

STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR THE CONSTRUCTION OF A NEW SWIMMING POOL, DECKING
& ASSOCIATED LANDSCAPING**

LOCATED AT

4 KANGAROO STREET, MANLY

FOR

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**Prepared
November 2021**

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1.0 Introduction

This Statement of Environmental Effects accompanies details prepared on behalf of Peter Himmelhoch and Sarah Burke by Action Plans, Sheet No. DA00 – DA15, dated 19 October 2021, to detail the construction of a new swimming pool, decking and associated landscaping at **4 Kangaroo Street, Manly**.

The existing dwelling and garage in the site is currently undergoing construction works to provide for additions alterations to the existing dwelling house, in accordance with DA2020/0979, determined 6 October 2020 & Construction Certificate CC2021/1389 determined 9 November 2021.

This Statement reviews the proposed development by assessing the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, (as amended) including:

- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *Manly Local Environmental Plan 2013*
- *Manly Development Control Plan 2013*

2.0 Property Description

The subject allotment is described as **4 Kangaroo Street, Manly**, being Lot 1 within Deposited Plan 456037 and Lot 1 within Deposited Plan 939114 and is zoned R1 General Residential under the Manly Local Environmental Plan 2013.

The site does not contain any heritage items, nor is it located within a conservation zone.

However, the site is within the vicinity of the Pittwater Road Conservation Area “C1” and a number of heritage items, including the group of dwellings at 45–49, 51B, 53 and 61–67 Kangaroo Street (Item No. I163), together with street trees along Pacific Parade (Item No. I191) and Pine Street (from Collingwood Street to Malvern Avenue) (Item No. I193). This matter will be discussed further within this statement.

The site is within the Class 5 Acid Sulfate Soils area and this issue will be discussed further within this statement.

The site is identified on Council’s Landslip Hazard Map as being within Area G4. This matter will be discussed further within this statement.

There are no other hazards identified.

3.0 Site Description

The site is located on the northern side of Kangaroo Street, with a rear, secondary frontage to Pine Street. The site has a fall to the rear, northern boundary facing the unmade portion of Pine Street with a total fall of approximately 5.6m over its length.

The site is irregular in shape with a front boundary to Kangaroo Street of 20.145m and eastern and western side boundaries of 36.151m and 33.91m respectively. The rear boundary measures 7.62m. The site area is 470m².

The site is currently altered in accordance with the recent development consent for additions alterations to the existing garage and dwelling.

The details of the site are included on the survey plan prepared by Sydney Surveyors, Reference No. 16075/1A, dated 13 November 2020, which accompanies the DA submission.

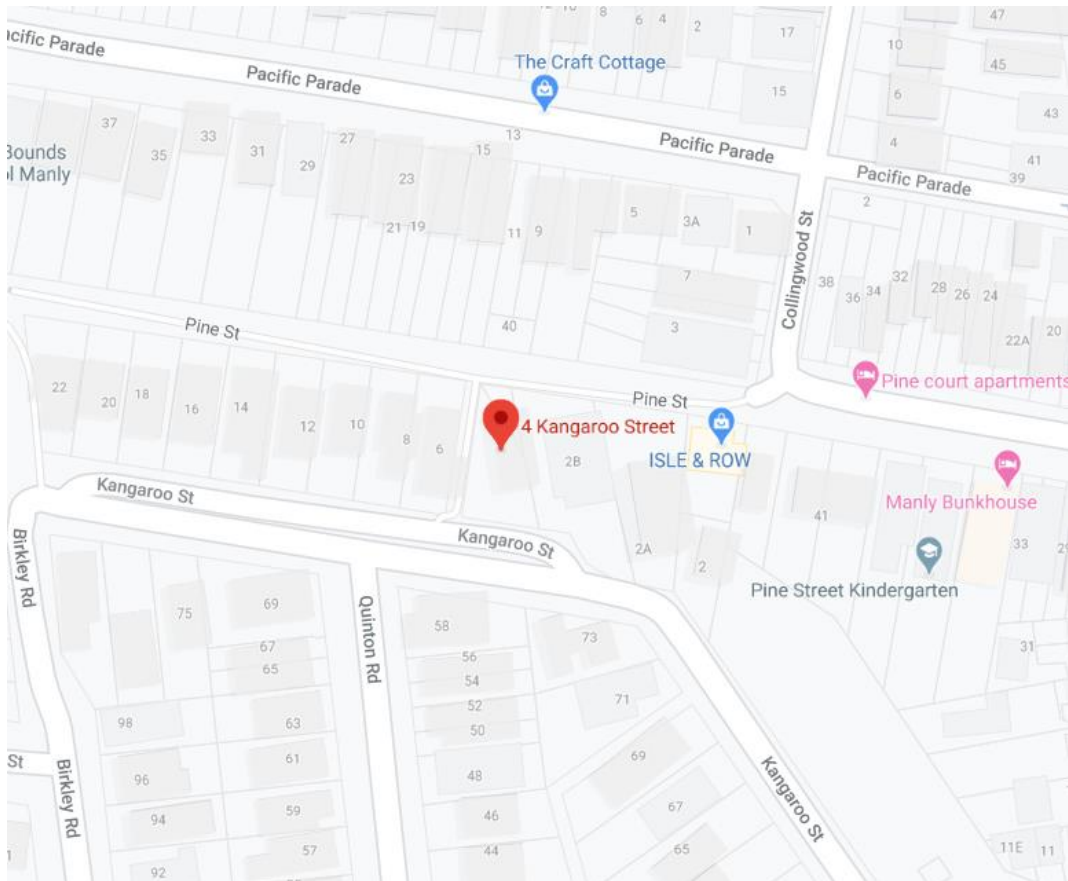


Fig 1: Location sketch
(Source: Google Maps)



Fig 2: View of subject site, looking north from Kangaroo Street



Fig 3: View of the subject site and the adjacent public walkway adjoining the western boundary, looking north-east from Kangaroo Street



Fig 4: View of the existing dwelling undergoing additions alterations in accordance with the recent development consent and location of the proposed swimming pool in the LHS foreground



Fig 5: View looking north along the western boundary and the location of the proposed swimming pool adjacent to the western boundary adjoining public walkway



Fig 6: View of the location of the proposed rear decking looking south-west towards the adjoining public walkway



Fig 7: View looking south-west towards the adjacent public walkway and the neighbouring dwelling at No 6 Kangaroo Street

4.0 Surrounding Environment

The area surrounding the site is represented by a mix of development comprising single dwellings and residential flat development between one and three storeys in scale. The adjoining development to the west is developed with a single dwelling having a similar scale to the existing development on the subject site, with the adjoining development to the east comprising a three storey residential flat development.

The design of surrounding development is reflective of the sloping terrain and presents opportunity to take advantage of the significant views to the east over Manly and to the beach.

The dwellings in the vicinity are typically designed with living areas and associated open space that are oriented to take advantage of the extensive views.

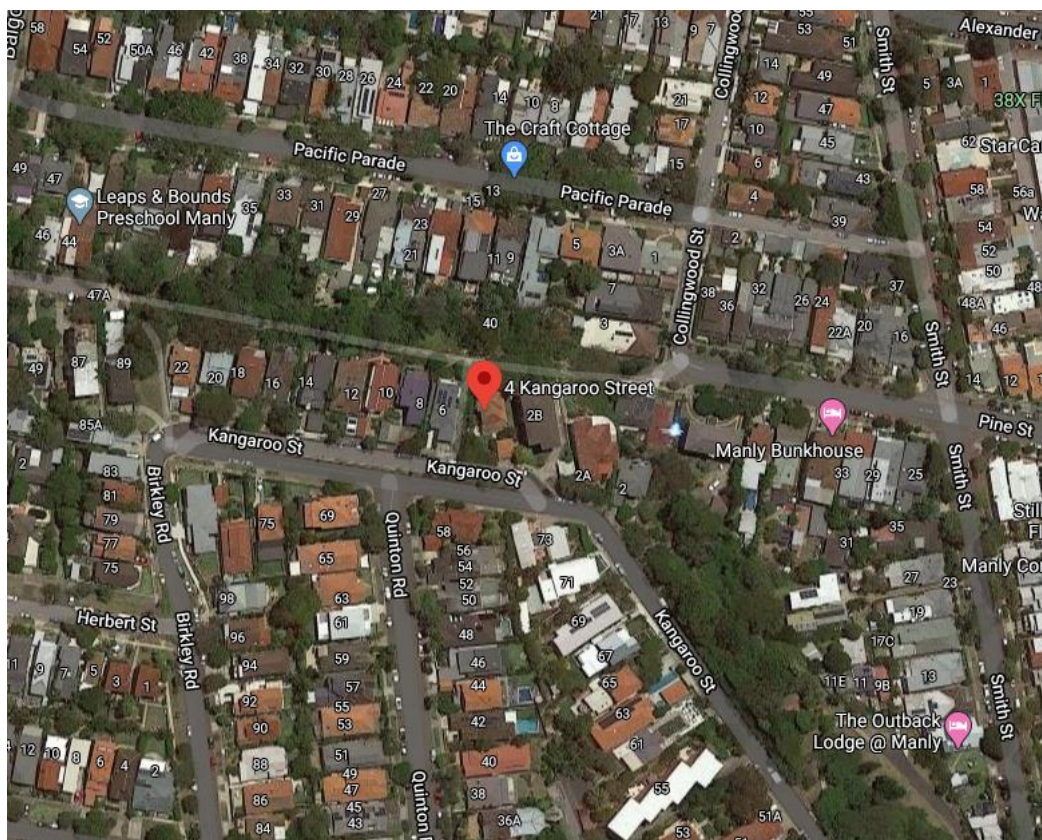


Fig 8: Aerial view of subject site
(Source: Google Maps)

5.0 Proposed Development

As detailed within the accompanying plans, it is proposed to construct a new swimming pool, decking, fencing and associated landscaping.

The proposed works will include:

- New inground swimming pool
- Timber decking
- Landscape plantings

Appropriate sediment and erosion measures will be carried out prior and throughout the construction process.

The overflow from the pool will be drained to the existing stormwater management system, which currently flows to the Pine Street reserve to the rear.

The development indices for the site are noted as:

Site Area	470m ²
Allowable FSR	0.6:1 or 282m ²
Proposed FSR	0.65:1 or 307.95m ² (Unchanged)
Required Open space (Area OS3) – 55% total/35% soft open space	258.5m ² (55%)/90.48m ² (35%)
Proposed total open space	223.89m ² or 47.63% (Unchanged)
Proposed soft open space	92.2m ² or 41.1 Marjorie survey %

6.0 Zoning and Development Controls

6.1 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 – Remediation of Land and in particular Clause 7(1)(a) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

6.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposal has been designed to respect the water, thermal and energy standards required by BASIX. A BASIX certificate has been submitted with the development application.

6.3 State Environmental Planning Policy (Coastal Management) 2018

The subject site is not identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is not applicable to the proposed development.

6.4 Manly Local Environmental Plan 2013

The land is zoned R1 General Residential under the provisions of the MLEP 2013.

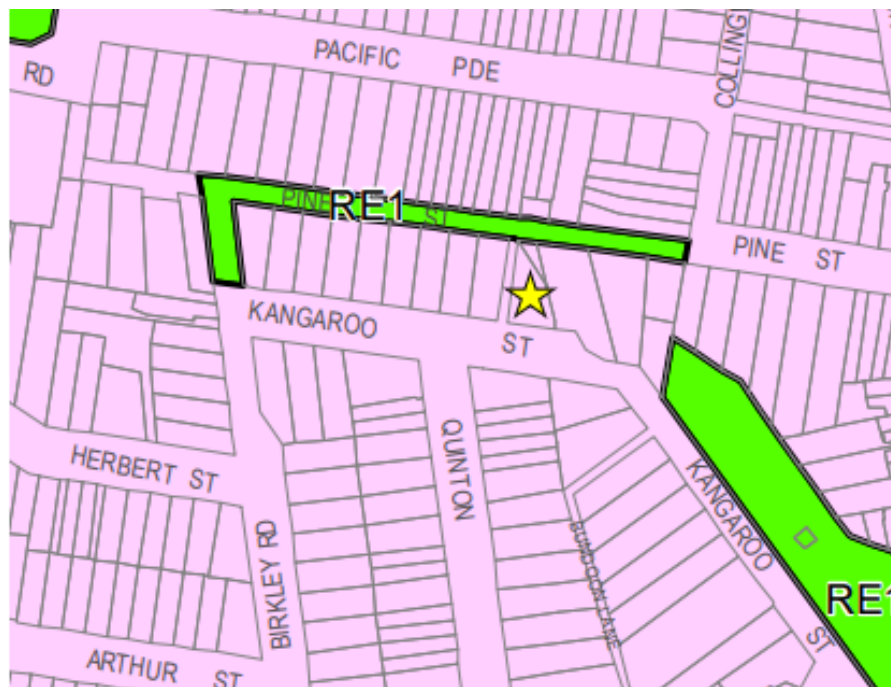


Fig 9: Extract of Manly Local Environmental Plan 2013 Zoning Map

The development of and use of the land for residential purposes is consistent with the R1 General Residential zone objectives, which are noted as:

- *To provide for the housing needs of the community*
- *To provide for a variety of housing types and densities*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

It is considered that the proposed construction of a new swimming pool and associated decking and landscaping will achieve the zone objectives and are consistent with the established character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing detached style housing within the locality.
- The proposed development respects the scale and form of other development in the vicinity and therefore compliments the locality.
- The setbacks are compatible with the existing surrounding development.
- The proposal does not have any significant impact on long distance views for the neighbouring properties.
- The site is utilised as housing and will continue to maintain the residential use.
- Maintaining an appropriate level of amenity to the adjoining properties.
- The proposal does not unreasonably obstruct any significant views from private property or the public domain.
- As detailed in this report the proposal maintains appropriate solar access to the surrounding properties.

Clause 4.3 provides controls relating to the height of buildings.

The maximum building height in this portion of Manly is 8.5m. The proposed new works (pool fence) are up to approximately 2.75m above existing ground level and will therefore readily comply with Council's height control.

Clause 5.10 relates to heritage conservation.

The site does not contain any heritage items, nor is it located within a conservation zone.

However, the site is within the vicinity of the Pittwater Road Conservation Area "C1" and a number of heritage items, including the group of dwellings at 45–49, 51B, 53 and 61–67 Kangaroo Street (Item No. I163), together with street trees along Pacific Parade (Item No. I191) and Pine Street (from Collingwood Street to Malvern Avenue) (Item No. I193).

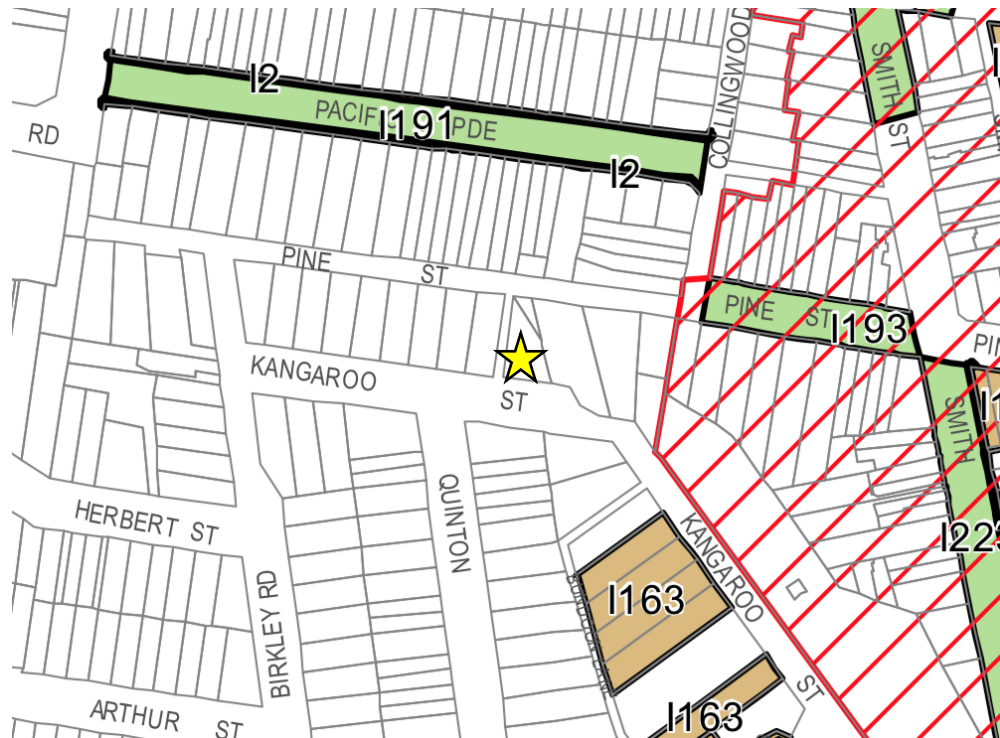


Fig 10: Extract of Manly Local Environmental Plan 2013 Heritage Map

The works will not have any direct impact on the surrounding heritage items and therefore further heritage assessment is not considered necessary in this instance.

Clause 6.1 – Acid Sulfate Soils

The area is noted as being within the Class 5 Area. As the works are not expected to disturb any acid sulfate soils, it is considered that no further investigation of the soil is warranted in this instance.

Clause 6.2 - Earthworks

The proposal will see some excavation of the site, however the works are not substantial, with the excavation limited to the swimming pool area.

All works will be carried out under the supervision and direction of a Structural Engineer and will be managed to ensure that the amenity and safety of the subject and neighbouring dwellings will be protected.

Clause 6.4 – Stormwater Management

The proposed swimming pool will not have any adverse impacts on downhill properties, with runoff to be connected to the existing stormwater system and directed to the Pine Street reserve at the rear.

Clause 6.8 – Landslide Risk.

The site is identified on Council's Landslip Hazard Map as being within Area G4.

As the works are largely contained within the existing building footprint and will not require any substantial disturbance of the existing site conditions.

As the works will be carried out in accordance with the recommendations of the consulting Structural Engineer, the proposal will therefore satisfy the provisions of this clause.

There are no other clauses of the MLEP 2013 that are considered to be relevant to the proposed development. It is considered that the proposal achieves the requirements of the WLEP.

6.5 Manly Development Control Plan 2013

Councils DCP Development Control Plan 2013 provides the primary control for development within the area.

The DA submission will address the Council's submission requirements outlined in Part 2 – Process.

The primary areas which are applicable to the proposed works are detailed within Part 3 – General Principles of Development & Part 4 – Development Controls and Development Types.

Clause 3.1.1 Streetscape (Residential Areas)

The proposed timber decking and new swimming pool and spa will be located in the western yard of the site, which faces the adjacent public walkway, with the structures to be sited marginally above ground level as a result of the site's sloping topography. The deck and pool will not be prominently visible from any public place as a result of the existing boundary fencing and landscape planting which will be further supplemented with tree cover and proposed new plantings. Swimming pools and similar elevated outdoor recreational structures are not uncommon in this locality.

The intended outcomes are noted as:

- i) *complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality;*
- ii) *ensure the bulk and design of development does not detract from the scenic amenity of the area (see also paragraph 3.4 Amenity) when viewed from surrounding public and private land;*
- iii) *maintain building heights at a compatible scale with adjacent development particularly at the street frontage and building alignment, whilst also having regard to the LEP height standard and the controls of this plan concerning wall and roof height and the number of storeys;*
- iv) *avoid elevated structures constructed on extended columns that dominate adjoining sites such as elevated open space terraces, pools, driveways and the like. See also paragraph 4.1.8 Development on Sloping Sites and paragraph 4.1.9 Swimming Pools, Spas and Water Features;*
- v) *address and compliment the built form and style any heritage property in the vicinity to preserve the integrity of the item and its setting. See also paragraph 3.2 Heritage Considerations;*
- vi) *visually improve existing streetscapes through innovative design solutions; and*
- vii) *Incorporate building materials and finishes complementing those dominant in the locality. The use of plantation and/or recycled timbers in construction and finishes is encouraged. See also paragraph 3.5.7 Building Construction and Design*

The new works are complementary to the existing locality and will not be prominently viewed from any surrounding public areas. The pool facade is to be finished in recessive colours and finishes to complement the existing dwelling to provide a natural appearance with new landscaping to the perimeter of the pool to screen the built form.

Clause 3.3 Landscaping

The proposed new works will retain an appropriate area of soft landscaping.

The new works will present an appropriate form and footprint, which is suitably set back from the site's boundaries. The proposed perimeter plantings will soften and screen the built form of the works. The planting schedule is detailed on Drawing No. 05.

No substantial native planting is to be removed to accommodate the new works.

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

The objectives of the clause are noted as:

- Objective 1) To protect the amenity of existing and future residents and minimise the impact of new development, including alterations and additions, on privacy, views, solar access and general amenity of adjoining and nearby properties.*
- Objective 2) To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.*

It is suggested that the works will achieve these objectives, as the proposed pool has been designed to minimise opportunities for overlooking to neighbouring properties. The existing boundary fence at a new section of masonry wall adjacent to the pool, combined with the fact there is no trafficable coping the majority of western elevation of the pool will assist in minimising overlooking to the neighbours.

The new deck to the rear of the site replaces an existing deck and separation from the neighbouring property is maintained, supplemented by the intervening public walkway.

The modest extent of the new works will ensure that the existing views received by uphill properties will be maintained. The proposal will not result in any loss of solar access for neighbouring properties.

Clause 3.5 Sustainability

The pool has been restricted in size to be less than 40,000L (8KL) to meet the NSW Planning outcomes of reduced energy and water demand.

Clause 3.7 Stormwater Management

It is proposed to connect all collected stormwater to the existing stormwater system which disperses water within the site, above the unmade portion of Pine Street to the rear.

Part 4 – Residential Development Controls

Site Area 470m² – Density Sub Zone D3 (250m² per lot)

Compliance Table

Control	Required	Proposed	Compliance
Clause 4.1.1 Residential Density & Subdivision	Density Area D3 – 1 dwelling per 250m ²	Site area is 470m ²	Yes - existing site and dimensions are unchanged
Clause 4.1.5 Open space and Landscaping	Area OS 3 Min 55%/35%	Proposed open space area 47.63%, with 40.37% of the available open space area to be available as soft landscaping. The soft landscaped area complies, however the open space area presents a minor variation to the control. The open space area is unchanged from Council's recent determination of DA2020/0979. The objectives of this control are as follows: • <i>To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna</i> • <i>To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting</i>	Yes – on merit

		<i>and the maintenance of existing vegetation and bushland.</i> • <i>To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.</i> • <i>To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.</i> • <i>To minimise the spread of weeds and the degradation of private and public open space.</i> • <i>To maximise wildlife habitat and the potential for wildlife corridors.</i> The proposal will not require the removal of any significant vegetation, and maintains a suitable area of soft landscaping. The site maintains a suitable sense of openness to the streetscape and neighbouring properties. The proposed landscaping will suitably soften and screen the built form of the development. The proposal is in keeping with the desired outcomes of this clause, and is worthy of support on merit.	
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Clause 4.1.9 Swimming Pools, Spas and Water Features	Height above ground not more than 1m	As a result of the sloping topography, the pool will at or near ground the decking slightly elevated result of the fall towards the rear boundary. The proposed new swimming pool and decking will not be prominently visible from Kangaroo Street and neighbouring properties as a result of the existing fencing and vegetation, and proposed new screen plantings. The proposed new works are not considered to detract from the amenity and character of the neighbourhood.	Yes – on merit
	Setback of outer edge of deck & pool concourse from side and rear boundaries must be at least 1m with water line being at least 1.5m from the boundary	The proposed pool intends to stand to a nil setback to the western boundary, which adjoins the adjacent public reserve. Given the pool as well screened by the current and proposed boundary fencing and planting, with no trafficable coping adjoining the western side of the pool, proposal is considered to be reasonable.	Yes – on merit
	Pool not to exceed 30% of total open space	<30%	Complies
Clause 4.1.10 Fencing	Freestanding walls and fences between the front street boundary and the building are to be no more than 1m high	Proposal provides for a new boundary fence to the western boundary brick I would properly 1.8 m in height, which matches the existing open Fencing to the boundary facing the public walkway.	Yes – on merit

	above ground level at any point.	The proposed fencing is considered to be in keeping with the character of fencing along the Kangaroo Street streetscape, and is therefore considered appropriate in this instance.	
Clause 4.1.8 Development on Sloping Sites	Landslip Hazard Map Area G4	The site is identified on Council's DCP Landslip Hazard Map as Landslip Hazard (Area G4). The proposal will not see any substantial disturbance of the existing site conditions, and no further investigation is deemed necessary. The works will be carried out in accordance with the recommendations of the consulting Structural Engineer, and therefore satisfy the provisions of this clause.	Yes
Clause 4.4.5.2 Earthworks	Excavation limited to 1m below ground level with exception of basement parking and swimming pools. A dilapidation report and geotechnical assessment may be required for works exceeding 1m.	Proposed pool is mostly below ground as a result of sloping topography and will therefore not require substantial excavation to accommodate the new swimming pool. The proposed excavation will not see any major disturbance to the soils or water table.	Complies

7.0 Matter for Consideration under the Under Section 4.15 of The Environmental Planning and Assessment Act, 1979

7.1 The provisions of any environmental planning instrument

The proposal is subject to the provisions of the Manly Local Environmental Plan 2013 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

There are no other environmental planning instruments applying to the site.

7.2 Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

There are no draft instruments applying to the land.

7.3 Any development control plan

The development has been designed to comply with the requirements of Council's Manly 21 Development Control Plan 2013.

The application has been prepared having regard to the requirements of Section B, Section C and Section D of the Pittwater 21 DCP.

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on:-

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.15(3A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

We request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular we consider that the variation to the open space control and side setback controls are a reasonable alternative solution to compliance where the site conditions results in a challenge to designing for new development which fully respects the setback control, and particularly if the works do not adversely affect the amenity of the neighbouring properties.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.

7.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

No matters of relevance are raised in regard to the proposed development.

7.5 Any matter prescribed by the regulations that apply to the land to which the development relates.

No matters of relevance are raised in regard to the proposed development.

7.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

It is considered that the proposal, which seeks approval for the construction of a new swimming pool, decking and associated landscaping, is reasonable.

The development will maintain a favourable bulk and scale relationship with other development in the vicinity. It is considered that the resultant development is compatible with and will complement the character of the area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's LEP and Council's Codes and Policies.

7.7 The suitability of the site for the development

The subject land is currently zoned R1 General Residential under the Manly Local Environmental Plan 2013 and is considered suitable for the proposed development.

The subject site does not exhibit any significant constraint to the construction of the proposed development.

7.9 Submissions made in accordance with this Act or the regulations

This is a matter for Council in the consideration of this proposal.

7.10 The public Interest

The proposal will not unreasonably impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

8.0 Conclusion

The principal objective of this development is to support the construction of a new swimming pool, decking and associated landscaping, which satisfies the stated objectives of Council's Development Controls.

By maintaining our neighbour's amenity and by complementing the scale and form of other development in the immediate locality, the stated objectives have been satisfied.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

VAUGHAN MILLIGAN
Town Planner