

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0659
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Responsible Officer:	Adam Urbancic
Land to be developed (Address):	Lot 6 DP 233249, 39 Pittwater Road MANLY NSW 2095
Proposed Development:	Alterations and additions to an attached dwelling
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Elena Korolkova
Applicant:	Elena Korolkova

Application Lodged:	26/06/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	08/07/2019 to 22/07/2019
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 160,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for alterations and additions to an attached dwelling, specifically the following works:

- demolition of the existing internal staircase;
- minor internal reconfiguration works to the ground floor to accommodate a new staircase and study within the footprint of the existing bedroom;
- extension of the existing first floor westward by up to 3.5m from the existing wall to provide two (2) bedrooms, a bathroom and a linen cupboard within the first floor footprint; and
- extension of the existing outdoor covered area on the ground floor by 1.25m westward.

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 - Zone B2 Local Centre
 Manly Local Environmental Plan 2013 - 6.11 Active street frontages
 Manly Local Environmental Plan 2013 - 6.13 Design excellence
 Manly Local Environmental Plan 2013 - 6.16 Gross floor area in Zone B2
 Manly Development Control Plan - 3.2 Heritage Considerations
 Manly Development Control Plan - 3.8 Waste Management
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)
 Manly Development Control Plan - 4.2.3 Setbacks Controls in LEP Zones B1 and B2
 Manly Development Control Plan - 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor
 Manly Development Control Plan - 4.2.5.4 Car Parking and Access
 Manly Development Control Plan - 4.4.4.1 Awnings in LEP B1 and B2 Business Zones

SITE DESCRIPTION

Property Description:	Lot 6 DP 233249 , 39 Pittwater Road MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Pittwater Road.</p> <p>The site is irregular in shape with a frontage of 3.695m along Pittwater Road and an average depth of 28.03m. The site has a surveyed area of 98.8m².</p> <p>The site is located within the B2 Local Centre zone and accommodates a one (1) and two (2) storey brick, rendered and clad attached dwelling with a metal roof located towards the street frontage, as well as a detached brick shed with a metal roof located in the rear yard.</p>

The site has a gentle slope with a fall from the street frontage towards the rear of the site.

The site contains minimal vegetation comprising two (2) trees in the rear yard.

The attached dwelling on the site forms part of a locally listed heritage item. The subject site is also located within the Pittwater Road Conservation Area.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by mixed-use developments up to four (4) storeys in height with ground floor commercial premises and upper level residential accommodation.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

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 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	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><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.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to revised architectural plans and a geotechnical report.</p> <p><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.</p> <p><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 clause is not relevant to this application.</p> <p><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.</p> <p><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.</p>

Section 4.15 Matters for Consideration'	Comments
	Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(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.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

- Does the existing use satisfy the definition of "existing use" under the *Environmental Planning and Assessment Act 1979* (the 'Act')?

Section 4.65 of the Act defines an existing use as:

"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

- (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
- (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."*

This necessarily requires the following questions to be answered:

1. Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?

Comment:

Although a development consent could not be located for the use of the land for the purposes of an attached dwelling prior to the coming into force of the Manly Local Environmental Plan 2013 on 19 April 2013, the Statement of Heritage Impact, prepared by Colin Israel of Heritage Advice and dated 30 May 2019, identifies that the group of buildings were built in the early twentieth century, potentially in 1906. Any development consent issued at this time would predate any formal record keeping practices. A review of the available information has found that the subdivision plans registered for DP 233249 on 17 May 1967 depict the group of buildings with an annotation stating 'two storey terraced cottages' across the building footprints. Although it is noted that this is not a development consent, this is taken to be sufficient evidence to prove the existence and use of the buildings at that time. As such, it is considered that the use of the building as attached dwelling is lawful.

2. Was the use of the building granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?

Comment:

As above, a development consent for the use of the building could not be located, however, it is known that the building has been used as an attached dwelling since at least 1967. Based on this information, it is considered that the use of the building for the purposes of an attached dwelling was lawful prior to the coming into force of the Manly Local Environmental Plan 2013 on 19 April 2013.

3. Has the use of the building been carried out within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?

Comment:

As above, a development consent for the use of the building as an attached dwelling could not be located, however, there is evidence that the use of the building has been carried out since at least 1967.

- **What is “the land on which the existing use was carried out” for the purposes of cl 42(2) (b) of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)?**

Meagher JA in *Steedman v Baulkham Hills Shire Council* [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: “if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose”.

Comment:

Having regard to the above case law, it is noted that the whole of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the whole of the subject site.

- **What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71*, sets out the planning principles that should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights.

The following four principles adopted by the NSW Land and Environment Court in this case will have general application in dealing with development applications that rely on existing use rights:

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment:

The proposed development has a maximum building height of 6.25m and complies with the 15m building height standard under Clause 4.3 of the Manly Local Environmental Plan 2013. The Floor Space Ratio (FSR) of the proposed development is 0.64:1, where the permitted FSR under Clause 4.4 of the Manly Local Environmental Plan 2013 is 2:1. The proposed development generally maintains the existing setbacks of the building, and is not constructed to the public domain and side boundaries of the allotment as required under the controls in Business Zones. Although not entirely consistent with the current planning controls, the bulk and scale of the proposal is consistent with the existing attached dwellings and is smaller than what would be expected of future development on surrounding sites.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment:

The proposal largely retains the existing building, with a minor extension to the building footprint on the ground floor and first floor to provide additional outdoor entertainment space and internal floor space, and remains consistent with the bulk and scale of adjoining and surrounding development.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment:

The proposed development will provide for a reasonable amenity outcome for adjoining land in terms of solar access, privacy and the maintenance of views.

4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment:

The proposed development provides for an acceptable level of internal amenity and is generally consistent with the planning controls for attached dwellings in residential zones. An appropriate amount of private open space is provided within the rear yard and adequate solar access is provided to the living area.

Conclusion

Although there is no record of a development consent for the use of the building as an attached dwelling, there is sufficient evidence to conclude that the development is a lawful use. Subsequently, the use can be retained under the current environmental planning instrument (Manly Local Environmental Plan 2013).

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

Name:	Address:
Mr Gregory John Scott	37 Pittwater Road MANLY NSW 2095

The following issues were raised in the submissions and each have been addressed below:

- Potential Damage to the Common Wall with 37 Pittwater Road;
- Termite Damage;
- Stormwater Disposal; and
- Presence of Asbestos in Existing Ceilings.

The matters raised within the submissions are addressed as follows:

- Potential Damage to the Common Wall with 37 Pittwater Road

Comment:

There is concern that the common wall between the attached dwellings may sustain damage as

a result of the proposed works, due to the age of the buildings and the construction of the common wall in single skin brick, which is also said to have not been depicted on the plans submitted with the development application and therefore may have been missed. It has also been requested that a dilapidation report be prepared for the adjoining property at 37 Pittwater Road prior to the commencement of the proposed works.

The plans submitted with the development application are conceptual and are not required to include detailed information regarding the engineering requirements for construction, as these details will be included with the Construction Certificate. Due to the proximity of the proposed works to the common walls with both 37 and 41 Pittwater Road, a condition has been included to ensure that a dilapidation report is prepared to document the physical condition of both properties prior to the commencement, and after the completion, of the works.

This does not warrant the refusal of the development application.

- Termite Damage

Comment:

It has been raised that the building may have been damaged by termites, which may have to be treated.

The potential termite damage is not a matter for consideration under this development application. It is considered that any necessary action in this regard will be undertaken by the property owner or builder.

This does not warrant the refusal of the development application.

- Stormwater Disposal

Comment:

It has been raised that the existing stormwater from the roof may be being directed onto the pavers in the rear yard and that the property may not have access to a stormwater pipeline for disposal.

Council's Development Engineer has reviewed the proposed development and has recommended conditions to ensure that the stormwater from the new development is disposed of into an existing approved system or in accordance with Council's policy.

This does not warrant the refusal of the development application.

- Presence of Asbestos in Existing Ceilings

Comment:

It has been raised that the existing ceilings may contain asbestos.

A condition has been included to ensure that any asbestos material arising from the demolition process is removed and disposed of in accordance with the relevant requirements.

This does not warrant the refusal of the development application.

REFERRALS

Internal Referral Body	Comments

Internal Referral Body	Comments
NECC (Development Engineering)	<p>The proposed development does not need OSD and connection of stormwater to the existing approved system or in accordance with the policy is satisfactory.</p> <p>No objection to approval, subject to conditions as recommended.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposal to replace the stairs and extend the covered outdoor area generally complies with the flood requirements of the DCP and LEP.</p> <p>No flood related objection.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This application has been referred to heritage as the property is a heritage item which is a part of "<i>Group of commercial and residential buildings</i>" and is within a heritage conservation area listed in Schedule 5 of the Manly LEP:</p>
	<p><i>Item I199 - Group of commercial and residential buildings - 35–49 Pittwater Road</i></p>
	<p><i>Pittwater Road Heritage Conservation Area</i></p>
	Details of heritage items affected
	<p>Details of the heritage items, as contained in the Manly Heritage Inventory are:</p>
	<p><i>Item I199 - Group of commercial and residential buildings</i> <u>Statement of Significance:</u> This item is a group of unusual early Twentieth Century terraced two storey residences with shops at each end. Listed due to its originality and uniqueness of concept, layout and mixture of materials. Significance in contribution to streetscape and in relationship to late 19th century development locally.</p>
	<p><u>Physical description:</u> Group of 8 terraced buildings comprising 6 terraced two storey houses (rendered at ground floor level and timbered first floor) with rendered two storey (projecting as one storey shops) buildings at each end. Bullnose verandah roofs to residences have reversed bullnose up to sill level on first floor. Projecting 'gable end' of roof forms pediment over central pair. Other significant elements include; barge boards to end buildings, rendered pediments over shop fronts, window hoods over first floor windows, Italianate render decoration to ground floor or residences.</p>
	<p><i>Pittwater Road Heritage Conservation Area</i> <u>Statement of Significance:</u> This street pattern is distinctive and underpins the urban character of the area. The streets remain unaltered in their alignment, although the names of Malvern, Pine and North Steyne are now</p>

Internal Referral Body	Comments																					
	<p>names for what were Whistler, Middle Harbour and East Steyne respectively.</p> <p><u>Physical description:</u> The streetscape of Pittwater Road is a winding vista of late 19th and early 20th century commercial and residential architecture of generally one or two floors - although there are exceptions such as the four storey private hotel. The streetscape provides a 19th century atmosphere due to it's scale, width and the number of extant Victorian structures. Within the streetscape there are a number of individually significant buildings which are listed separately. Adjacent streets generally comprise a consistent pattern of one and two storey residential cottages, with the occasional terrace.</p> <table><tr><th colspan="3">Other relevant heritage listings</th></tr><tr><td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td><td>No</td><td></td></tr><tr><td>Australian Heritage Register</td><td>No</td><td></td></tr><tr><td>NSW State Heritage Register</td><td>No</td><td></td></tr><tr><td>National Trust of Aust (NSW) Register</td><td>No</td><td></td></tr><tr><td>RAIA Register of 20th Century Buildings of Significance</td><td>No</td><td></td></tr><tr><td>Other</td><td>No</td><td></td></tr></table> <p>Consideration of Application</p> <p>This application is for alterations and additions to an existing two storey dwelling including internal alterations with a small extension of the existing outdoor area at ground level and a rear extension at first floor level.</p> <p>The proposed first floor extension is behind the ridge line of the main roof. It is believed that this extension will not be visible from Denison Road as it will be behind 37 Pittwater Road with a similar size and scale. It is recommended to avoid strong contrasting colours and have either white with grey or grey with dark-grey/black.</p> <p>The proposed works are mainly at the rear and not visible from Pittwater Road, therefore there will have minimal impact upon the heritage item and the conservation area.</p> <p>The proposal is supported on heritage grounds subject to a condition of consent.</p>	Other relevant heritage listings			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	No	
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Other	No																					

Internal Referral Body	Comments
	<p>Consider against the provisions of CL5.10 of MLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> <p>Further Comments</p> <p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 07 January 2020</p> <p><u>Planner Comment:</u> The recommended condition from Council's Heritage Advisor in relation to the external colour scheme for the proposed development has been expanded to state that a Schedule of Finishes demonstrating compliance with the requirements is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.</p>

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. A344549, dated 20

June 2019).

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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	15m	6.25m	N/A	Yes
Floor Space Ratio:	FSR: 2:1 (197.6m ²)	FSR: 0.64:1 (63.5m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.11 Active street frontages	N/A
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.16 Gross floor area in Zone B2	N/A

Detailed Assessment

Zone B2 Local Centre

Although development for the purposes of an attached dwelling is prohibited within the B2 Local Centre zone under the Manly Local Environmental Plan 2013, and is inconsistent with the zone objectives, the application relies on existing use rights as outlined within this report, and is therefore acceptable.

6.11 Active street frontages

Under Clause 6.11 Active Street Frontages, development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.

Comment:

The proposed development involves alterations and additions to an existing attached dwelling, which benefits from existing use rights, therefore, the requirements of this clause do not apply to the development.

6.13 Design excellence

Under Clause 6.13 Design Excellence, development consent must not be granted for development involving the erection of a new building or external alterations to an existing building, unless the consent authority considers that the development exhibits design excellence.

In considering whether a development exhibits design excellence, the consent authority must give consideration to whether the development:

- (a) contains buildings that consist of a form, bulk, massing and modulation that are likely to overshadow public open spaces, and*
- (b) is likely to protect and enhance the streetscape and quality of the public realm, and*
- (c) clearly defines the edge of public places, streets, lanes and plazas through separation, setbacks, amenity, and boundary treatments, and*
- (d) minimises street clutter and provides ease of movement and circulation of pedestrian, cycle, vehicular and service access, and*
- (e) encourages casual surveillance and social activity in public places, streets, laneways and plazas, and*
- (f) is sympathetic to its setting, including neighbouring sites and existing or proposed buildings, and*
- (g) protects and enhances the natural topography and vegetation including trees, escarpments or other*

significant natural features, and

(h) promotes vistas from public places to prominent natural and built landmarks, and

(i) uses high standards of architectural design, materials and detailing appropriate to the building type and location, and

(j) responds to environmental factors such as wind, reflectivity and permeability of surfaces, and

(k) coordinates shared utility infrastructure to minimise disruption at street level in public spaces.

Comment:

The proposed development involves external alterations to an existing attached dwelling. The proposed works are isolated to the rear of the building and will not impact on its streetscape appearance. In light of the relevant above considerations, it is considered that the development exhibits design excellence.

6.16 Gross floor area in Zone B2

Under Clause 6.16 Gross Floor Area in Zone B2, development consent must not be granted for the erection of a building on land in Zone B2 Local Centre unless the consent authority is satisfied that at least 25% of the gross floor area of the building will be used as commercial premises and/or if the gross floor area of any retail premises on the land would exceed 1,000 square metres.

Comment:

The proposed development involves alterations and additions to an existing attached dwelling, which benefits from existing use rights, and does not include any retail premises, therefore, the requirements of this clause do not apply to the development.

Manly Development Control Plan

Built Form Controls

Built Form Controls	Requirement	Proposed	% Variation ²	Complies
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Buildings must be constructed to the public road	3.05m to Ground Floor	N/A	No (as existing)
		4m to First Floor	N/A	No (as existing)
	Buildings must be constructed to the side boundaries of the allotment	N: Nil	N/A	Yes
		S: 0.5m to Ground Floor	N/A	No
		S: 0.94m to First Floor	N/A	No
Schedule 3 Parking and Access	Attached Dwelling: 2 resident parking spaces for a three (3) bedroom or more dwelling within Manly Town Centre Business Zone, plus 0.16 visitor parking spaces per dwelling (rounded to the next whole number)	No spaces	100% (3 spaces)	No (as existing)

Notes:

- Although the proposed development is for residential purposes, this assessment has considered the relevant controls under Section 4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres) based on the location of the site within the Manly Town Centre Business Zone, as well as the relevant controls under Section 4.1

Residential Development Controls which do not expressly state that they only apply to development in LEP Zones R1, R2, R3, E3 and E4.

2. The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation).

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	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
3.5 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
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	N/A
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	No	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	No	N/A
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.2.5.4 Car Parking and Access	No	N/A
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	No	N/A
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.2 Pittwater Road Conservation Area	Yes	Yes

Detailed Assessment

3.2 Heritage Considerations

The proposed development provides no parking spaces within the site and the site does not currently provide any off-street parking.

Schedule 3 of the MDCP 2013 requires two (2) resident parking spaces to be provided for attached dwellings with three (3) or more bedrooms within the Manly Town Centre Business Zone, as well as 0.16 visitor parking spaces per dwelling, which is rounded to a requirement for one (1) visitor's parking space in this instance. Clause 3.2.5.1 provides exceptions to the parking requirements for alterations and additions to heritage items where car parking will adversely impact on the item.

Due to the siting of the existing building in close proximity to the front boundary and the minimal overall width of the allotment, it would not be possible to provide any of the required parking spaces without the demolition, or partial demolition, of the building. The front facade of the building forms part of its significance and the loss of any of the existing fabric would have an adverse impact on the heritage item.

Based on the above, it is considered that the application of an exception to the provision of the two (2) resident parking spaces and the one (1) visitor parking space required under this control is reasonable and critical for the retention of the heritage significance of the building.

3.8 Waste Management

A detailed Waste Management Plan has not been submitted with the application. To ensure proper disposal of demolition and builder's wastes, a condition has been included in the consent requiring details prior to the issue of a Construction Certificate.

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Refer to the discussion under Clause 3.2 Heritage Considerations of the MDCP for further information regarding the exception to the required car parking rates for alterations and additions to heritage items.

4.2.3 Setbacks Controls in LEP Zones B1 and B2

The proposed development maintains the existing building setback from the public road (Pittwater

Road) and provides a 0.5m setback to the ground floor and a 0.94m setback to the first floor from the southern side boundary.

The control states that all buildings must be constructed to the public road and side boundaries of the allotment, but provides exceptions in certain circumstances, including the following:

(a) an alternative setback is identified on the townscape and opportunities maps or having regard to established building lines and whether they contribute positively to the streetscape.

Comment:

The proposed development involves alterations and additions to an existing attached dwelling, which benefits from existing use rights and forms part of a group of commercial and residential buildings which are listed as a local heritage item. The proposed development will maintain the existing streetscape appearance and front building line of the dwelling, which is consistent with the dwellings within the row of buildings and which forms part of the heritage significance of the buildings. The residential dwellings within the group of buildings also have a distinct side setback pattern in which a nil setback is provided to the same boundary with the adjoining building to facilitate a minimal setback from the other side. The proposed development seeks to maintain this pattern of development and is therefore considered to maintain the established building lines for this group of buildings.

Based on the above, the proposed development meets the requirements for the permitted exception under this control and is therefore supported on merit.

4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

Refer to the discussion under Clause 3.2 Heritage Considerations of the MDCP for further information regarding the exception to the required car parking rates for alterations and additions to heritage items.

4.2.5.4 Car Parking and Access

Refer to the discussion under Clause 3.2 Heritage Considerations of the MDCP for further information regarding the exception to the required car parking rates for alterations and additions to heritage items.

4.4.4.1 Awnings in LEP B1 and B2 Business Zones

Description of non-compliance

The proposed development does not provide an awning over the footpath on Pittwater Road.

The control states that continuous footpath awnings must be provided on all street frontages, generally consistent with the streetscape.

Merit Consideration:

The portion of Pittwater Road which adjoins the heritage listed group of commercial and residential buildings does not contain any street awnings, with the existing development generally set back from the street frontage. As the proposed development involves alterations and additions to an existing attached dwelling, which benefits from existing use rights, and does not include any commercial use, the inclusion of an awning is not considered to be required.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is 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 \$ 800 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 160,000.

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0659 for Alterations and additions to an attached dwelling on land at Lot 6 DP 233249, 39 Pittwater Road, MANLY, 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
2-2 807 19 - 1, Site and Site Analysis Plan & Shadow Diagram	5 June 2020	High Design
2-2 807 19 - 1, Floor Plans, Elevations & Sections	5 June 2020	High Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (Cert No. A344549)	20 June 2019	Nick Gordon
Preliminary Geotechnical Assessment (Ref: J2742)	5 June 2020	White Geotechnical Group

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

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) 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 \$800.00 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 \$160,000.00.

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 \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, 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 Manly Specification for On-site Stormwater Management 2003. 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. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

8. **Avoid Strong Contrasting Colours**

The proposed development shall avoid strong contrasting colours and be finished in either white with grey or grey with dark-grey/black.

A Schedule of Finishes demonstrating compliance with the above requirements shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To respect and preserve the heritage significance of the item.

9. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

10. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Flood Effects Caused by Development – A3

The extension of the paved area is to be at the natural ground level, such that available

Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new external development must be designed and constructed to ensure structural integrity up to the Flood Planning Level of 6.13m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 6.13m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 6.13m AHD unless adequately protected from floodwaters in accordance with industry standards.

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

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

11. **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.

12. **Sydney Water "Tap In"**

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties: 37 Pittwater Road, Manly (Lot 7, DP 233249) and 41 Pittwater Road, Manly (Lot 5,

DP 233249)

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. 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.

15. 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.

16. 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.

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

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

17. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

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

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

18. 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 the Occupation Certificate.

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

19. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

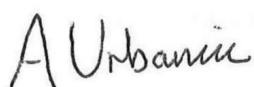
Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

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

Signed



Adam Urbancic, Planner

The application is determined on 03/07/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments