

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1296
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 201 DP 4889, 38 Ponsonby Parade SEAFORTH NSW 2092
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Nicola Jane Lyne
Applicant:	Equity By Design

Application Lodged:	19/10/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	27/10/2020 to 10/11/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 3.6%
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,104,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application proposes alterations and additions to a dwelling house. A summary of the works proposed includes:

- Partial demolition and site preparation work.
- **RL69.39 - Garage Level** - New garage with access for 2 cars, storage, stairs and access (Existing ground floor contains storage areas, garage, and subfloor area).
- **RL71.84 - Ground Floor Level** - Change to selected door and windows, entry foyer, dining room, lounge, bathroom, laundry, kitchen / meals living area, fireplace, butlers pantry, storage and stair access, terrace and patio area.
- **RL74.91 - First Floor Level** - Balcony and terrace areas (2), bedrooms (5), bathrooms (3), storage, stair access.

- **RL76.77 to 78.77** - Roof and parapet levels (replacement of roof) from pitched gable style to flat / low pitched with solar panels. (Chimney RL80.010)

Ancillary site works including external cladding and material changes, privacy screens, drainage work, minor excavation, landscaping and ancillary site works. The existing pool cabana and majority of ancillary landscape area is to be retained.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.3 Height of buildings

Manly Development Control Plan - 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

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

SITE DESCRIPTION

Property Description:	Lot 201 DP 4889 , 38 Ponsonby Parade SEAFORTH NSW 2092
Detailed Site Description:	The site has an angled frontage with a minimum width of 20.115 metres (m) and maximum depth of 81.97m, with a total site area of 1,578 square metres (sqm) The site is developed with a part three storey brick residence with a tiled roof. An in-ground swimming pool is located within the rear yard and pool outbuilding. Stormwater from the roofed areas is directed to Ponsonby Parade. The current dwelling was constructed around 1950.

Like its near neighbours, it features some 'Art Deco' inspired characteristics despite not being of the period. The dwelling has a dominant street presence due to the natural elevated position of the land.

Vehicular access is currently available from Ponsonby Parade via a concrete driveway to an existing (narrow) single garage below the dwelling. The proposal will include a new double garage and vehicles are able to enter and exit the site in a forward direction.

The area surrounding the site is predominantly represented by a mix of development comprising dwellings of varying sizes. The dwellings in the vicinity have been designed with living areas and associated open space that are oriented to take advantage of the surrounding board district and distant harbour views available to the site.

The land is not subject to bushfire hazard and has a moderate slope closer to the road. There are no identified heritage items on or adjacent the site.

Map:



SITE HISTORY

The current dwelling was constructed around 1950 and features some 'Art Deco' inspired characteristics despite the building not being of that architectural design period.

Complying Development Certificate No.CDC2018/0950 for the construction of a cabana, spa, landscaping, steps, paving and ancillary works in the rear yard was approved by private certification (Reference No.UA20918) on 19.8.2018.

Development Application No.10.2007.112.1 for new doors in rear elevation of the dwelling house was

approved by Council on 9.5.2007.

Development Application No.DA0027/00 for a concrete swimming pool was approved by Council on 29.2.2000

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Following the completion of the notification period some additional information was sought to be clarified in relation to considerations regarding the height, setback, privacy and height of the roof assessment. The information is of a routine assessment consideration and therefore notification not required by the Community Participation Plan. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.

Section 4.15 Matters for Consideration'	Comments
	<u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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 Warringah 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, subject to conditions. Considerations of slope, adjacent development, built form controls, drainage, lot shape / area, amenity and environmental factors are addressed by conditions and certification management requirements for construction works.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 27/10/2020 to 10/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The plans indicate that no significant landscape features are affected by the proposed works. No objections are raised to approval subject to conditions as recommended. <u>Planning Comment:</u> Assessment considerations, comments and conditions from Council's Landscape Officer are concurred with for approval of the application.
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following conditions of consent. <u>Planning Comment:</u> Assessment considerations, comments and conditions from Council's Development Engineer are concurred with for approval of the application.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. On 24.11.2020 Ausgrid provided a response that raised no assessment requirements and no conditions or comments.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard, it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A389236 prepared by Paul Morgan).

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

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

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. On 24.11.2020 Ausgrid provided a response that raised no assessment requirements and no conditions or comments.

Other Service Authorities

The proposal does not require referral to Transport NSW (formerly RMS) and no other Infrastructure Service Authority referral issues are raised pursuant to the SEPP.

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	9.1m (includes parapet structure) (Existing roof 9.0m)	9.4% (reduced by condition to 3.7%)	No*
Floor Space Ratio (Site area 1,577sqm) (Existing 350sqm / 0.22:1)	0.45:1 (Area C)	0.38:1 (proposed floor area is 508sqm)	N/A	Yes

*See detailed merit assessment under the heading 'Clause 4.6' within this report.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.3m
Percentage variation to requirement:	9.4%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra*

Municipal Council [2018] NSWLEC 118, Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61, and RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

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

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

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

Comment:

The proposed non-compliance to the height of the building as was identified as a variation of 9.4%

(0.9m) and the variation was principally related to a 1.09m high parapet fascia board as a roof feature work. This element is nearly twice the maximum height permitted by *Clause 4.1.2.3 Roof Height* of Manly DCP

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

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part (summarized) as:

- *"The current dwelling is a two and three storey house which has a current maximum building*

height of 10.6m from its lowest floor level to its current roof ridge. Therefore, any alterations to the current roof using accepted building practices will automatically cause a technical contravention of the development standard. The potential for such a situation is acknowledged by Clause 4.1.2(b) of the DCP which allows for building height controls to be exceeded if the existing building is already above the maximum height and if the proposal does not increase the overall height of the building.

- *The proposal meets the requirements of the DCP and attempts to minimise the technical breach of the LEP by proposing a roof design which reduces the roof ridge from 10.6m to approx. 8.9m.*
- *In proposing a roof design which lowers the maximum building height by 1.7m and reduces the overall bulk and scale of the dwelling, we believe that this achieves the 'better outcome' objective of the LEP and we encourage council to use the flexibility provided to it by Clause 4.6 to approve this variation to the development standard."*

Council consideration

- The applicant's written request identifies reasonable factors that demonstrate reasons for the non-compliance based on the existing height and shape of the building fabric and utilizing the existing building floor levels.
- The new building height proposed does not seek to further increase height and relies on the supporting extended wall height for the new low area and profile of the roof and parapet which therefore relies on the architectural transformation proposed for the contemporary style selected, a reduction in the parapet to the maximum allowed under the Many DCP however is appropriate.
- For assessment purposes the height control is practically measured from the ground line across the existing ground line and identifies that there is a natural slope toward the southern side of the site which influences the 8.5m height control on the forward elements of the dwelling (toward Ponsonby Parade) where the non-compliance is most pronounced. This relates to the existing walls of the original dwelling and wall heights that are being retained.
- Floor to ceiling heights are being maintained consistent with the existing approved dwelling and are not excessively high.

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

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

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

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

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

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

Comment:

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

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the MLEP 2013 are:

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

a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The applicant has elected to use a flat / low profile new roof to modernise the appearance of the building. The character of the locality has a mix of flat and pitched / hipped roof forms and where views are concerned flat roof forms are commonly used. The inclusion high parapet element adds a dominating appearance to the upper bulk of the building and exceeds the maximum height control and the maximum parapet height (as per the DCP). A reduction from 1.09 to 0.6m for the parapet will substantially reduce the non-compliance to 3.7% and enable the flat style roof form to be maintained with minimal profile and maintain a visual interest consistent with the outbuilding on site. The roof style is reasonably maintained without excessive height and the alignment configuration may be adjusted to suit roofing requirements (drainage / span) to suit. Subject to condition the proposed variation to the height maintains consistency with this objective.

b) to control the bulk and scale of buildings,

Comment:

The dwelling alterations and additions seek to modernise the internal layout and capitalise on the available shape of the dwelling and wide front setback and deep site (approximately 80m). The non-compliance with the building is being reduced (by condition) and the overall building bulk is controlled by integrating the additional floor space to the front sloper and ground levels (principally at the rear as two storey). The proposed variation to the height control maintains consistency with this objective

c) to minimise disruption to the following:

(i) views to nearby residential development from public spaces (including the harbour and foreshores),

(ii) views from nearby residential development to public spaces (including the harbour and foreshores),

(iii) views between public spaces (including the harbour and foreshores),

Comment:

The non-compliance with building height has a minimal impact on views (demonstrated within the design plans / site inspection). In terms of the quantity and quality of design changes being made to the building (including external colours and materials) the site is consistent with the gradual renewal and renovation of existing housing stock in the vicinity of the site. The site and many

surrounding properties have district harbour views and expansive views across the site or part of the site and the proposal has a minimal disruption on those views.

d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The proposal has been provided with detailed shadow diagrams that demonstrates adequate sunlight access is maintained to adjacent private open space and habitable rooms of adjacent dwellings. The proposed variation to the height control maintains consistency with this objective.

e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

The proposal does not require the removal of any canopy trees and the landscape setting of the building will be maintained. The non-compliance does not adversely affect the environmental values of the site including views of the site from the harbour and surrounding public / private land, subject to condition to reduce the domaining effect of the double width roof parapet (this consideration include minor change to the lower balustrade style to the overall symmetry / style of the building for CC stage).

Zone objectives

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

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

Comment:

The alterations and additions to the dwelling house will maintain the use of the site for housing in a landscape low density environment and the non-compliance with height does not adversely affect this objective.

It is considered that the development satisfies this objective.

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

Comment:

No other land uses facilities or services for the site are proposed.

It is considered that the development is not relevant to this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of

the R2 Low Density Residential zone, subject to condition to reduce the open parapet to a maximum of 0.6m which will bring the overall non-compliance to 3.7% (0.3m variation) at 8.8m overall building height.

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

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

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

Mainly Development Control Plan

Built Form Controls

Built Form Controls - Site Area:	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 600sqm	Residential Area Dwelling - proposed 1 per 1,578sqm	Existing 82% No change	No* As approved
	Dwelling Size: Area D9 Minimum 90sqm	Dwelling 317sqm	N/A	Yes
4.1.2.1 Wall Height*	North Elevation: 7.7m	5.4mm	N/A	Yes
	South Elevation: 7.7m	8.2m	6.4%	No*
	East Elevation: 7.7m (based on site gradient 1:5)	8.0m	3.8%	No*
	West Elevation: 7.7m (based site gradient 1:5)	7.1m	N/A	Yes
4.1.2.2 Number of Storeys	2	3 (Basement garage, stairway and basement, storage)	Existing 50% No change	No* (part basement)

4.1.2.3 Roof Height	Height: 2.5m	1.09m	N/A	Yes
	Parapet Height: 0.6m	1.09m	83%	No (Condition to comply)
	Pitch: maximum 35 degrees	4 degrees (4.4%)	N/A	Yes
4.1.4.1 Street Front Setbacks (Ponsonby Parade)	Prevailing building line / 6m	15.4m Consistent with prevailing diagonal setback (Existing footprint)	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Windows: 3.0m	1.7m East 3.3m West	43% N/A	No* Yes
	East	1.6m to 1.4m Ground floor	N/A	Yes
	(Upper wall 1:3 = 2.56m)	1.96m to 1.4m Upper floor (& balcony 0.7m)	N/A 22%	No* (Existing wall line) No (Condition to comply)
	West	3.2m to 1.96m Ground floor	N/A	No*
	(Upper wall 1:3 = 2.56m)	3.2m to 1.93m (Upper floor)	11.9%	No*
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Total Open Space (55%) area (Total site area req. 868sqm)	882sqm TLOS 56%	N/A	Yes
	Open space above ground <40% of total open space	190sqm AGLOS 21%	N/A	Yes
4.1.5.2 Landscaped Area (500sqm to 800sqm site area) (Total site area 631sqm)	Natural landscaped area >40% of open space (347sqm)	490sqm 55% of TLOS	N/A	Yes
	3 native trees	All existing trees retained Minimal landscape work proposed	N/A	Yes

4.1.5.3 Private Open Space	18 sqm per dwelling	320 sqm Ground level rear	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas*	Maximum 50% of frontage up to maximum 6.2m	6.2m Garage 21.33m road frontage	N/A	Yes
Schedule 3 Parking and Access	2 spaces per dwelling	2 spaces per dwelling	N/A	Yes

* Refer to detailed merit assessment under the heading 'Built Form Controls' within this report.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	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
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)

General Amenity considerations pursuant to *Clause 3.4 Amenity* (Views, Overlooking, Privacy, Noise) are considered as follows:

Merit Assessment Comments:

- Design considerations have been made to ensure no unreasonable overshadowing, privacy, views, noise and vibration impacts and other nuisance (odour, fumes etc.) for neighbouring properties. The proposal is consistent with the density and pattern of development adjacent (commonly 2-3 storey dwellings) and local prevailing amenity, including privacy and solar access have been accommodated in the design, including screens, room orientation / window treatment, wall setbacks and ground level landscape separation.
- With regard to fumes / noise it is noted that the plans show an 'outdoor fire pit 'and 'basketball court'. These elements are existing and not part of the alterations and additions to the dwelling as they were constructed as part of previous pool landscaping works under a private certifier. A number of properties in the vicinity have tennis courts and extensive landscape treatment with barbeque and outdoor entertaining areas. It is recommended that a condition includes notation that the outdoor firepit and basketball court are not part of the alteration to the dwelling despite being shown on the plans for approval.
- A number of minor additional details have been made to accommodate consistence with assessment requirements including privacy treatments privacy and overshadowing. This includes the use of selected privacy screens to ameliorate privacy and a minor reduction in overshadowing form the high roof parapet (reduced by ~0.5m)
- The design of the proposal seeks to modernise the architecture of the building without detracting from the landscape scenic amenity of the area. In particular, the visual pattern of bulk and design of the will create the appearance of a new contemporary house despite substantial retention of the existing core of the original house. The proposal has been considered from surrounding public and private viewpoints. In this regard, the should include (by conditions) some some supplementary details to refine / enhance privacy treatment and reduce building

bulk / height as per the MDCP that assists in less overshadowing.

- Adequate space on site is retained for open space to provide a landscape setting and meet the recreational needs of the occupier for the proposed open space areas and dwelling design for the redeveloped site for the alterations and additions.
- The materials and finishes selected are suitable for the surrounding urban environment in terms of reflectivity including the new roof material and style and window glazing extent for walls. The use of screens, wall articulation, natural materials and colours are appropriate for the residential nature of the building and do not detract from the existing streetscape and surrounding amenity, subject to conditions. Refer to plans drawn by "*Equity by Design*".
- In summary, the proposal complies with solar access requirements and has been designed to ensure no unreasonable amenity to adjacent residents and including privacy, views, solar access and general amenity of adjoining and nearby properties including noise and vibration impacts, subject to conditions,

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

3.4.2 Privacy and Security

Specific privacy requirements and objectives, pursuant to *Clause 3.4.2 Privacy and Security*, are considered as follows:

Merit Assessment Comments:

- The proposal has been designed to ensure no unreasonable loss of privacy to adjacent and nearby development by the use of design responses including window size and placement minimal windows along side walls. Overall the proposal will maintain reasonable privacy for the urban environment, including by the configuration of rooms / spaces including fencing and landscaping subject to conditions for some minor privacy screening to the new large balcony areas.
- Where walls are close to the adjacent boundaries of adjacent land and in particular No.40, No.42 and No.36 Ponsonby Parade to ensure no unreasonable impact with regard to restricting ameliorating views over private open space. The building separation and limited landscaping is also provided to mitigate impacts on privacy appropriate to residential living in the surrounding topography of the residential environment.
- The alterations and additions has been designed with appropriate response to ensure no unreasonable impacts on privacy (both acoustical and visual) including the consideration of the floor plan elements (bathrooms, bedrooms, living area, fencing, landscaping and the like) so that direct viewing is consistent with the surrounding residential environment. Generally, the orientation of the dwelling is toward the south and north similar to the existing dwelling outlook. The proposal does not create direct unreasonable viewing toward properties adjacent the site however the large balcony spaces are recommended to include compliant BCA setback (minimum 0.9m) and minor screen sections to assist privacy.

- Windows close to the side setbacks are minimal to mitigate direct viewing between windows and/or outdoor living areas of adjacent buildings. Overall the proposal provides reasonable level of privacy in the context of the surrounding residential living environment. Bedrooms areas, being normally occupied less during the day and used for sleeping at night will not be unreasonably impacted.
- In summary, the reconfiguration of the dwelling has included measure to ensure no unreasonable viewing of habitable rooms, including private open space and with appropriate residential security considerations.

Having regard to the above assessment, and site inspection made to assess the privacy context in the local surroundings, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance subject to some minor inclusions for selected screen / balcony treatment.

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

The DCP height requirements and objectives, pursuant to *Clause 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys and Roof Height)*, are addressed as follows:

Merit Assessment Comments:

- The non-compliance with the wall height is limited to the east and south elevations toward the southern end of the side wall plane and above the garage area. The property has a moderate gradient toward the southern half and the floor to ceiling heights being maintained are consistent with the existing house elements being retained the overall heights are not unreasonable or excessive such that they do not create any unreasonable impact on views or privacy and spatial separation (subject to conditions).
- The building presents as part three storey when viewed from Ponsonby Parade due to the lower garage / basement element and two storeys at the rear of the site. This lower garage area of the site influences the high wall height on the eastern side of the original house which will remain. The subfloor area (RL69.39) contains storage, stair access and garage space. The existing basement is a non-habitable space and integrated into the excavated zone under the original dwelling. The the majority of wall height are unchanged and subject to some recladding / renovation work to modernized appearance of the house. The additions to the front of the building do not create an unreasonable impact in term of general amenity impacts.
- The principal usable private open space for the terraces width / balcony area are located toward the south or north of the building bounded but the site has commanding views of surrounding area with distant views also. Some inclusion of minor screening is warranted to the front and rear balcony (addressed by condition) and compliance with the 0.9m setback for the front balcony also as this is visible to the street and appears to be over-extended toward adjacent land and is in an elevated position.
- The requirements of this clause permits roof parapets to extend up to 0.6m above the actual wall height as an additional element to roof area. The parapet features are part of the modernised design of the roof form however in order to satisfy the objectives of this clause under the DCP with minimal impact on bulk and streetscape amenity to adjacent land they parapet is to be limited to a maximum of 0.6m (rather than 1.09m).

- In summary, the proposal is considered to be of a satisfactory architectural design and built form with regard to wall height considerations pursuant to the Manly DCP. The non-compliance to the wall height controls does not create any unreasonable impacts of overshadowing, views, bulk or general amenity to adjacent land, subject to minor changes as recommended in conditions for amendment.

Having regard to the above assessment, and site inspection made to assess the privacy context in the local surroundings, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Setback requirements and objectives, pursuant to *Clause 4.1.4 Setbacks (front, side and rear) and Building Separation*, are addressed as follows:

Merit Assessment Comments:

- The proposal has maintained the existing landscape setting and setback to the streetscape, including the desired spatial residential proportions of the street, including the street edge and the landscape character frontage to Ponsonby Parade. The proposal is consistent with maintaining local amenity by the design response to ensure no unreasonable impact on privacy (by windows, balconies, screens, landscaping and the like) and providing equitable access to natural light, direct sunlight and air circulation for the proposed dwellings and the surrounding environment. In this regard, setbacks of 1.96m to 1.4m are reliant on the existing wall alignment. However, the new forward balcony (wrap around section) has a setback of only 0.7m which is non-compliant. It is recommended that 0.9m be maintain due to the elevated position (RL74.91) of this balcony and dominating impact of the balcony area that is a large and striking feature of the new design. This issue is addressed by condition.
- Building separation is 3.m to 4.0m to adjacent dwellings with the non-compliance to the side boundary envelope limited to the upper corner of the side elevation (screen elements / parapet) at the southern end of the building (low side of these site) and is influenced by the alignment of the existing site walls being retained. The non-compliance with the side boundary envelope does not create any unreasonable impact on surrounding amenity including views.
- The proposal is consistent with the DCP objective to allow for the flexibility in the siting of buildings while allowing for view sharing and maintaining adequate space between buildings including views and vistas from private and public spaces. The location of the garage fronting Ponsonby Parade is consistent with the pattern of existing garages near the site and will maintain safe and adequate traffic conditions, including the ability to enter and leave a forward direction.
- Adequate side setbacks have been proposed to maintain natural features of landscaping including deep soil zones and appropriate planting subject to conditions. The proposed setbacks allow for compliance with the *Building Code of Australia* for maintenance, access, drainage work and emergency requirements (fire safety) and it is recommended that the balcony elements also maintain a 0.9m minimum side setback (east). Subject to conditions, the nature of development

does not unduly detract from the context of the site and particularly in relation to street frontages and front and side setbacks including the context of neighbouring properties and the different building lines in the immediate vicinity.

- The existing pattern of the principal open space and landscaped areas are retained with smaller elements of landscaping used to provide visual interest and amenity to the dwelling house (as it will be with the alteration and additions).

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$11,040 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,104,000.

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 Northern Beaches Council as the consent authority vary *clause 4.3 Height of Building* development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and (subject to conditions of the variation) the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2020/1296 for Alterations and additions to a dwelling house on land at Lot 201 DP 4889, 38 Ponsonby Parade, SEAFORTH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
01 Proposed Site Plan*	Oct 2020	Equity by Design
05 Demolition Garage Level	Oct 2020	Equity by Design
06 Demolition Ground Floor	Oct 2020	Equity by Design
07 Demolition First Floor	Oct 2020	Equity by Design
08 Proposed Garage Level	Oct 2020	Equity by Design
09 Proposed Ground Floor	Oct 2020	Equity by Design
10 Proposed First Floor	Oct 2020	Equity by Design
10A Roof Plan	Oct 2020	Equity by Design
11 Elevation North	Oct 2020	Equity by Design
12 Elevation East	Oct 2020	Equity by Design

13 Elevation South	Oct 2020	Equity by Design
14 Elevation West	Oct 2020	Equity by Design
14A Sections	Oct 2020	Equity by Design
15 Glazed windows and doors	Oct 2020	Equity by Design

*The 'cabana', 'pool', 'fire pit' and 'basketball court' shown are not part of this development consent

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Basix A389236	8.10.2020	Equity by Design
BCA Compliance	8.10.2020	Equity by Design

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
(as shown) 01 Site Plan*	Oct 2020	Oct 2020

*The 'cabana', 'pool', 'fire pit' and 'basketball court' shown are not part of this development consent.

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
17 Waste Management Plan - 38 Ponsonby Parade	Oct 2020	Equity by Design

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

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

2. Prescribed Conditions

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

a telephone number on which that person may be contacted outside working hours, and

- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the

development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) All sound producing lift plant, door motors, air conditioning machinery or fittings and the like, to service the building must not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room (s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.
- (o) 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 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$11,040.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,104,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

5. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

6. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY.

Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

7. Amendments to the approved plans

The following amendments are to be made to the approved plans:

i) Fixed privacy screens are to be included for the First Floor (RL74.91) rear balcony adjacent "Bed 4" for the western side, and front Terrace on the western side. Screens are to be a minimum of 1.0 metre (m) wide (measured from the dwelling wall) x 1.6m high (from first floor level) with horizontal or vertical battens designed to screen viewing to adjacent land from standing position.

(ii) The balcony edge and balustrade (RL74.81) adjacent "W4" shall have a minimum setback of 0.9m from the common boundary with No.36 Ponsonby Parade.

(ii) The roof parapet shall have a maximum height of 0.6m above ceiling level (RL78.28). Variation to the roof ridge alignment / span may occur if required to suit roofing and roof drainage requirements with the construction certificate subject to maximum ridge height of RL78.78, including balustrade changes to suit external appearance.

Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

8. Compliance with Standards

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

9. Tree and vegetation protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees and vegetation within the site not indicated for removal on the approved plans, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation not approved for removal.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees.
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

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

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

Reason: tree and vegetation protection.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. 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.

11. 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.

12. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans with parapet feature a maximum of 0.6 metre (parapet maximum RL78.28 as to suit)

Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

13. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

14. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

15. **House / Building Number**

House/building number is to be affixed to the fence or letterbox to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

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

Signed



Alex Keller, Principal Planner

The application is determined on 15/12/2020, under the delegated authority of:



Anna Williams, Manager Development Assessments