

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2021/0177
<b>Responsible Officer:</b>	Rebecca Englund
<b>Land to be developed (Address):</b>	Lot 76 DP 8075, 83 Bower Street MANLY NSW 2095 Lot 77 DP 8075, 83 Bower Street MANLY NSW 2095
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0855 granted for demolition works and construction of a dwelling house including swimming pool
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential Manly LEP2013 - Land zoned E3 Environmental Management
<b>Development Permissible:</b>	Yes - Zone R2 Low Density Residential Yes - Zone E3 Environmental Management
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Raymond Andrew Balcomb Julie Canvin Balcomb Trustees Roman Catholic Church Archdiocese Sydney
<b>Applicant:</b>	Raymond Andrew Balcomb

<b>Application Lodged:</b>	20/04/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	29/04/2021 to 13/05/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The subject application seeks consent to modify Development Consent no. DA2020/0855, which approved 'demolition works and construction of a dwelling house including swimming pool'.

The proposed modifications seek to alter the approval through partial retention of the existing dwelling, which was originally proposed to be completely demolished. The quantum of proposed demolition works is such that the vast majority of the existing dwelling will still be demolished. Despite now retaining part of the original dwelling, with regard to relevant caselaw the nature of the proposal (if

modified as proposed) will not change the description of works (i.e. the development will still be for the construction of a dwelling house, and not for alterations and additions to a dwelling).

A significant number of changes are proposed; an outline of the modifications are as follows:

#### **Ground floor:**

- A general change to the layout of this level.
- Two existing bedrooms are to be retained on the southern side of the dwelling.
- As a result of the earlier change, the layout of the open plan living area has been significantly altered
- The laundry has been relocated to the rear of the ground floor adjacent to the garage.
- The study is to be relocated to the first floor, and a living room converted to a garden room.
- The existing garage is to be retained. The internal area of the garage will be less than that which was approved; one of the three approved spaces has been moved to a carport at the rear of the site (see below).
- As a result of retaining the garage, the building footprint has been altered so that it is generally located further away from the eastern boundary, particularly within the southeast corner of the site.

#### **First floor:**

- The number of bedrooms on this level from three to two, as a result of two bedrooms being retained on the ground level.
- The study is to be relocated from the ground to the first floor.
- The location/orientation of the deck from the living room has been relocated from the north to the west of the living room.
- The form of the roof is to be substantially altered to reflect the changes outlined above; the appearance of the roof will take on a more gabled appearance, with the first level to be further integrated into the roof design. The maximum ridge height of the roof will not be changed.

#### **Site:**

- A redesign and small relocation of the swimming pool.
- Changes to the locations and heights of the retaining walls within the northwest corner of the site.
- Relocation of one car parking space from the garage to a carport on the southwest side of the dwelling, adjacent to the rear boundary. A new bin storage area will be located between the southern side of the carport and rear boundary.
- Relocation of the entrance pathway from the front boundary.
- Relocation of the entrance pathway from the rear boundary to the southeast corner.
- Changes to the size and placement of the terrace adjacent to the western side of the dwelling.
- Relocation of one car parking space from the garage to a carport on the southwest side of the dwelling, adjacent to the rear boundary.
- Placement of a new water feature that will wrap around the southwest side of the dwelling.
- Minor landscape alterations (e.g. locations/types of plantings, pathway placement, etc.).

## **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 Development Control Plan - 3.4.3 Maintenance of Views

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

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features

Manly Development Control Plan - 5.4.2 Threatened Species and Critical Habitat Lands

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 76 DP 8075 , 83 Bower Street MANLY NSW 2095 Lot 77 DP 8075 , 83 Bower Street MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site is identified as 83 Bower Street, Manly (Lots 76 and 77, DP 8075). The site is an irregularly-shaped parallel site with two road frontages; the primary (northern) road frontage adjoins Bower Street, and the southern rear frontage adjoins Montepelier Place. Both side boundaries adjoin residential allotments.</p> <p>The total area of the site is 1,397m<sup>2</sup> (survey). The site is moderately sloped, with a maximum southeast-to-northwest downhill slope of approximately 8.95 metres.</p> <p>The site contains dual zoning; Lot 77 is within an E3 Environmental Management zone, while Lot 76 is within an R2 Low Density Residential zone under MLEP 2013. The eastern and parts of the northern and southern boundaries adjoin E3-zoned areas, while the western boundary and parts of the northern and southern boundaries adjoin R2-zoned areas.</p>

The site is mapped as being affected by class 5 acid sulphate soils and biodiversity considerations. The subject site does not contain a heritage item and is not within a Heritage Conservation Area; the closest mapped heritage item (Item no. I131, 'St Patrick's Estate') is approximately 10 metres southwest of the subject site at its nearest point.

Development on the site consists of a large one-and-two storey dwelling that is located within the western part of the site. An inground swimming pool is located on the northwest side of this dwelling. The remainder of the site consists predominantly of landscaped areas, including numerous small ponds towards the northwest and southeast corners of the site,

#### **Detailed Description of Adjoining/Surrounding Development**

Surrounding residential-zoned areas consist predominantly of low-density residential development (i.e. dwelling houses and associated structures such as swimming pools). Areas further to the east and west contain higher-density forms of development (i.e. terrace houses and residential flat buildings respectively). Further to the south beyond Montpelier Place is the St Patrick's Estate/International College of Management).

Map:



#### **SITE HISTORY**

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:



- 3 September 1991: Building Application no. 4086/91 approved for a deck.
- 6 January 1992: Development Application no. DA.5125/91 and Building Application no. 445/91 approved for alterations and additions to a dwelling.
- 5 September 2000: Development Application no. DA0286/00 approved for alterations and additions to a dwelling.
- 11 November 2020: Development Application no. DA2020/0855 approved for demolition works and construction of a dwelling house including swimming pool.
- 20 April 2021: Subject modification application lodged.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

### Section 4.55(2) Assessment

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2020/0855 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The use of the site will remain unchanged.</li> <li>• From both qualitative and quantitative perspectives, the proposal will continue to be 'substantially the same' as that which was originally approved; the dwelling will continue to be two storey structure, with regard to considerations that include (but are not limited to) number of bedrooms, living areas, car parking spaces, overall use, location of the building footprint, landscaped/open space areas and the use of such spaces.</li> <li>• General consistency with applicable development standards and controls is retained by the modifications.</li> <li>• Despite some portions of the original dwelling being retained by the proposed modifications, the overall scale of the demolition works is such that a significant majority of the original structure will be demolished and the changes to existing development (i.e. in terms of setbacks, floor area, onsite parking, number of living areas, etc.) are such</li> </ul>

Section 4.55 (2) - Other Modifications	Comments
	<p>that (with regard to relevant NSW LEC planning principles) the proposal will continue to be considered as a new dwelling, rather than alterations and additions to an existing structure.</p> <p>Reviewing the above comments and caselaw including the court judgement by Justice Bignold established in the <i>Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 289</i> it is concurred that the proposed modification is consistent with the (original) consent and can be considered under Section 4.55 of the Act.</p>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2020/0855 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environmental Plan 2013 and Manly Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

## Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in

determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	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&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;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&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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&amp;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 in the original consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clause 98</u> of the EP&amp;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 in the original consent.</p> <p><u>Clause 143A</u> of the EP&amp;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.</p>
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) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 29/04/2021 to 13/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

## REFERRALS



Internal Referral Body	Comments
Landscape Officer	<p>The application for for modification to development consent DA2020/0855, including to carry out alterations and additions to the approved dwelling whereby elements of the existing house are retained below the first floor level. In terms of landscape works, the amendments the subject of this modification retains the same existing trees as DA2020/0855 and likewise removed the same Exempt Species. The re-alignment of the garage in this modification alters the landscape works and additionally across the site spatial realignment of landscape elements to the side and rear of the property are proposed.</p> <p>Amended Landscape Plans shall be provided prior to Construction Certificate, based on the approved development consent DA2020/0855, to co-ordinate the landscape works proposed with the architectural plans the subject of this modification, and a condition of consent shall be imposed.</p> <p>The following landscape conditions relevant to landscape works, under development consent DA2020/0855, remain: 15. Tree removal within the property; 16. Tree Protection Measures - Project Arborist; 17. Tree removal within the road reserve; 25. Condition of trees; 26. Tree transplanting; 27. Tree and vegetation protection; and 38. Landscape maintenance.</p> <p>Condition 33. Landscape completion of development consent DA2020/0855 shall be deleted and under this modification replaced with a condition for Amended Landscape Plans, and ultimately a revised Landscape Completion condition.</p>
NECC (Bushland and Biodiversity)	<p>This Section 4.55(2) Modification Application has been assessed in accordance with relevant biodiversity legislation and controls.</p> <p>Amended documentation submitted with the application was reviewed including the architecture plans, terrestrial biodiversity report, arboricultural report and landscape plan.</p> <p>As the proposed modification will not result in any further impacts to biodiversity, Council's Biodiversity referrals team are satisfied that the development complies with the applicable biodiversity related legislation and controls, subject to these conditions of consent.</p>
NECC (Coast and Catchments)	<p>The modification application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018. It has also been assessed against requirements of the Manly LEP 2013 and DCP 2013.</p> <p><b><i>Coastal Management Act 2016</i></b></p> <p>The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed modifications are in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p>

Internal Referral Body	Comments
	<p><b>State Environmental Planning Policy (Coastal Management) 2018</b></p> <p>The subject land has been included on the 'Coastal Use Area' map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the Modification Application satisfies requirements under clauses 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p><b>Manly LEP 2013 and Manly DCP</b></p> <p><b>Foreshores Scenic Protection Area Management</b></p> <p>The subject site is also shown to be as "Manly Foreshores Scenic Protection Area" on Council's Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Andrew Martin Planning Pty. Ltd. dated April 2021, the Modification Application satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013.</p> <p>As such, it is considered that the modification application does comply with the requirements of the Manly DCP 2013.</p>
NECC (Development Engineering)	Development Engineering raises no objection to the application. The condition 8 of the approved consent shall be amended as below:

Internal Referral Body	Comments
	<p><i>The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY , and generally in accordance with the concept drainage plans prepared by C. K. Engineering Services, drawing number 19987, issue 2 and dated 23/3/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.</i></p> <p><i>The drainage plans must address the following:</i></p> <p><i>i. Step irons shall be installed.</i></p> <p><i>Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.</i></p> <p><i>Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.</i></p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. An undated response was received on 27 April 2021 which indicated that the proposal is acceptable, subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. The comments/conditions are the same as those received from Ausgrid during the assessment of DA2020/0855. As such, consent condition 3 within Development Consent no. DA2020/0855 will remain unchanged,</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. Site contamination was considered as part of the planning assessment for the original approval; that assessment found that the site poses no risk of contamination. Subject to previously imposed conditions regarding removal of potentially hazardous materials (e.g. asbestos), the site is still considered to be suitable for the continued residential land use.

### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. A394178, dated 3 March 2021).

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. A response was received, however the conditions from the supply authority were unchanged from those which were provided for the original consent. The requirements of consent condition 3 will therefore remain unchanged.

### **SEPP (Coastal Management) 2018**

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

#### **10 Development on certain land within coastal wetlands and littoral rainforests area**

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*

- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
- (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
- (c) *the carrying out of any of the following:*
  - (i) *earthworks (including the depositing of material on land),*
  - (ii) *constructing a levee,*
  - (iii) *draining the land,*
  - (iv) *environmental protection works,*
- (d) *any other development.*

Comment:

Not applicable.

## **11 Development on land in proximity to coastal wetlands or littoral rainforest**

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
  - (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
  - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

Not applicable.

## **12 Development on land within the coastal vulnerability area**

*Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:*

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
  - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
  - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
  - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there*



are  
appropriate  
responses  
to, and  
management  
of,  
anticipated  
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processes  
and  
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and  
future  
coastal  
hazards.

Comment:

Not applicable.

### 13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) *Aboriginal cultural heritage, practices and places,*
  - (g) *the use of the surf zone.*

Comment:

Subject to conditions already imposed as part of the original consent the proposed development (if modified as proposed) will not have foreseeable adverse impacts on the natural and marine environments. The site is highly disturbed, and as such will not adversely affect indigenous heritage.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
  - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*

- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

As indicated above, the development will not adversely affect the natural nor marine environments. Any potential impacts that may arise during demolition and/or construction works will be addressed via conditions of consent.

#### **14 Development on land within the coastal use area**

(1)

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
  - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
  - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
  - (iv) Aboriginal cultural heritage, practices and places,
  - (v) cultural and built environment heritage, and
- (b) is satisfied that:
  - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
  - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed development (if modified as proposed) will not have any impact on access to, nor use of, the foreshore and/or coastal use areas. The site is sufficiently set back from foreshore areas and the development is of a scale that it will have no foreseeable impact on the coastal use area in terms of overshadowing, adverse visual impact, access, use, heritage and/or indigenous culture.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

#### **15 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The site is not within an area affected by identified hazards; subject to conditions, the proposed development will have no impact on coastal hazards.

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

#### Principal Development Standards

Standard	Requirement	Approved	Proposed	% Variation	Complies
Minimum subdivision lot size:	N/A				N/A
Rural Subdivision:	N/A				N/A
Height of Buildings:	8.5m	8m	8.23m	N/A	Yes
Special height provisions	N/A				N/A
Floor Space Ratio	FSR: 0.45:1	FSR: 0.27:1	FSR: 0.298:1	N/A	Yes
Gross floor area in Zone B2	N/A				N/A

#### 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
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	N/A
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	N/A
6.12 Essential services	Yes
6.15 Tourist and visitor accommodation	N/A

#### Mainly Development Control Plan

##### Built Form Controls

Built Form Controls - Site Area: 1397m <sup>2</sup>	Requirement	Approved	Proposed	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 2 dwellings	1	1	Yes
	Dwelling Size: 117m <sup>2</sup>	370.8m <sup>2</sup>	416.3	Yes
4.1.2.1 Wall Height	N: 7.9m (based on gradient 1:3.51)	7m	6.6m	Yes
	S: 6.5m (based on gradient 1:64.5)	6.8m	5.1m	Yes

	E: 6.8m (based on gradient 1:16)	5.4m	6.8m	Yes
	W: 7.2m (based on gradient 1:9.5)	7.94m	7.8m	No
4.1.2.2 Number of Storeys	2	2	2	Yes
4.1.2.3 Roof Height	Height: 2.5m	2.97m	3.7m	No
	Parapet Height: N/A			N/A
	Pitch: maximum 35 degrees	Approx. 32 degrees	Max. 30.7 degrees	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line: 9.7m	9.6m, consistent with prevailing setback	Building line: <ul style="list-style-type: none"> <li>Ground floor: 8.76m</li> <li>Floor: 9.26m</li> <li>BBQ Area: 7.2m</li> </ul> inconsistent with prevailing setback	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	E: Ground floor: 1.26m (based on wall height) Ground floor: 2.04m (based on wall height)	Nil to garage 1.4-2.7m to ground floor	Ground floor: Min. 1.84m First floor: Min. 2.3m	Yes
	E: Ground floor: 1.26m (based on wall height) Ground floor: 2.04m (based on wall height)	15.6m	Ground floor: Min. 14.2m First floor: Min. 15.3m	Yes
	Windows: 3m	No windows along eastern boundary Single door to laundry	No new windows within 3m (existing 1.1m window setbacks unchanged)	Yes
	Secondary street frontage: Prevailing setback - Garages with nil setback and fencing	2.64m to garage, consistent with prevailing setback	0m (carport), existing zero rear setback of garage to be retained	
4.1.4.4 Rear Setbacks	N/A (See secondary frontage)			N/A
4.1.4.5 Foreshore Building Lines and Foreshore Area	N/A			N/A
4.1.4.6 Setback for development adjacent to LEP Zones RE1,	N/A			N/A
	N/A			N/A

RE2, E1 and E2				
4.1.4.7 Setback for development of certain land at Boronia Lane and Rignold Street, Seaforth	N/A			N/A
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (768.35m <sup>2</sup> )	72% (1,009.8m <sup>2</sup> )	53.1%% (741.76m <sup>2</sup> )	No
	Open space above ground 25% of total open space (192.09m <sup>2</sup> )	26.7% (205.2m <sup>2</sup> )	19.14 % (147.1m <sup>2</sup> )	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (268.92m <sup>2</sup> )	70% (702m <sup>2</sup> )	100% (617.7m <sup>2</sup> )	Yes
	4 native trees	>4 trees	11 trees	Yes
4.1.5.3 Private Open Space	18m per dwelling	>18m <sup>2</sup>	>18m <sup>2</sup>	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	6.3m (19%) boundary (32.715m) 50% = 16.4m	Secondary frontage: Garage: 7.1m (existing & unchanged) Boundary: 32.715m	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	Pool: 2.6m Infinity overflow: 1.8m	2.43m (existing ground level) 1.1m (proposed ground level)	No
	1m curtilage/1.5m water side/rear setback	>1.5m	>1.5m	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	3 spaces	3 spaces	Yes

#### Compliance Assessment

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



Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4.4 Other Nuisance (Odour, Fumes etc.)	N/A	N/A
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	N/A	N/A
3.5.5 Landscaping	Yes	Yes
3.5.6 Energy efficiency/conservation requirements for non-residential developments	N/A	N/A
3.5.7 Building Construction and Design	N/A	N/A
3.6 Accessibility	N/A	N/A
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	N/A	N/A
3.9 Mechanical Plant Equipment	N/A	N/A
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
5 Special Character Areas and Sites	N/A	N/A
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

### Detailed Assessment

#### **3.4.3 Maintenance of Views**

Access to adjoining sites was not possible for the purpose of undertaking a view loss assessment.

Based on available information, the sites most likely to be affected by the development would be north-facing allotments on the southern side of Montpelier Place (i.e. 2, 3, and 4 Montpelier Place); these sites obtain significant views (specifically, views of the ocean and headland/foreshore areas north of

Manly (i.e. Queenscliff and Freshwater) over the subject site due to those sites' higher elevations.

Despite the proposed modifications, the maximum ridge RL of the roof will not be altered, and the overall height, bulk and scale of the dwelling will generally remain unchanged. As such, the proposed modifications are not expected to significantly alter any impacts on views created by the original approval (noting that the assessment of that proposal did not identify any concerns in this regard).

With regard to the above and both NSW Land and Environment Caselaw and planning principles associated with view loss (specifically *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*), additional impacts (if any) beyond those already approved would likely be categorised as 'negligible' to 'minor'. Given the the proposal attains relatively high level of compliance with applicable development standards and controls and that any views affected by the proposal are attained from looking across the site, any impacts on views are therefore considered to be reasonable and acceptable.

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

**Note:** The proposal complies with controls relating to building height and number of storeys; such matters will therefore not be discussed further.

The proposal will breach wall height controls on the western side of the dwelling by one metre . The breaches on the western and southern elevations are associated with roof dormers, and as such the breach of the wall height affects only a relatively small parts of that elevation. The location of the breach is a stepped feature behind the front building line; combined with the elevational difference between the dwelling and primary road frontage, the variation is unlikely to be visible from the public domain

The variation will not affect compliance with controls relating to visual privacy, solar access and views; the apparent bulk and scale of the development (as viewed from surrounding sites and the public domain) will also not be out of character with the surrounding area. As such, the objectives of the control are satisfied, and the variation is considered to be acceptable and supportable on merit.

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

**Note:** The side setbacks comply with the DCP; the zero rear setback to the secondary frontage is also considered to be consistent with that established setback (given the zero setback to the Montpelier Street frontage by garages/structures on surrounding sites).

The modification application seeks to retain the existing garage (with a nil setback) to Montpelier Place. Whilst the nil setback is consistent with the prevailing building line, the roof form extends beyond the site boundary, and owners consent has not been provided to maintain this encroachment and to replace the existing roof structure. This has been discussed with the applicant and it is agreed that the roof and the front wall of the garage can modified to ensure that all structures are wholly maintained within the property boundaries. A condition is recommended in this regard.

The modifications will reduce the setback of the front building line of the ground floor to a minimum 9.6 to 8.76 metres (the first floor building line setback will be 9.26 metres); a part-covered BBQ area at the front of the site also has a minimum front setback of 7.2 metres. Due to the angled front boundary, the size of the setback progressively increases towards the eastern side of the site. The size of the variation is not significant, and the location of the front building line on the eastern side of the site reflects the placement of the building line at the northwest side of the adjoining site 81 Bower Street. While the calculation of the building line has been established based on the setbacks of the two adjoining sites, it is noted that other development within the vicinity has a more variable setback pattern (noting that sites to the east along Bower Street (particularly between 59 and 77 Bower Street) have front setbacks that are generally less than that being proposed.

The proposed front setback will therefore not establish an adverse local development precedent with regard to front setbacks, and will generally maintain the existing setback character of the street. The front setback is to be largely landscaped, which will also assist in mitigating any visual impact associated with the variation. Further, no significant adverse impacts (in terms of visual privacy, view loss, overshadowing, etc.) will arise as a result of the proposed variation.

As such, the objectives of the control will be achieved and adverse impacts will not arise as a result of the proposed front setback. The proposed variation is therefore considered to be acceptable and supportable on merit.

#### **4.1.5 Open Space and Landscaping**

**Note:** Landscaped and private open space requirements are satisfied, and as such will not be discussed further.

The plans propose a variation, in that 53.1% (i.e. 741.76m<sup>2</sup>) of the site will consist of open space. The variation is a result of structures and topographical changes that bisect the site and limiting minimum 3 x 3 metre areas that can be included as open space under the DCP. The proposed variation is not significant and given both the size of the subject site and the placement of open space areas, it is unlikely to be discernable from surrounding sites and the public domain. The site also provides landscaped and well-situated private open space areas that are well in excess of minimum requirements.

With regard to the above and noting that the objectives of the control are satisfied, the proposed variation is considered to be acceptable and supportable on merit.

#### **4.1.9 Swimming Pools, Spas and Water Features**

While the setbacks of the pool are compliant, the design of the pool would not comply in that it would be more than one metre above ground level. The size of the site of such that the pool will be located a significant distance from any of the property boundaries, and as such will have no impact on the visual privacy of surrounding sites. The pool is to be integrated into the retaining walls and landscape layout of the site, and as such will be both integrated with the landscaping and will be situated in a manner that will not have an adverse impact on either adjoining streetscape. With regard to the above, the objectives of the control will be satisfied, and the variation is considered to be acceptable and supportable on merit.

#### **5.4.2 Threatened Species and Critical Habitat Lands**

Matters regarding terrestrial biodiversity were considered by the planning assessment for the original proposal. The subject modification application does not seek to alter approved documents and associated consent conditions relating to biodiversity considerations, noting that no concerns were raised by Council's bushland/biodiversity officer.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

Section 7.12 contributions were levied on the Development Application.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant approval to Modification Application No. Mod2021/0177 for Modification of Development Consent DA2020/0855 granted for demolition works and construction of a dwelling house including swimming pool on land at Lot 76 DP 8075,83 Bower Street, MANLY, Lot 77 DP 8075,83 Bower Street, MANLY, subject to the conditions printed below:

### **A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

The development must be carried out in compliance (except as amended by any other condition of

consent) with the documents listed in Condition 1, as modified by the following:

a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site Plan (Drawing no. S4.55.01, Rev. A)	March 2021	Evans and Green
Lower Ground Floor Plan (Drawing no. S4.55.02, Rev. A)	March 2021	Evans and Green
Ground Floor Plan (Drawing no. S4.55.03, Rev. A)	March 2021	Evans and Green
First Floor Plan (Drawing no. S4.55.04, Rev. A)	March 2021	Evans and Green
Roof Plan (Drawing no. S4.55.05, Rev. A)	March 2021	Evans and Green
East Elevation (Drawing no. S4.55.20a, Rev. A)	March 2021	Evans and Green
East Elevation (Drawing no. S4.55.20b, Rev. A)	March 2021	Evans and Green
West Elevation (Drawing no. S4.55.21, Rev. A)	March 2021	Evans and Green
South Elevation (Drawing no. S4.55.22, Rev. A)	March 2021	Evans and Green
North Elevation (Drawing no. S4.55.23, Rev. A)	March 2021	Evans and Green
North Street Elevation (Drawing no. S4.55.24, Rev. A)	March 2021	Evans and Green
Section AA (Drawing no. S4.55.30, Rev. A)	March 2021	Evans and Green
Section BB (Drawing no. S4.55.31, Rev. A)	March 2021	Evans and Green
Section CC (Drawing no. S4.55.32, Rev. A)	March 2021	Evans and Green
Excavation Plan (Drawing no. S4.55.50, Rev. A)	March 2021	Evans and Green
Demolition Plan, Ground Floor (Drawing no. S4.55.52, Rev. A)	March 2021	Evans and Green
Demolition Plan, Ground Floor (Drawing no. S4.55.53, Rev. A)	March 2021	Evans and Green
Finishes (Drawing no. S4.55.56, Rev. A)	March 2021	Evans and Green

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Stormwater Management Plans Sheets 1-8 of 8, all issue 2	23 March 2021	C.K.Engineering Services

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No. A394178	3 March 2021	Evans and Green
Terrestrial Biodiversity Report & Threatened Species Assessment for the North Head Long-Nosed Bandicoot	March 2021	ACS Environmental Pty Ltd
Arboricultural Impact Assessment Report	5 March 2021	Glenice Buck Designs
Geotechnical Investigation	8 March 2021	White Geotechnical Group

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



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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Master Plan (Drawing no. LMP, Rev. D)	18 January 2021	Landart

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

**B. Modify Condition 8 'On-site Stormwater Detention Details to read as follows:**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY, and generally in accordance with the concept drainage plans prepared by C. K. Engineering Services, drawing number 19987, issue 2 and dated 23/3/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. Step irons shall be installed.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

**C. New Condition 14A 'Amended Landscape Plan' to read as follows:**

The Landscape Plan referenced in Condition 1A of this modified consent is to be amended as follows:

- i) co-ordinate the landscape works and layout proposed with the approved architectural plans,
- ii) be based on the approved development consent DA2020/0855 landscape scheme,
- iii) delete Cupaniopsis anacardioides from the schedule and replace with a similar tree in form and size that is not self-seeding into natural bushland,
- iv) delete Rhipidolepis species from the schedule and replace with a similar shrub in form and size that is not self-seeding into natural bushland,
- v) ensure all tree planting shall be located within a 9m<sup>2</sup> deep soil area and be located a minimum of 3 metres from existing and proposed buildings, and located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

The Amended Landscape Plan shall be issued to the Certifying Authority prior to the issue of a Construction Certificate and certification shall be provided to the Certifying Authority that these amendments have been documented.

Reason: Landscape amenity.

**D. New Condition 14B 'Amended Architectural Plans' to read as follows:**

The Architectural Plans referenced in Condition 1A of this modified consent are to be amended, as follows:

- a. No part of the garage or garage roof is to extend beyond the boundaries of the subject site. This can be achieved by either:
  - i. demolishing the eastern wall of the existing garage to be rebuilt 500mm further to the west (ie; a 500mm reduction to the width of the garage) and a 500mm increase to the eastern setback of the garage roof, or
  - ii. demolishing the southern wall of the existing garage to be rebuilt 500mm further to the north (ie: a 500mm reduction to the depth of the garage) and a 500mm increase to the southern setback of the garage roof.

The amended plans are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure that all structures are maintained within the site.

**E. Amend Condition 33 'Landscape Completion' to read as follows:**

Landscaping is to be implemented in accordance with the Amended Landscape Plan required by this modified consent.

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

Reason: Environmental amenity.

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

**Signed**



**Rebecca Englund, Planner**

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



**Anna Williams, Manager Development Assessments**