

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

|                            |              |
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| <b>Application Number:</b> | Mod2018/0022 |
|----------------------------|--------------|

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|-------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Responsible Officer:</b>               | Maxwell Duncan                                                                                                                                                                                 |
| <b>Land to be developed (Address):</b>    | Lot 335 DP 4889, 14 Salisbury Square SEAFORTH NSW 2092                                                                                                                                         |
| <b>Proposed Development:</b>              | Modification of Development Consent DA0130/2016 granted for demolition of the existing dwelling construction of a dwelling house with a basement garage swimming pool and detached outbuilding |
| <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>                             | Seong Hee Lee                                                                                                                                                                                  |
| <b>Applicant:</b>                         | Seong Hee Lee                                                                                                                                                                                  |

|                                  |                                         |
|----------------------------------|-----------------------------------------|
| <b>Application lodged:</b>       | 17/01/2018                              |
| <b>Integrated Development:</b>   | No                                      |
| <b>Designated Development:</b>   | No                                      |
| <b>State Reporting Category:</b> | Residential - Alterations and additions |
| <b>Notified:</b>                 | 18/01/2018 to 05/02/2018                |
| <b>Advertised:</b>               | Not Advertised                          |
| <b>Submissions Received:</b>     | 0                                       |
| <b>Recommendation:</b>           | Approval                                |

### 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

There are no assessment issues.

## SITE DESCRIPTION

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property Description:</b>      | Lot 335 DP 4889 , 14 Salisbury Square SEAFORTH NSW 2092                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Detailed Site Description:</b> | <p>The subject property is commonly known as 14 Salisbury Square, Seaforth and legally known as Lot 335 in DP 4889. The site is located on the eastern side of Salisbury Square and the rear boundary facing Aden Street. The property is fairly regular in shape and has a frontage of 20.115m to Salisbury Street and rear boundary to Aden Street of 20.115m and northern and southern boundary of 50.815m with and overall site area of 1042sqm.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>The surrounding area includes predominantly residential dwellings located within landscape setting.</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:

CDC83/2016- Demolition of existing dwelling (Approved by Private Certifier).

DA130/2016- Demolition of existing dwelling, construction of a two (2) storey dwelling house with a basement and double garage (Approved DAU).

DA130/2016- Part 2- Demolition of existing dwelling, construction of a two (2) storey dwelling house with a basement and double garage (Approved DEL)

## PROPOSED DEVELOPMENT IN DETAIL

Proposed works include:

- Removal of the approved gazebo in pool area.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

## 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 DA130/2016- Part 2, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, are:

| Section 96(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                                                                                                                                                                                                                                                                                 | <b>Yes</b><br>The modification, as proposed in this application, is considered to be of minimal environmental impact.                                                                                                                          |
| (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                                                                                                            | 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 DA130/2016- Part 2                                                        |
| (c) it has notified the application in accordance with:<br><br>(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 | The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, ManlyLocal Environment Plan 2011 and Manly Development Control Plan. |
| (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.                                                                                                                                                                           | No submissions were received in relation to this application.                                                                                                                                                                                  |

## Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

| Section 79C 'Matters for Consideration'                                                                                  | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 79C (1) (a)(i) – Provisions of any environmental planning instrument                                             | See discussion on “Environmental Planning Instruments” in this report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Section 79C (1) (a)(iii) – Provisions of any development control plan                                                    | Manly Development Control Plan applies to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Section 79C (1) (a)(iiia) – Provisions of any planning agreement                                                         | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Section 79C (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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</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 clause is not relevant to this application.</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> |

| Section 79C 'Matters for Consideration'                                                                                                                                           | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                   | <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.                                                                                                                                                                                                                                                   |
| Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | (i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use. |
| Section 79C (1) (c) – the suitability of the site for the development                                                                                                             | The site is considered suitable for the proposed development.                                                                                                                                                                                                                                                                                                                                                                                                             |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs                                                                                             | See discussion on “Public Exhibition” in this report.                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Section 79C (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.

## 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.

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

No referrals were sent in relation to this application

## 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)**

Nil

### **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 |

### **Manly Development Control Plan**

#### Compliance Assessment

| Clause                                        | Compliance with Requirements | Consistency Aims/Objectives |
|-----------------------------------------------|------------------------------|-----------------------------|
| 4.1.9 Swimming Pools, Spas and Water Features | Yes                          | Yes                         |
| 4.1.9.1 Height above ground                   | Yes                          | Yes                         |
| 4.1.9.2 Location and Setbacks                 | Yes                          | Yes                         |

### **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 inconsistent with the principles of Crime Prevention Through Environmental Design.

### **POLICY CONTROLS**

#### **Manly Section 94 Development Contributions Plan**

S94 Contributions are not applicable to this 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. Mod2018/0022 for Modification of Development Consent DA0130/2016 granted for demolition of the existing dwelling construction of a dwelling house with a basement garage swimming pool and detached outbuilding on land at Lot 335 DP 4889,14 Salisbury Square, 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 |
|                                                     |       |             |

|                          |                 |                       |
|--------------------------|-----------------|-----------------------|
| A.03/ Ground Floor Plan  | 12 January 2018 | Du Plessis Architects |
| A.05/ House Elevations   | 12 January 2018 | Du Plessis Architects |
| A.06/ Sections XX and YY | 12 January 2018 | Du Plessis Architects |

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

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

**Signed**



**Maxwell Duncan, Planner**

The application is determined under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**

**ATTACHMENT A**

| Notification Plan                                                                             | Title                | Date       |
|-----------------------------------------------------------------------------------------------|----------------------|------------|
|  2018/064041 | Plans - Notification | 16/01/2018 |

**ATTACHMENT B**

| Notification Document                                                                         | Title            | Date       |
|-----------------------------------------------------------------------------------------------|------------------|------------|
|  2018/065110 | Notification Map | 18/01/2018 |

## ATTACHMENT C

| Reference Number                                                                                | Document                                                                                                            | Date       |
|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|------------|
|  2018/064057   | Plans - Master                                                                                                      | 16/01/2018 |
|  2018/064047   | Cover Letter                                                                                                        | 16/01/2018 |
|  2018/064045   | Report - Modification Statement                                                                                     | 16/01/2018 |
|  2018/064041   | Plans - Notification                                                                                                | 16/01/2018 |
|  MOD2018/0022  | 14 Salisbury Square SEAFORTH NSW 2092 -<br>Section 96 Modifications - Section 96 (1a) Minor<br>Environmental Impact | 17/01/2018 |
|  2018/063496   | DA Acknowledgement Letter - Seong Hee Lee                                                                           | 17/01/2018 |
|  2018/063894   | Modification Application Form                                                                                       | 17/01/2018 |
|  2018/063896   | Applicant Details                                                                                                   | 17/01/2018 |
|  2018/064053   | Plans - Internal                                                                                                    | 17/01/2018 |
|  2018/064050   | Plans - External                                                                                                    | 17/01/2018 |
|  2018/065076   | DA Acknowledgement Letter (not integrated) - Seong<br>Hee Lee                                                       | 18/01/2018 |
|  2018/065110 | Notification Map                                                                                                    | 18/01/2018 |
|  2018/065123 | Notification Letter - Mod - 19                                                                                      | 18/01/2018 |