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council

Reference: 2018/120366
Enquiries: Development Assessment

Total Pages: 13

Serenescapes Landscape Designs Pty Ltd
Unit 54, 14 Narabang Way
BELROSE NSW 2085

Dear Sir/Madam,

NOTICE OF DETERMINATION

Pursuant to Section 81(1)(a) of the *Environmental Planning and Assessment Act 1979*

Development Application No.	265/2017
Proposed Development	Alterations and additions to the existing dwelling house
Land to be developed	Lot 11 Sec 20 DP 758044 51 Curban Street, Balgowlah Heights
Determination	Approved by DEL
Date of Determination	15 February 2018
Consent is to operate from	15 February 2018
Consent is to lapse on	15 February 2023

Council determined this application under delegated authority on 15 February 2018 when it was determined:

That Development Application No. 265/2017 for Alterations and Additions to the existing dwelling house at 51 Curban Street Balgowlah Heights be **approved** subject to the following conditions:-

GENERAL CONDITIONS

1. The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 265/2017:

Plan No. / Title	Issue/ Revision & Date	Prepared By
L-01 Site Plan/Site Analysis/Sediment Control Plan	Issue B, dated 29 June 2017	Serenescapes
L-02 Detail Plan	Issue B, dated 29 June 2017	Serenescapes
L-03 Setout Plan	Issue B, dated 29 June 2017	Serenescapes
L-04 Sectional Elevation AA	Issue B, dated 29 June 2017	Serenescapes
L-05 Sectional Elevation BB	Issue B, dated 29 June 2017	Serenescapes
L-06 Sectional Elevation CC	Issue B, dated 29 June 2017	Serenescapes

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

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

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.



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- (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 (DACPLB09)



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

ANS01

The north-western section of proposed deck and barrier is to be setback a further 2m from the northern boundary. Amended plans are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To minimise loss of privacy to the neighbouring properties.

3 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

4 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

5 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.



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6 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

7 (2SP01)

All of the following are to be satisfied in relation to the swimming pool:

- 1) The swimming pool is to be surrounded by a child-resistant barrier in accordance with the Swimming Pools Amendment Act 2009 and Regulations 2008 which:
 - separates the swimming pool from any residential building situated on the property and from any place adjoining the property, and
 - is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standards.
- 2) All surface waters from non-pervious areas surrounding the swimming pool must be collected and disposed of to the stormwater system.
- 3) Windows giving access to the pool areas must be made child safe and comply with the following:
 - Window opening is to be restricted by an approved means so that a round bar 105mm in diameter cannot be passed through the opening or the window is to be protected by a child safe grille.

However if the restricted opening of such windows means that they will no longer meet the natural ventilation requirements of the Building Code of Australia, then only a child safe grille is permissible.



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- 4) The proposed pool gates are to be mounted so that:
- they are clear of any obstruction that could hold the gate open, and
 - when lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and
 - they open outwards from the pool.

Reason: To comply with Australian Standard AS 1926 and provide a reasonable level of child safety

8 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

9 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

10 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

11 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.



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12 (3LD03)

Where trees greater than 5 metres in height which are not within the proposed footprint (i.e. not directly affected by the development) and are proposed for removal, a tree permit is required subject to the Tree Preservation Order 2001 criteria.

Reason: Retain the number of existing trees on site which are protected by the Tree Preservation Order and not directly in the way of development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.



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- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

14 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

15 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

16 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 3LD01.

17 (4LD04)



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The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

18 (4MS04)

An approved Erosion and Sediment Management plan is to be implemented from the commencement of works and maintained until completion of the development.

The design and controls addressed in the Sediment and erosion management plan must comply with the criteria identified in:

- Manly Development Control Plan 2013, and
- Manly Councils Guidelines for Sediment and Erosion Controls on building sites, 2005, and
- The document "Managing Urban Stormwater: Soils and Construction" Volume 1, 2004.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

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

ANS02

All protective fencing and gates are to be in accordance with Australian Standard AS 1926 prior to the issue of the Occupation Certificate. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the prior approval of Council.

Reason: To comply with Australian Standard AS1926 and provide a reasonable level of child safety.

19 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately



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ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

20 (6LP04)

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

21 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

22 (6NL12)

Swimming pool and spa pumps must be installed and operated at times so as not to cause 'offensive noise' as defined by the Protection of the Environments Operation Act 1997. Swimming pool and spa pumps must not be audible in nearby dwelling between 8:00PM to 7:00AM Monday to Friday, and 8:00PM to 8:00AM on Saturdays, Sundays and public holidays.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building works is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is also a criminal offence which attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

Please note that all building work must be carried out fully in accordance with this development consent and conditions of approval. It is an offence to carry out unauthorised building work or building work that is not in accordance with this consent.

In accordance with Clause 284 of the *Environmental Planning and Assessment Regulation 2000*, non compliance with the above conditions may result in Council issuing a Penalty Notice which may incur a fine.



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Notes:

Review of Determination

1. If you are dissatisfied with this decision, Section 82A of the *Environmental Planning and Assessment Act 1979* gives the applicant the right of review by Council within six (6) months of the date of determination. Please note that this review must be completed within the six (6) month period after the date of determination. A determination in respect of integrated development or designated development cannot be reviewed by Council.

Right of Appeal

2. If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act 1979* gives the applicant the right to appeal to the Land and Environment Court of New South Wales (their address being Level 4, 225 Macquarie Street, Sydney NSW 2000) within six (6) months after the date on which the applicant received notice of the determination of that application.

Modification of the Consent

3. You are advised that any modification to the approved building(s) or structure(s), changes to the layout of buildings or structures on the site, modification of any conditions of this consent or changes to the operation of an approved use may require the lodgement of modification to the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.
4. Please be advised that in order to lodge an application to modify the consent pursuant to this section, the development must be substantially the same development for which consent was originally granted. If Council is not satisfied that the development is substantially the same, a new development application for the works/use will be required.

Before the Commencement of Building / Subdivision Work

5. A Long Service Levy is payable prior to the issue of all Construction Certificates or Complying Development Certificates, on building works in NSW, where the value of works is \$25,000 (inclusive of GST) and above. The levy is presently calculated by multiplying the value of works (including GST) by 0.35%. When calculating the levy round down to the nearest dollar, for example, if the cost of works is \$485,260 multiply this by 0.35% = \$1,698.41. The levy payable is therefore \$1,698.

Please be advised that the levy is a state government levy and the percentage at which it is charged, can change without notice. The levy funds a portable long service scheme for workers in the building and construction industry. For further information see www.lspc.nsw.gov.au or contact the Corporation on 13 14 41.

6. The erection of a building in accordance with this development consent **must not be commenced until:**
- (a) detailed plans and specifications of the building have been endorsed with a **Construction Certificate** by:
 - (i) the Consent Authority, or
 - (ii) an Accredited Certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a **Principal Certifying Authority**, and
 - (ii) has notified the Consent Authority and the Council (if the Council is not the consent authority) of the appointment, and
 - (c) the person having the benefit of the development consent has given at least two days notice to the Council of the person's intention to commence the erection of the building.

Details in regard to **Notice of Commencement of Building / Subdivision Work** and appointment of the Principal Certifying Authority are to be submitted to Council following issue of the Construction Certificate and two (2) working days prior to commencement of building works.

Other approvals

7. It is advised that your plans must be submitted to Sydney Water for approval at least fourteen (14) days before commencement of works. Please phone Sydney Water on 13 20 92 for information regarding an office closest to you.

Letter Box

8. Any new letter box is to comply with requirements outlined in the Australia Post 'General Post Guide' dated September 2007 or later.

Australia post delivers only in to mail boxes of an approved size. Australia Post recommends a separate aperture, box or tube to accommodate newspapers and non-mail articles.

The approved dimensions of the mail boxes are:-

Internal width (left to right) - minimum 230mm

Internal depth (front to back) - minimum 330 mm

Internal height - minimum 160mm

Horizontal aperture – minimum 230mm x 30mm and minimum 130mm above base

Vertical aperture – minimum 330mm x 30mm and minimum 40mm above internal base

Elevation of aperture above ground level –

Single mail box – between 900mm and 1200mm

Group mail boxes – between 600mm and 1600mm.



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For single residential or commercial premises the mail box is to be located on the boundary of the property with the footpath or road. The mail box aperture must face the footpath or road.

For further details please refer to Australia Post website auspost.com.au.

Reason: To comply with Australia Post requirements.

Dial Before You dig

9. Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact *Dial Before You Dig* at www.1100.com.au or Telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the *Dial Before You Dig* service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the *Dial Before You Dig* service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

10. Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with an availability or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact:- Telstra's network Integrity Team on Phone Number 1 800 810 443.

Should you have any questions in relations to the matter, please contact Council's Planning, Place & Community, on (02) 9976 1414, during business hours.

Signed below on behalf of the consent authority.

Yours faithfully,

Date: 19 February 2018

Rodney Piggott
Planning Assessment Manager
Northern Beaches Council