

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0865
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Responsible Officer:	Rebecca Englund
Land to be developed (Address):	Lot 17 DP 758044, 41 Heathcliff Crescent BALGOWLAH HEIGHTS NSW 2093
Proposed Development:	Construction of a dwelling house
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Christopher Eldon Jessop Anthoulla Masoombee Mohamudally
Applicant:	Peninsula Homes (Aus) Pty Ltd

Application Lodged:	04/08/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	12/08/2020 to 26/08/2020
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 965,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the construction of a new two-storey dwelling at the subject site.

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 - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.3 Maintenance of Views

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

Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

Property Description:	Lot 17 DP 758044 , 41 Heathcliff Crescent BALGOWLAH HEIGHTS NSW 2093
Detailed Site Description:	The site is legally described as Lot 17, Section 25 in DP 758044, and is commonly known as 41 Heathcliff Crescent, Balgowlah Heights. The site is irregular in shape, with a 15.91m wide frontage to Heathcliff Crescent, a maximum depth of 41.935m and a total area of 629.7m ² . The site has a gentle slope from the street frontage down towards the rear, with a fall of approximately 3m. Two established canopy trees are located forward of the existing dwelling, one within the site frontage and one within the road reserve. Low density residential development surrounds the site, with a Council reserve at the end of the cul-de-sac.

Map:



SITE HISTORY

A CDC (CDC2020/0508) was issued for the demolition of the existing dwelling on 7 August 2020.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home

Section 4.15 Matters for Consideration'	Comments
	Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
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 12/08/2020 to 26/08/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Norrskan Ko	204/166 Glebe Point Road GLEBE NSW 2037
Mr Todd James Delaney	39 Heathcliff Crescent BALGOWLAH HEIGHTS NSW 2093
Mr Anthony John Curtis	56 Heathcliff Crescent BALGOWLAH HEIGHTS NSW 2093

Whilst 3 separate submissions were received, the submission from Norrsken Ko was prepared on behalf of the property owners of 39 Heathcliff Crescent, Balgowlah Heights. In accordance with Council's CPP, submissions from or on behalf of one property are considered to be one submission. As such, only two submissions were received in objection to the development.

The matters raised within these submissions are addressed as follows:

- **Removal of Trees**

A submission has been received in objection to the proposed removal of an existing Bottlebrush tree within the road reserve. The tree's removal is necessitated by the proposed new driveway, located on the opposite side of the block from the existing driveway. The submission presses the significance of the existing tree, and highlights multiple objectives of MLEP and MDCP which aim to protect existing native canopy trees. However, the existing tree has been somewhat butchered to avoid overhead electricity wires and is in poor health. Council's Landscape Officer supports the removal of this tree, subject to replacement with a new tree of a more appropriate species in consideration of the overhead wires.

- **Side Boundary Setbacks**

Submissions have been received from and on behalf of the adjoining property owner to the south in objection to the non-compliant setbacks of the dwelling, specifically along the southern elevation. One of the submissions provides that the objection would be satisfied, subject to amendments to the design to achieve compliance with the minimum setbacks prescribed.

The proposal has now been amended to achieve compliance along the upper floor southern elevation. A minor area of non-compliance remains in relation to a protruding ground floor wall, however the 200mm (max.) breach does not attribute to the concerns expressed in the submission. As such, it is considered that this objection has been satisfied.

- **Overshadowing**

The concerns raised regarding the proposed setbacks to the southern side boundary appear to primarily relate to overshadowing of the living areas with windows oriented to the north at 39 Heathcliff Crescent. The proposal will result in additional overshadowing of the adjoining property during midwinter, to a degree that is inconsistent with MDCP. As discussed further with respect to clause 3.4.1 of MDCP, the outcome is not considered to be unreasonable, noting the orientation of the sites and the presence of windows associated with the living areas to the east and west.

- **Visual Privacy**

Each of the submissions received raise concern with regard to the location and size of the proposed upper floor front deck, and associated overlooking. One of the submissions suggest that the presence of decks at the front of a dwelling along Heathcliff Crescent will be an anomaly, that will disrupt the quiet nature of the cul-de-sac.

The property owners of 56 Heathcliff Crescent have raised specific concern with the potential overlooking of the private open space and rooms at the front of their dwelling. The frontage of 56 Heathcliff Crescent is screened by a fence and vegetation, and is located on the opposite side of the street. The spatial separation alone, in the order of 30m, is considered to mitigate any potential overlooking to a degree that is not unreasonable within a residential setting.

Submissions received from and on behalf of the property owners of 39 Heathcliff Crescent raise

concern regarding overlooking from the proposed upper floor deck into the master bedroom of 39 Heathcliff Crescent, located at the front of the first floor of the dwelling, immediately to the south of the proposal. The master bedroom features a large corner window, comprising clear glazing, with no internal privacy mitigation measures (ie: blinds/curtains). In response to the concerns raised from the adjoining property owner to the south, the upper floor deck has been reduced in size, and setback further from the street. The amended design demonstrates a 9m (min.) setback from the window associated with the Master Bedroom of 39 Heathcliff Crescent, and incorporates a privacy screen the full width of the deck.

It is noted that the submission received on behalf of 39 Heathcliff Crescent requests a further reduction to the depth of the deck, to a maximum depth of 1.5m. However, any further reduction to the deck may have an adverse affect upon privacy for 39 Heathcliff Crescent, increasing the angle of the resultant line of sight between properties.

The dwelling has been designed with the living areas on the upper floor and oriented primarily to the street frontage to maximise solar access and views available to the north/north-east. Nothing that the frontage of the development has been designed to comply with and/or exceed the prescribed front and side setbacks, and that the proposal is consistent with the character of surrounding development, the design of the upper floor deck is considered to be a reasonable design solution, which will not result in any unreasonable impacts upon the privacy of adjoining properties.

- **Acoustic Privacy**

In addition to visual privacy concerns, each submission also raised concern regarding the acoustic impacts associated with the proposed upper floor deck. On submission requests acoustic treatments to be incorporated into the design of privacy screen to mitigate any noise transition to the adjoining property. The presence of areas of private open space at the frontage of dwellings is not inconsistent with the streetscape, with the majority of properties featuring upper floor decks fronting the street. The noise associated with the residential use of a balcony is not considered to be unreasonable within an urban setting, and specific additional acoustic treatment is not considered to be required in this instance.

- **View Sharing**

Submissions have been received from and on behalf of 39 Heathcliff Crescent, raising concerns with regard to view loss. As discussed further with regards to 3.4.3 of MDCP, the proposed development will result in the obstruction of some views currently enjoyed. However, this impact is not considered to be unreasonable, as the distant views in question are vulnerable and retained from other areas in the dwelling.

- **Design & Location of Garage**

A submission was received on behalf of the adjoining property owner of 39 Heathcliff Crescent in objection to the design and location of the garage. The submission does not relate these objections to an impact upon the amenity of 39 Heathcliff Crescent, but rather to that of the streetscape in general. Whilst the garage width marginally exceeds that permitted by clause 4.1.6 of MDCP, the garage is integrated into the design of the dwelling, and is recessed behind the deck above such that it will not dominate the streetscape.

Note: The proposal was amended during the course of the assessment. The amended plans were provided to the adjoining property owner at 39 Heathcliff Crescent, who maintained the concerns conveyed in the original submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	Approval, with conditions <i>The proposal is for the construction of a new dwelling including attached garage, and associated external works.</i> <i>Council's Landscape Referral section have assessed the application against Manly Local Environment Plan and against the following landscape controls of Manly DCP 2013:</i> <i>• section 3: General Principles of Development, including but not limited to clauses 3.3.1 Landscape Design, and 3.3.2 Preservation of Trees and Bushland Vegetation,</i> <i>• section 4: Development Controls and Development Types, including but not limited to clauses 4.1.5 Open Space and Landscaping.</i> <i>The existing site contains gardens, lawn, pavements, with no significant large trees within the site. The Statement of Environmental Effects notes that existing vegetation within the site is not impacted and shall be preserved. Adjoining properties at the rear contain existing trees on amenity value that are not impacted by the works. As viewed on site, the existing tree documented on the survey and development application plans has been removed under Council's TA2020/0489 approval.</i> <i>The development proposal requires the removal of an existing street tree (Callistemon salignus) to accommodate the new location of the driveway. The existing street tree is located under power lines and the canopy has been top and centre pruned regularly by utility authorities, and unlike some of the other similar street trees within Heathcliff Crescent, this tree's canopy structure has been impacted such that the significance of the street tree is diminished and it's amenity value is reduced. I am of the design opinion that a driveway to service garaging located south of a dwelling is the most appropriate solution for residential design layout. Given this, and the condition of the street tree subjected to regular pruning, there is no objection to the proposed removal. An alternative location is available for street tree replacement within the road verge of a tree species better suited to top pruning for overhead wires.</i> <i>A Landscape Plan is provided with the application, and can be accepted with condition of consents applied with provision of the required number of native trees under Manly DCP, and planting to soften the built form.</i>
NECC (Development Engineering)	Approval, with conditions. <i>Development Engineering has no objection to the application subject to the following conditions of consent.</i>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Approval - no conditions. <i>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</i>

External Referral Body	Comments
	<i>recommended.</i>

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 continued residential use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1113051S_02 dated 30 June 2020).

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

Commitment	Required Target	Proposed
Water	40	50
Thermal Comfort	Pass	Pass
Energy	50	54

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

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8m	-	Yes
Floor Space Ratio	0.45:1	0.39:1	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Mainly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 629.7m ²	Requirement	Proposed	Variation	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings	1	-	Yes
	Dwelling Size: 117m ²	282m ²	-	Yes
4.1.2.1 Wall Height	N: 6.9m (based on gradient 1:15)	5.9m	-	Yes
	S: 6.8m (based on gradient 1:20)	6.5m	-	Yes
4.1.2.2 Number of Storeys	2	2	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	2m	-	Yes
4.1.4.1 Street Front Setbacks	6m	6.3m	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	1.26m-2.07m (south)	1.06m - 2.16m	0.20m	No
	1.76m-1.95m (north)	1.11m-1.79m	0.75m	No
	Windows: 3m	1.8m	1.2m	No
	6m	6.3m	-	Yes
4.1.4.4 Rear Setbacks	8m	14.7m	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	69%	-	Yes
	Open space above ground 25% of total open space	13.6%	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of	86%	-	Yes

	open space			
	3 native trees	4 trees	-	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	439m ²	-	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	6.4m (40%)	0.2m	No
Schedule 3 Parking and Access	2 spaces	2 spaces	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
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	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	No	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
3.5.5 Landscaping	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
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	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	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

The proposed development is inconsistent with the provisions of this control which require current levels of sunlight to living areas to be maintained for at least 2 hours between 9am and 3pm in midwinter. The proposal will result in additional overshadowing of the adjoining property at 39 Heathcliff, as follows:

- direct sunlight to the east facing window associated with the dining room will be reduced at 9am,
- direct sunlight to the north facing window associated with the dining room will be lost at 9am and reduced at 12pm and 3pm, and
- direct sunlight to the north facing window associated with the lounge room will be lost at 9am and 12pm.

However, the dining room as a whole will retain direct sunlight for the entire day and the living room will receive direct sunlight for more than 2 hours in the afternoon. Whilst the impact to the adjoining property is acknowledged, it is not considered to be unreasonable noting that the impacting portion of the proposed development is compliant with the prescribed built form controls and that the affected living areas are somewhat vulnerable as they are located on the northern side of an east-west oriented site.

Overall, the proposal is considered to be supportable on merit, noting that the development is consistent with the objectives of the control, as follows:

- *To provide equitable access to light and sunshine.*

Comment: Despite the impact to current levels of solar access, the proposal is considered to result in the equitable provision of access to light and sunshine, noting that the component of the proposal that results in overshadowing is compliant with the relevant built form controls.

- *To allow adequate sunlight to penetrate:*
 - *private open spaces within the development site; and*
 - *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

Comment: Whilst the impact to the adjoining property is acknowledged, the dwelling will maintain sunlight to the ground floor living areas for reasonable portions of the day during mid-winter. Furthermore, occupants of the dwelling will have access to areas of private open space in direct sunlight throughout the entirety of the day.

- *To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:*
 - *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
 - *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment: The southern side of the proposed dwelling has been both stepped to follow the slight fall of the land, and the upper floor has been further recessed to ensure compliance with the relevant built form controls.

3.4.3 Maintenance of Views

The proposed development will impact upon ocean views currently enjoyed from 39 Heathcliffe Crescent, and submissions in objection to the development have been received from and on behalf of the property owners in this regard. The impact upon views is considered with respect to this development control and the Views Planning Principle developed by the NSW LEC in the matter of *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

Note: Height poles were not considered to be required in this instance, as the potential impact could be derived based on the location of the existing roof form.

Distant views of the ocean and the pines that line Manly Beach are available in a north-easterly direction from multiple positions at 39 Heathcliff Crescent, including the ground floor kitchen and dining area, three bedrooms on the first floor, the rear balcony on the first floor and the roof top terrace. District views are also available from the rear balcony on the first floor and the top floor roof top terrace. The ocean views available from within the dwelling at 39 Heathcliff Crescent are obtained from windows on both the northern side elevation and front eastern elevation, across both the northern (common) side and front boundaries.

Breakfast Bar (Ground floor)

The kitchen/dining area features a breakfast bar that is integrated into a window that overlooks the street. The distant ocean view available from both a seated and standing position at the breakfast bar is partially obstructed by existing vegetation and obtained across the common side boundary and the frontage of the subject site. The proposed front upper floor balcony is likely to obstruct a small portion of this view, the impact of which is considered to be minor.

Dining/Kitchen Area (Ground Floor)

The dining room, which is currently being used as a living room, features glass bi-fold doors on the northern side elevation, opening onto the adjacent terrace. The distant ocean view obtained through these doors, from both the dining room and kitchen, is obtained across the common side boundary and will be entirely obstructed by the proposed garage and front upper floor balcony. The impact upon this view corridor is considered to be severe.

Master Bedroom (First Floor)

The first floor master bedroom features a large corner window, oriented towards the ocean views to the north-east. The distant view is obtained over the frontage of 39 Heathcliff Crescent and the common side boundary. The proposal will not impact upon this view.

Second Bedroom (First Floor)

The second bedroom on the first floor features windows on both the front and northern side elevation, with ocean views available in a north-easterly from both windows across the common side boundary. The view from the side window also captures a portion of Manly Cove and the ferry wharf. The view obtained from the window on the front elevation will not be impacted by the proposal, however the proposed upper floor front balcony will obstruct the view from the side window in its entirety. The impact upon views from the second bedroom is considered to be minor.

Third Bedroom (First Floor)

Distant views of the ocean and Manly Cove are available in a north-easterly direction from a window on the northern side elevation of the third bedroom on the first floor. The ocean view is obtained over the common side boundary and the roof of the existing dwelling at the subject site. District views in a north-westerly direction are also available from a window/door on the rear elevation of the third bedroom. Whilst the ocean view will be lost as a result of the upper floor of the

proposed development, the district views will remain unimpeded. The impact upon views currently enjoyed within the third bedroom is considered to be minor.

Rear Balcony (First Floor)

A distant view of the ocean is available from the rear first floor balcony, when looking in a north-easterly direction across the common side boundary and over the roof of the existing dwelling at the subject site. District views are also available to the north-west across the rear yard of the subject site. The view to the ocean will be obstructed by the front portion of the proposal, whilst the district views to the north-west will remain unimpeded. The impact upon views currently enjoyed from the rear first floor balcony is considered to be minor.

Roof Terrace (Second Floor)

Distant views of the ocean and Manly Cove are available in a north-easterly direction from the upper roof terrace, in addition to district views to the north and north-west. The proposal will not impact upon views from the roof terrace.

Overall, the impact upon individual vantage points throughout 39 Heathcliff Crescent ranges from negligible (no impact) to severe. However, the collective impact is considered to be minor and is not unreasonable in these circumstances with regard to the following:

- the portion of the proposed dwelling that attributes to the impact upon views, being the front upper floor balcony, has been designed to comply with, if not exceed, the controls prescribed by MLEP and MDCP,
- the views in question are obtained at oblique angles across the side boundary, with other views within the same room maintained,
- the views are vulnerable by virtue of distance and future vegetation, and
- the views are to remain unimpeded in other areas of the dwelling.

Over the course of the assessment process, the proposal has been amended to reduce the maximum depth of the front balcony (from 5.6m to 3.7m), which in turn reduces the impact upon views currently enjoyed from the adjoining property. The proposal is considered to be a balanced design solution for the site, and any further reduction to the balcony would be detrimental to the articulated design solution of the front facade, reduce the amenity for future occupants of the proposal and increase overlooking between the adjacent dwellings.

Furthermore, the proposal is consistent with the objectives of this control, as follows:

- *To provide for view sharing for both existing and proposed development and existing and future Manly residents.*

Comment: Whilst the proposal will result in view loss for occupants of the adjoining dwelling at 39 Heathcliff Crescent, the impact is not considered to be unreasonable and view sharing between properties is achieved.

- *To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).*

Comment: As above, the proposed new dwelling will impact upon some of the view corridors

currently enjoyed by the adjoining property, however it is considered that this impact has been minimised and the majority of view corridors have been maintained.

- *To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.*

Comment: The portion of the proposed development that impacts upon views has been designed to comply with the relevant built form controls, with a front setback that is 2m greater than the minimum prescribed.

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

4.1.4.2 Side Setbacks and Secondary Street Frontages

Minor areas of the proposed development are inconsistent with the minimum side setbacks prescribed, being one third of the proposed wall height. Furthermore, the proposal includes windows on the side elevations that are within 3m of the side boundary. The areas of non-compliance are individually addressed below:

Northern Side Setback

The northern side elevation is located between 1.11m and 1.79m from the northern side boundary. Based on the proposed wall height, the rear portion of the elevation which projects outwards (to the north), is non-compliant with the prescribed side setback by up to 750mm. The protrusion is setback from the street and does not increase the apparent size of the dwelling, nor attribute to any unreasonable impacts upon the amenity of the dwelling to the north.

Southern Side Setback

The upper floor of the proposed dwelling has been set in from the lower floor and is consistent with the minimum setbacks prescribed. However, the western (rear) end of the lower floor southern side elevation, which is located 1.06m from the southern side boundary, protrudes up to 200mm within the minimum prescribed setback. The non-compliance is limited to a single storey element of the proposal, and occurs due to the fall of the land. The 200mm non-compliance does not attribute to any unreasonable impacts upon the amenity of the adjoining property.

Windows

The proposal is inconsistent with the provisions of this control which limit the placement of windows on walls within 3m of side boundaries. To address this non-compliance, the majority of windows on the side elevation of the upper floor are highlight windows, to remove any opportunity for overlooking between properties. This is considered to be a more appropriate design solution that what would be achieved by low windows located 3m from the boundary. One window on the northern elevation is not a highlight window, however it is associated with the stairwell, and the windows located on the adjacent dwelling are frosted highlight windows. Windows on the lower level within 3m of the adjacent boundary will be screened by 1.8m high boundary fencing.

Overall, despite minor areas of technical non-compliance, the proposal achieves consistency with the objectives of the control, as follows:

- *To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

Comment: The proposed development is consistent with the alignment of adjoining dwellings and the minimum front setback prescribed by the control. The apparent size of the proposal is

also consistent with the scale of surrounding and nearby development.

- *To ensure and enhance local amenity by:*
 - *providing privacy;*
 - *providing equitable access to light, sunshine and air movement; and*
 - *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
 - *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
 - *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment: Despite minor areas of non-compliance with the side setbacks prescribed, the proposed development does not attribute to any unreasonable impacts upon the amenity of adjoining dwellings and will result in a dwelling that is consistent with the character of the street.

- *To promote flexibility in the siting of buildings.*

Comment: The dwelling is sited on a slight slope, which attributes to the non-compliance on the ground floor southern elevation. The minor 200mm non-compliance is considered to be an appropriate/flexible design solution, noting that the setbacks otherwise comply and that the proposal has been stepped at the upper level.

- *To enhance and maintain natural features by:*
 - *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
 - *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
 - *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment: The proposal provides landscaped areas that exceed the minimum prescribed by relevant controls, with adequate landscaping proposed.

- *To assist in appropriate bush fire asset protection zones.*

Comment: N/A - the site is not bushfire prone.

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

The proposed garage is 6.4m wide, 0.2m in excess of the 6.2m maximum width prescribed by this control. The garage is integrated into the design of the dwelling and the additional 200mm does not give rise to unacceptable bulk or an adverse impact upon the streetscape. Overall, the minor non-compliance is supportable on merit, noting that the proposal achieves the outcomes of the control, as follows:

- *To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).*

Comment: The proposed garage provides for two off-street parking spaces and is not of a scale that is disproportionate with other garages within the locality.

- *To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.*

Comment: The proposal will not result in any additional demand for on-street parking.

- *To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.*

Comment: The proposed driveway has been designed in accordance with AS2890.1 and has been supported by Council's Development Engineers. Furthermore, the garage is integrated into the dwelling, recessed below/behind the projecting balcony above.

- *To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.*

Comment: The garage is located at grade, with excavation minimised across the site.

- *To ensure the width and number of footpath crossings is minimised.*

Comment: The application involves the relocation of the current driveway crossing to the opposite side of the site, with the existing crossing to be reinstated to kerb and guttering, such that only one driveway crossing will remain.

- *To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.*

Comment: Impervious areas have been maximised on the site, with adequate landscaping proposed at the frontage of the site.

- *To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.*

Comment: N/A - not located within a 'Centre'.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$9,650 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$965,000.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0865 for Construction of a dwelling house on land at Lot 17 DP 758044, 41 Heathcliff Crescent, BALGOWLAH HEIGHTS, 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
Roof Plan A1, revision A	14 October 2020	Sally Gardner Design and Draft
First Floor Plan A2, revision A	14 October 2020	Sally Gardner Design and Draft
Ground Floor Plan A3, revision A	14 October 2020	Sally Gardner Design and Draft
Elevation Sheet 1 A4, revision A	14 October 2020	Sally Gardner Design and Draft
Elevation Sheet 2 A5, revision A	14 October 2020	Sally Gardner Design and Draft
Sections Sheet 1 A6, revision A	14 October 2020	Sally Gardner Design and Draft
Sections Sheet 2 A7, revision A	14 October 2020	Sally Gardner Design and Draft
Sections Sheet 3 A8, revision A	14 October 2020	Sally Gardner Design and Draft
Landscape Plan S7, revision A	14 October 2020	Sally Gardner Design and Draft

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Management Plan SW1	[undated]	Barrenjoey Consulting Engineers Pty Ltd
Stormwater Management Detailing 1 SW2	[undated]	Barrenjoey Consulting Engineers Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate 1113051S_02	30 June 2020	Efficient Living Pty Ltd
NatHERS Certificate No. 0004957726	26 June 2020	Peninsula Homes

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	21 July 2020	Vaughan Milligan Development Consulting P/L

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 \$9,650.00 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 \$965,000.00.

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 \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition

work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

6. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

7. **On-site Stormwater Management Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater management system in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY, and generally in accordance with the concept drainage plans prepared by Barrenjoey Consulting Engineer, Job number 200609.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer. The drainage plans must address the following:

- i. check and confirm the existing dispersion system in the rear of the property

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.

8. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

9. **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.

10. **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 TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. **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.

12. **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.

13. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and

disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

14. Installation and Maintenance of Sediment Control

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

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

15. Vehicle Crossings

The Applicant is to construct one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

16. Tree and vegetation protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation not approved for removal.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation

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

The Certifying Authority must ensure that:

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

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: tree and vegetation protection.

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

17. **Landscape completion**

Landscaping is to be implemented in accordance with the Landscape Plan S7, issue 13 July 2020, prepared by Sally Gardner Design and Draft, inclusive of the following conditions:

- i) three (3) native trees in accordance with Manly DCP control 4.1.5, clause 4.1.5.2 (c) Minimum Tree Plantings shall be planted within the site, and selected in accordance with Schedule 4 Part B - Native Tree Selection,
- ii) all tree planting shall be at least a minimum pre-ordered 75 litre container size at installation, located within a 9m² 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,

iii) planted gardens along the front setback boundaries forward of the dwelling shall consist of a mixed range of shrubs and groundcovers, with shrubs planted no more than 1 metre apart.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: landscape amenity.

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 any interim / final Occupation Certificate.

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

19. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

20. **Street tree replacement planting**

This consent approves the removal of the *Callistemon salignus* within the road reserve, subject to replacement:

Street trees shall be planted in accordance with the following schedule:

No. of trees	Species	Location	Pot Size
one (1)	Banksia serrata (as per Manly Council Street Tree Master Plan)	located centrally within the road verge	pre-ordered minimum 75 litre container

All street trees shall meet the requirements of Natspec - Specifying Trees.

All street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, or as otherwise directed, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be located at least 2.0 metres from driveways, kerbs, and paths, and shall generally be centralised within the road verge.

Removal of the approved tree in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: Public amenity.

21. **House / Building Number**

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

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

Reason: Proper identification of buildings.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

22. **Landscape maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved conditions of consent.

Reason: to maintain local environmental amenity.

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

Signed



Rebecca Englund, Principal Planner

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



Anna Williams, Manager Development Assessments