriate front setback and maintain consistency with the original approval.

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

**Signed**



**Adam Croft, Planner**

The application is determined on 21/08/2020, under the delegated authority of:



**Anna Williams, Manager Development Assessments**