

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1777
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Responsible Officer:	Stephanie Gelder
Land to be developed (Address):	Lot A DP 346467, 39 Pine Street MANLY NSW 2095
Proposed Development:	Alterations and additions to a dwelling house and existing studio including associated landscaping
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Richard Swain Parkes Pippa Louise Parkes
Applicant:	Studio P - Architecture & Interiors

Application Lodged:	12/12/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	18/12/2023 to 23/01/2024
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 97,416.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following works:

- Demolition of part of the existing deck and BBQ area adjoining the rear of the dwelling house;
- Proposed alterations and additions to existing ground floor level of the dwelling to reconfigure the existing layout to provide for an addition to the dining area;
- New skylight over the new dining area;
- Extended deck area adjoining the new dining area;
- Construction of a new open style teenager retreat at the rear of the site with new bike storage;
- Timber bench seat over the existing rear retaining wall;
- Alterations to existing cabana; and

- New rainwater tank.

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

Assessment - SEPP (Sustainable Buildings) 2022

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

SITE DESCRIPTION

Property Description:	Lot A DP 346467 , 39 Pine Street MANLY NSW 2095
Detailed Site Description:	The subject site consists of one (1) allotment located on the southern side of Pine Street. The site is irregular in shape with a frontage of 11.28m along Pine Street and a depth of 59.82m. The site has a surveyed area of 610.5m². The site is located within the R1 General Residential zone from MLEP 2013 and accommodates a two storey dwelling house, swimming pool, cabana, cubby house, and water tank currently on the site. The site is generally flat with no significant changes in levels. The site contains lawn areas, trees, and plantings. There are no details of any threatened species on the subject

site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by dwelling houses, residential flat buildings, child care centres, semi-detached dwelling houses, and attached dwellings. Directly abutting the rear of the site is a Council reserve known as Kangaroo Street reserve.

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:

DA0308/2006

Development Application for Alterations and Additions to an Existing duplex building.
Approved on 21 March 2007.

DA0264/2008

Development Applications for Alterations and Additions to existing two (2) storey duplex, conversion to a single dwelling including cabana, in-ground swimming pool front fence and landscaping.
Approved on 4 December 2008.

DA0121/2009

Development Application for Alterations and additions to building including second floor addition, carport and modifications to approved front fence.
Approved on 27 July 2009.

APPLICATION HISTORY

Following the preliminary assessment of the application, Council's Development Engineer requested

additional information in relation to the proposed impervious area, and the requirements for an on-site stormwater detention (OSD). Subsequently, the applicant submitted amended Master Plans, and amended Stormwater Plans reducing the impervious areas to delete the requirement for an OSD. The amended plans constitute a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP).

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested from Council's Development Engineer in relation to the proposed impervious area, and the requirements for an on-site stormwater detention (OSD). Subsequently, the applicant submitted amended Master Plans, and amended Stormwater Plans reducing the impervious areas to delete the requirement for an OSD. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this

Section 4.15 Matters for Consideration	Comments
	application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 18/12/2023 to 23/01/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Withheld	MANLY NSW 2095

The following issues were raised in the submissions:

- **Noise**
- **Neighbour Location**

The above issues are addressed as follows:

- **Noise**

The submissions raised concerns that the proposed teenage retreat area will result in high noise levels, and sound protection and insulation should be required.

Comment:

It is considered that the use of the rear yard as a open teenage retreat area will not result in any unacceptable noise levels as the outdoor open space is located at the rear of the site, suitable distanced from any neighbouring bedrooms, and living areas. It is noted to the east of the site is a child care centre, and to the west of the site is the rear of a residential flat building that contains parking facilities. It is considered that the use of the rear backyard as a teenage retreat area will not result in any "offensive noise" as defined under the *Protection of the Environment Operations Act 1997*. As such, it is considered the proposal is compliant with Clause 3.4.2.3 Acoustical Privacy (Noise Nuisance) of Manly Development Control Plan 2013.

- **Neighbour Location**

The submission raised concerns surrounding the location of neighbouring sites.

Comment:

The application has been notified in accordance with Council's Community Participation Plan, and the proposal has identified the adjoining sites accordingly.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	Council's Landscape Referral section have considered the application against the Manly Local Environment Plan (MLEP), and the following Manly DCP 2013 (MDCP) controls (but not limited to): 3.3.1 Landscaping Design; 3.3.2 Preservation of Trees or Bushland Vegetation; 4.1.5 Open Space and Landscaping, including 4.1.5.2 (c) Minimum Tree Plantings where applicable. In terms of landscape outcomes, the proposal alter the landscape setting and all existing trees are shown as retained and the plans

Internal Referral Body	Comments
	include additional planting. Conditions shall be imposed for tree and vegetation protection and for new planting requirements. All street trees along Pine Street (from Collingwood Street to Smith Street) are local heritage listed in Manly LEP under item 193, and shall be protected from construction activity damaged including truck deliveries. Within the road reserve fronting the property an existing Camphor Laurel has been removed and replaced with a Norfolk Island Pine and conditions shall be imposed for tree protection fencing to the Norfolk Island Pine for the duration of the development works.
NECC (Bushland and Biodiversity)	No biodiversity controls apply to the subject site and therefore there are no objections in relation to biodiversity matters.
NECC (Development Engineering)	The proposal increases the proposed impervious area by approximately 30 square metres and the resulting impervious area percentage of the site exceeds 60%. In accordance with the on-site stormwater management checklist in Council's Water Management Policy the proposed development requires on-site stormwater detention (OSD). The submitted stormwater management plan has not provided a design for the required OSD system in accordance with Council's Policy. Development Engineering cannot support the proposal due to insufficient information to address stormwater management in accordance with clause 3.7 of the DCP. Amended Plans Submitted 21/02/2024 The plans have been amended to reduce the impervious area to ensure the percentage does not exceed 60% of the site area which is acceptable. Development Engineering support the proposal, subject to conditions as recommended.
NECC (Flooding)	The proposal seeks consent for alterations and additions to an existing residential dwelling including a minor extension to the kitchen/dining area as well as alterations to the existing cabana and open teenage retreat. The site is affected by the Medium Flood Risk Precinct, 1% AEP flood extent, PMF flood extent, Flood Fringe extent and a H3 flood hazard in a PMF. Subject to the following conditions, council is generally satisfied that the proposal is compliant with Section 5.4.3 Flood Prone Land from the Manly DCP 2013 and Clause 5.21(2)(a-e) of the Manly LEP 2013, with consideration of Clause 5.21(3)(a-d) of the Manly LEP 2013.
Parks, reserves, beaches, foreshore	The development site adjoins Kangaroo Street reserve that is located upslope of the property.

Internal Referral Body	Comments
	No physical encroachments over the site boundaries are permitted, and structures and built elements are not permitted beyond the site boundaries. Public access to the reserve is not impacted by the proposed development and the development is not detrimental to the landscape character of the adjoining Reserve, and as such Parks, Reserves and Foreshores raise no concerns with the development proposal.
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	The proposal has been referred to Heritage as the subject site is located in the C1 - Pittwater Road Conservation Area and within the vicinity of heritage items: Item I164 - Natural escarpment - Kangaroo Reserve Park Item I193 - Street trees - Pine Street (from Collingwood Street to Smith Street)
	Details of heritage items affected
	Details of the Conservation Area and the heritage items as contained within the Manly Heritage Inventory are: C1 - Pittwater Road Conservation Area <u>Statement of Significance:</u> This street pattern is distinctive and underpins the urban character of the area. The streets remain unaltered in their alignment, although the names of Malvern, Pine and North Steyne are now names for what were Whistler, Middle Harbour and East Steyne respectively. <u>Physical Description:</u> The streetscape of Pittwater Road is a winding vista of late 19th and early 20th century commercial and residential architecture of generally one or two floors - although there are exceptions such as the four storey private hotel. The streetscape provides a 19th century atmosphere due to it's scale, width and the number of extant Victorian structures. Within the streetscape there are a number of individually significant buildings which are listed seperately. Adjacent streets generally comprise a consistent pattern of one and two story residential cottages, with the occasional terrace. Some streets have intermittent street plantings and remnant stone kerbs. The flat topography is accentuated by the escarpment to the west which provides an important visual, vertical and vegetated backdrop. Item I164 - Natural escarpment <u>Statement of significance:</u> Reserve and local streets associated by name and planning

Internal Referral Body	Comments		
	layout. <u>Physical description:</u> Natural landscape context to the Reserve together with natural rock outcrop. Significant remnant indigenous flora. Item I193 - Street trees <u>Statement of significance:</u> This is a good example of Aesthetic and historical significance. Line of street formed boundary to Norfolk Island Pines in the 1880's. Also axis of North Steyne Surf L.S Clubhouse. <u>Physical description:</u> Remnant species of Norfolk Island pine, Camphor Laurel and Norfolk Island Hibiscus. Representative of early street tree planting species by Municipal Council in late 19th century.		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application		
	The proposal seeks consent for alterations and additions to a two-storey interwar era residence which was originally a block of flats prior to conversion to a single residence. The proposal involves minor demolition to the existing deck and BBQ area at the rear, a small extension to existing ground floor level at the rear with a new skylight over this dining area extension, construction of a new open style retreat at the rear of the site with a new attached patio area and bike storage. Given the proposed works do not alter any significant heritage fabric and are mainly confined to the rear of the site and not visible from the street, the impact of the proposal on the significance of the HCA is considered manageable. Therefore no objections are raised on heritage grounds and no conditions required. <u>Consider against the provisions of CL5.10 of MLEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes		

Internal Referral Body	Comments

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	Development Application No. DA2023/1777 Description: Alterations and additions to a dwelling house and existing studio including associated landscaping Address: 39 Pine Street MANLY Reference is made to the proposed development at the above area and Aboriginal heritage. No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs 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 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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No.A1378093 dated 30

November 2023).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.7m	-	Yes
Floor Space Ratio	FSR: 0.6:1 (366.3m ²)	FSR: 0.47:1 (287.9m ²)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 610.5m ²	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 250m ² of site area	1 dwelling per 610.5m ² of site area	-	Yes
	Dwelling Size: 129m ²	261.3m ²	-	Yes
4.1.2.1 Wall Height	E: 6.5m (based on no gradient)	3.7m (Dining Room) 2.9m (Bike Storage)	- -	Yes Yes
	W: 6.5m (based on no gradient)	2.9m (Bike Storage)	-	Yes
4.1.2.2 Number of Storeys	2	2 (unaltered)	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.4m	-	Yes
	Pitch: maximum 35 degrees	<35 degrees	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	6m, consistent with prevailing setback (unaltered)	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	E: Dining Room: 1.23m (based on 1/3 wall height) Bike Storage: 0.97m (based on 1/3 wall height)	1.0m (Dining Room) 1.1m (Bike Storage)	18.70% (0.23m)	No Yes
	W: Bike Storage: 0.97m	6.8m (Bike Storage)	-	Yes

	(based on 1/3 wall height)			
	Windows: 3m	1m	66.67% (2.0m)	No
4.1.4.4 Rear Setbacks	8m	0.6m (Timber Bench) 4.3m (Bike Storage)	92.50 (7.4m) 46.25% (3.7m)	No No
4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2	8m (rear boundary)	0.6m (Timber Bench) 4.3m (Bike Storage)	92.50 (7.4m) 46.25% (3.7m)	No No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (335.78m ²)	49.82% (304.1m ²)	9.44% (31.68m ²)	No
	Open space above ground 25% of total open space (76.03m ²)	Nil	-	N/A
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (106.44m ²)	43.97% (133.7m ²)	-	Yes
	3 native trees	>3 trees	-	Yes
4.1.5.3 Private Open Space	18m ²	>18m ²	-	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	5m (unaltered)	-	N/A
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	unaltered	-	N/A
	1m curtilage/1.5m water side/rear setback	unaltered	-	N/A
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces (unaltered)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	N/A	N/A
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.2 Pittwater Road Conservation Area	Yes	Yes

Detailed Assessment

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

Description of non-compliance

Under Clause 4.1.4.2 of MDCP 2013, the requirements for all new windows that face the side boundary are to be setback at least 3m from side boundaries. The proposal includes a new window located 1.0m from the eastern side boundary for the dining room extension.

Under Clause 4.1.4.4 of MDCP 2013, the rear setback requirements state that the distance between any part of a building and the rear boundary must not be less than 8 metres. The proposed timber bench is located 0.6m from the rear boundary, and the bike storage is located 4.3m from the rear

boundary line.

Under Clause 4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2 for the following applies:

a) Buildings, swimming pools and garden sheds on sites with a common boundary to land zoned in the LEP as Zones RE1 Public Recreation, RE2 Private Recreation, E1 National Parks and E2 Environmental Conservation must be set back at least 6m from this common boundary and in the case of rear setbacks, the minimum 8m setback prevails (see paragraph 4.1.4.4 of this plan). However, gazebos, barbecues, child play equipment and the like may be permitted within this setback provided they are designed to complement the natural or landscape character of the adjacent LEP Zones.

As detailed above, the timber bench is located 0.6m from the rear boundary line, and the bike storage is located 4.3m from the rear boundary line. Given the angled rear boundary line it is considered that the proposal is acceptable, and will not result in any detriment from the natural and landscape character of the adjacent RE1 zone. It is noted that the timber bench is a 0.5m in height, and the bike storage is 3.0m in height presenting single storey structures that will not present as unacceptable building mass.

The variations to the window setback, rear setback, and setback for development adjacent to LEP Zones RE1 requirements are supportable in this circumstance as the objectives of the control have been met as outlined below.

Merit consideration:

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

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

Comment:

The proposed works are located at the rear of the site, and as such will not result in any significant changes to the existing streetscape, proportions of the street, the street edge, or the character of the street.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposal ensures and enhances local amenity by providing suitable privacy, noting that the proposed window adjoining the dining room extension is adjacent to an existing boundary fence, and as such will not result in any unacceptable privacy impacts. The proposal is largely single storey structures, and as such will present adequate access to light, sunshine, and air movement is provided to the subject site, and the adjoining sites. The proposal facilitates appropriate view sharing, and the

proposal allows for acceptable spacing between buildings through the varied setbacks. The proposal will not result in any detrimental changes to traffic conditions to Pine Street.

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

Comment:

It is considered the proposed location of the timber bench, and bike storage is acceptable, and appropriately located given the existing structures on the site.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposed development results in a compliant landscaped area that provides opportunity for plantings, and enhancement of vegetation. The subject site does not detract from the context of the site. The proposal will not result in any unacceptable impacts to the adjoining open space land. The *State Environmental Planning Policy No 19 - Urban Bushland* has been repealed, and as such does not apply.

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

Comment:

The subject site is not located in bush fire prone land, however the water contained within the swimming pools can assist in any bushfire emergency.

4.1.5 Open Space and Landscaping

Description of non-compliance

The subject site is located within Residential Open Space Area 3. As such, at least 55% (335.78m²) of the site is to be open space and at least 35% (106.44m²) of the open space to be landscaped area.

The proposal presents a total of 49.82% (304.1m²) of open space, presenting a variation of 9.44% (31.68m²). The proposal is more than compliant with the landscaped area with a total of 43.97% (133.7m²).

Under Clause 4.1.5.1 Minimum Residential Total Open Space Requirements of Manly Development Control Plan 2013, the following minimum dimensions and areas for Total Open Space apply:

Minimum dimensions and areas for Total Open Space

b) Total Open Space (see Dictionary meanings including landscape area, open space above ground and principal private open space) must adhere to the following minimum specifications:

- i) horizontal dimension of at least 3m in any direction; and*
- ii) a minimum unbroken area of 12sqm.*

iii) A variation to the minimum specifications in i) and ii) above may only be considered for Above Ground Open Space where it can be demonstrated that lesser dimensions or areas will better serve to minimise amenity impacts on neighbours. A lesser areas of above ground open space may be included or calculated under the minimum requirements in the circumstances of the case. In all other cases open space that does not comply with the minimum specification is not included or calculated under the minimum requirements for total open space.

It is important to note that the site obtains areas that are less than 3m in any direction, and as such these areas are not included in the total open space. However, if these areas were to be included, an additional 70.8m² would result in a total of 61.41% (374.9m²) of total open space would be provided, presenting compliance with the control.

Notwithstanding, the variation to the total open space is considered to be supportable as the objectives of the control have been met as outlined below.

Merit consideration:

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

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

Comment:

The proposal will not result in any removal of any important landscape features and vegetation, including any remnant populations of native flora and fauna. Council's Bushland and Biodiversity Officer, and Landscape Officer have reviewed the proposal, and are supportable subject to recommended conditions.

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

Comment:

The proposal presents more than compliant landscaped areas, and open space at ground level, that allows for the retention of existing tree planting, and the maintenance of existing vegetation.

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

Comment:

The proposal will retain the amenity, including sunlight, privacy, and views of the site, and adjoining sites. Furthermore, the proposal is located at the rear of the site, and therefore the proposed works will not be visible to streetscape.

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

Comment:

The proposal will maximise water infiltration on-site through the soft landscaped areas, and surfaces that will assist to minimise stormwater runoff. Furthermore, Council's Development Engineer has reviewed the proposal, and is supportable subject to recommended conditions.

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

Comment:

The proposal is unlikely to result in the spread of weeds, or degradation of private and public open space.

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

Comment:

The proposal will not adversely impact upon any wildlife habitat or potential wildlife corridors.

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 2022

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of 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 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2023/1777 for Alterations and additions to a dwelling house and existing studio including associated landscaping on land at Lot A DP 346467, 39 Pine Street, MANLY, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A_SP_A00_04	04	Site & Landscape Plan	Studio P	20 February 2024
A_SP_A01_04	04	Ground Floor Plan	Studio P	20 February 2024
A_SP_A02_04	04	First Floor Plan	Studio P	20 February 2024
A_SP_A03_04	04	Roof Plan	Studio P	20 February 2024
A_SP_A04_02	02	North Elevations	Studio P	18 October 2023
A_SP_A05_02	02	South Elevations	Studio P	18 October 2023
A_SP_A06_02	02	East Elevations	Studio P	18 October 2023
A_SP_A07_02	02	West Elevations	Studio P	18 October 2023
A_SP_A08_02	02	Section A	Studio P	18 October 2023

A_SP_A09_02	02	Section B	Studio P	19 October 2023
A_SP_x01_01	01	Demolition Plan	Studio P	19 October 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate	A1378093	Miss Arwen Sachinwalla	30 November 2023
Flood Report	3011-FR	Broadcrest Consulting Pty Ltd	31 October 2023
Heritage Report	-	Damian O'Toole Town Planning & Heritage Services	September 2023
Stormwater Report	-	Partridge Hydraulic Pty Ltd	19 February 2024
Stormwater Management Plan and General Notes - SWDA 1.2	2	Partridge Hydraulic Pty Ltd	19 February 2024
Erosion and Sediment Control Plan & Details - SWDA 1.3	2	Partridge Hydraulic Pty Ltd	19 February 2024
Existing and Proposed Site Plan and Impervious Areas - SWDA 1.4	2	Partridge Hydraulic Pty Ltd	19 February 2024
Proposed Stormwater Drainage Layout Plan & Detail - Ground Floor - SWDA 1.5	2	Partridge Hydraulic Pty Ltd	19 February 2024
Waste Management Plan	-	No Author	n.d.

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
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Aboriginal Heritage Office	Referral - Aboriginal Heritage Office - 39 Pine Street Manly	14 December 2023
Ausgrid	Ausgrid Referral Response	15 December 2023

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

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

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

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

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less

than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

5. **No Approval for Secondary Dwelling**

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

Reason: To ensure compliance with the terms of this consent.

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

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

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. Building Components and Structural Soundness

B1 - All new development below the Flood Planning Level of 6.52m AHD shall be designed and constructed from flood compatible materials.

B2 - All new development must be designed to ensure structural integrity up to the Flood Planning Level of 6.52m AHD, taking into account the forces of floodwater, debris load, wave action, buoyancy and immersion.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 6.52m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

8. Floor Levels

The proposed one-off extension to the main dwelling with an existing floor level below the 1% AEP is recommended for approval because it is generally compliant condition C4 from councils DCP.

Details demonstrating compliance are to be submitted to the Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

9. Fencing

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area along any straight length, from the natural ground level up to the 1% AEP flood level. Openings shall be a minimum of 75mm x 75mm.

Details demonstrating compliance are to be submitted to the Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

10. Storage of Goods

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 6.52m AHD unless adequately protected from floodwaters in

accordance with industry standards.

Details demonstrating compliance are to be submitted to the Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

11. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the existing kerb outlet in Pine Street.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

12. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

13. **Compliance with Standards**

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

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

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

14. **Sydney Water "Tap In"**

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. Works on Land Owned or Managed By Council

No encroachments are to be carried out on Land owned or managed by Council.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.), and landscaping works on Land owned or managed by Council.

Reason: To protect the land owned or managed by Council.

16. Street Tree Protection

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the Norfolk Island Pine street tree fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS4970-2009 Protection of trees on development sites. As a minimum the tree protection fencing for the Norfolk Island Pine shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture.

All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Protection of significant community assets.

DURING BUILDING WORK

17. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees within the site, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites,
- ii) the following arboricultural requirements shall be adhered to unless authorised by an Arborist with minimum AQF level 5 qualifications: existing ground levels shall be maintained within the tree protection zone of trees to be retained; removal of existing tree roots at or >25mm (Ø) diameter is not permitted; no excavated material, building material storage, site facilities, nor

landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained; and structures are to bridge tree roots at or >25mm (Ø) diameter,

iii) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,

iv) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,

v) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken as compliance to AS4970-2009 Protection of trees on development sites.

Reason: Tree and vegetation protection.

18. Road Reserve

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

Reason: Public safety.

19. No Access Through Land Owned or Managed by Council

Site access is not approved for delivery of materials nor construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

20. Storage of Materials on Land Owned or Managed by Council Prohibited

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

21. Protection of Council's Public Assets

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council. Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993. Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Reason: To protect and/or restore any damaged public asset.

22. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];

- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

23. Demolition Works - Asbestos

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

24. Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

25. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

26. Aboriginal Heritage

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning and Environment.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning and Environment.

Reason: Aboriginal Heritage Protection.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

27. **Landscape Completion**

Any new landscape works are to be implemented in accordance with the approved Plans, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) planting shall be installed as indicated on the approved Plans, unless otherwise imposed by conditions,
- c) any removal of exempt tree species shall be replaced by a locally native tree in accordance with Manly DCP Schedule 4 - Part B - Native Tree Selection,
- d) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- e) all new tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

28. **Building Components and Structural Soundness**

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 6.52m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

29. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

30. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018;
- (iv) Australian Standard AS1926 Swimming Pool Safety;
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools;
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(b) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(c) All signage shall be located in a prominent position within the pool area.

Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

31. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

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

Signed



Stephanie Gelder, Planner

The application is determined on 26/02/2024, under the delegated authority of:



Adam Richardson, Manager Development Assessments