

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2393
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot A DP 373783, 11 Beatty Street BALGOWLAH HEIGHTS NSW 2093
Proposed Development:	Construction of a dwelling house including a swimming pool
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:	Renae Betty Gallen Daniel Joseph Gallen
Applicant:	Renae Betty Gallen Daniel Joseph Gallen

Application Lodged:	14/12/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	21/12/2021 to 25/01/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,520,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The development seeks consent for the construction of a new dwelling, comprising the following:

Basement Floor Level

- Double garage
- Bin storage
- Store
- Pool Equipment
- Hydraulic services
- Internal stairs

Ground Floor Level

- Entry
- Porch
- Open plan living/dining/kitchen and pantry
- Bedroom with ensuite
- Family Room
- Powder Room
- Laundry
- Courtyard
- Balcony

First Floor Level

- Master suite with ensuite and dressing
- Two bedrooms
- Study
- Bathroom
- Balcony

External Works

- Driveway
- Front fence
- Swimming Pool
- Decking
- Associated landscaping

It is noted that application does not seek consent for demolition of existing structures. Therefore, a condition has been imposed requiring separate approval for demolition of structures.

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 - 3.4.2 Privacy and Security

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

SITE DESCRIPTION

Property Description:	Lot A DP 373783 , 11 Beatty Street BALGOWLAH HEIGHTS NSW 2093
Detailed Site Description:	The subject site consists of a single allotment located on the south west side of Beatty Street. The site is regular in shape with a frontage of 16.765m along Beatty Street and a depth of 39.625m. The site has a surveyed area of 684.8m². The site is located within the R2 Low Density Residential zone and accommodates a one and two storey clad house with a tiled roof, swimming pool, single brick garage and single car port. The site slopes from the street frontage to the rear boundary with an approx. rise of 2.76m. The site is located within a landscaped setting comprising established lawn areas and garden beds. There are no known threatened flora or fauna species present on site. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by one and two storey dwellings set within a low density residential and landscaped setting.

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:

- DA0253/2017 - On 29 March 2018, Council approved alterations and additions to an existing dwelling house.
- MOD2020/0329 - On 21 August 2020, Council approved modification of DA0253/2017.
- MOD1029/0296 - On 23 September 2019, Council approved modification DA0253/2017.

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) –	None applicable.

Section 4.15 Matters for Consideration	Comments
Provisions of any planning agreement	
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 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to rear setback non-compliance and extent of demolition. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This 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 insurance requirements under the Home 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. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(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.

Section 4.15 Matters for Consideration	Comments
	(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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Sydney Bushfire Consultants, dated 19 November 2021) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 21/12/2021 to 25/01/2022 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Russell Aubrey Stanford	9 Beatty Street BALGOWLAH HEIGHTS NSW 2093

The following issues were raised in the submissions:

- **Setbacks and bulk**
- **Privacy**
- **Boundary fencing/wall**

The above issues are addressed as follows:

- **Setbacks and bulk**

The submissions raised in regards to the overall bulk of the dwelling house and general setbacks

Comment:

This matter is discussed in detail throughout the report. In summary, the bulk and scale of the proposed development is satisfactory given the constraints of the site, the level of impact on adjoining properties and size and scale of neighbouring properties. The proposed built form non-compliance and resultant bulk and scale are considered to be appropriate in this residential context and satisfies the requirements and objectives of the Manly DCP 2013. All relevant provisions of MDCP 2013 have been assessed in this report, with the bulk and scale of the proposed dwelling house deemed satisfactory.

- **Privacy**

The submission raised concerns that dwelling house would lead to unreasonable privacy impacts on the adjoining residential development.

Comment:

The proposal has been assessed against the privacy provisions under Clause 3.4.2 of the Manly DCP in this report. In summary, the proposal complies with the relevant provisions and underlying objectives under Clause 3.4.2 of the Manly DCP, subject to conditions relating to the first floor balcony.

- **Boundary fencing/wall**

The submissions raised concerns that

Comment:

Boundary fences are generally subject to the Dividing Fences Act 1991 NSW. As stated Act boundary fences are a civil matter between neighbours and is subject to an agreement between neighbours. No owners consent has been given by the adjoining property owner and as such, no consent is given for any boundary wall/fence. A condition of consent has been imposed as part of the recommendation reflecting this.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application seeks consent for the construction of a new dwelling, swimming pool and associated landscape works. Council's Landscape Referral section have considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls (but not limited to): • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation

Internal Referral Body	Comments
	• 4.1.5 Open Space and Landscaping, including 4.1.5.2 (c) Minimum Tree Plantings where applicable The plans indicate that no significant landscape features are affected by the proposed works. The landscape plans prepared by Site Design Studios indicate replanting of 3 native trees as required under MDCP. No objections are raised with regard to landscape issues subject to conditions.
NECC (Bushland and Biodiversity)	The application seeks approval for the construction of a new dwelling, which incorporates a basement garage and storage facilities, swimming pool and the managed replanting of the site in accordance with the landscape schedule. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including: Biodiversity Conservation Act 2016 (BC Act) State Environmental Planning Policy (Coastal Management) 2018 - Coastal Environment Area Manly Local Environmental Plan (MLEP) - Clause 6.5 (Terrestrial Biodiversity) Manly Development Control Plan (MDCP) - Clause 3.3.1. a) iv) Landscaping Design No prescribed trees or vegetation exist within the site. As the existing site is wholly cleared, and does not require the removal of prescribed trees or vegetation, nor is it likely to impact on soft open space or nearby biodiversity values, the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls. No objection is raised to the proposed landscaping.
NECC (Coast and Catchments)	The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP. The application has also been assessed using Northern Beaches SREP assessment template.

Internal Referral Body	Comments
	<i>Coastal Management Act 2016</i> 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 development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>. State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13 (coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA. Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Vaughan Milligan Development Consulting Pty. Ltd dated November 2021, the DA satisfies requirements under Clause 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. Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005 Harbour Foreshores & Waterways Area The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 2, Clause 14 and Part 3, Division 2 apply in assessing this DA. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Vaughan Milligan Development Consulting Pty. Ltd dated November 2021, it is determined that the Planning Principles and Matters for Consideration of the Area have been met.

Internal Referral Body	Comments
	Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005 The subject site is located within a foreshore area identified on the map and therefore the DCP applies to the proposed development. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Vaughan Milligan Development Consulting Pty. Ltd dated November 2021, it is determined that the proposed development satisfies the requirements of the DCP. Manly LEP 2013 and Manly DCP Foreshores Scenic Protection Area Management 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. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Vaughan Milligan Development Consulting Pty. Ltd dated November 2021, the DA 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. As such, it is considered that the application does comply with the requirements of the Manly DCP 2013.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The property is largely affected by the Low Flood Risk Precinct, however it is outside the Flood Planning Area. There are no applicable flood related development controls.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who responded confirming no response was required.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1247561S dated 24 November 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 who responded confirming that no decision was required.

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:

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:

The proposed dwelling is consistent with the character, built form and scale anticipated for a low-density residential area and respects the provisions outlined above in Clause 13.

- (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:

The assessment is satisfied that the development is suitably designed, sited and will be managed to above any adverse impact on the provisions above.

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:

<insert>

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 proposed development will not cause increased risk of coastal hazards on the subject land or surrounding land.

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	8.3m	-	Yes
Floor Space Ratio	FSR: 0.4:1	FSR: 0.4:1	-	Yes

(273.9sqm)

(273.9sqm)

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.21 Flood planning	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 684.8m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	S/E: 7.2m (based on gradient 1:9)	7.4m	2.7%	No
	N/W: 7.2m (based on gradient 1:9)	5.73m - 6m - 7.4m	2.7%	No
4.1.2.2 Number of Storeys	2	3	50%	No
4.1.2.3 Roof Height	Height: 2.5m	0.6m	-	Yes
	Parapet Height: 0.6m	<0.6m	-	Yes
	Pitch: maximum 35 degrees	Flat roof	-	Yes
4.1.4.1 Street Front Setbacks	6m	BL: 9.1m GFL: 9.1m FFL: 13.7m	- - -	Yes Yes Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.46m (based on first floor S/E wall height)	First floor: 2.025m - 2.41m	17.7%	No
	2m - 2.46m (based on first floor N/W wall height)	First floor: 2m - 7.1m	-	Yes
	Windows: 3m	2.3m	24%	No
4.1.4.4 Rear Setbacks	8m	5.4m (ground and first floor wall) 1m (Retaining wall)	32.5% 12.5%	No No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area	49.6% or 339.5m ²	17.33%	No
	Open space above ground 25% of total open space	<25%	-	Yes

4.1.5.2 Landscaped Area	Landscaped area 40% of open space	23.4%% or 91.2m ²	41.5%	No
	2 native trees	3 trees (including replacement planting)	-	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm	-	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	5.6m	-	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	0.3m	-	Yes
	1m curtilage/1.5m water side/rear setback	2.7m (water side) 1.9m (curtilage)	- -	Yes Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	-	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	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
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.1.10 Fencing	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

- appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and
- mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.

Comment:

The proposed works retain reasonable levels of privacy (visual and acoustic) to the subject site and adjacent development, subject to conditions.

No. 9 Beatty Street, Balgowlah Heights.

The proposed balcony to the front of the first floor are setback 3.3m from the southern boundary and 3.3m from the south -east side boundary, generally providing sufficient physical separation for acoustic and visual privacy. While suitable physical separation is proposed, the development would still cause an adverse visual privacy impact to the adjoining southern property. This is a result of the direct sightlines from the balcony as a result siting and difference in levels between the first floor balcony and the adjoining ground floor principle open space of No. 41 West Street. In response to the privacy issue and having regard to MLEP 2013 and the MDCP 2013, the following recommendation is made to address the concerns raised:

Privacy Screen

A privacy screen is to provided across the extent of south-eastern side of the first floor balcony to a height of 1.6m above finished floor level.

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

Reason: to protect the visual privacy of adjoining residences.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Comment:

The proposed outdoor living areas proposed as part of this development have been appropriately offset from adjoining properties, subject to conditions.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed works will allow for passive surveillance of the street.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Description of non-compliance

Clause 4.1.2 of Manly DCP permits a maximum wall height permitted by this control is determined by the slope of the land. The slope of the land along the northern and southern elevations is as follows:

- North-western and South-eastern elevation: 1:9 gradient, which permits a maximum wall height of 7.2m wall height.

The maximum wall height of the proposed dwelling house is as follows:

- North-western wall: 7.4m, which represents a 2.7% variation from the numeric requirement.
- South-eastern: 7.4m, which represents a 2.7% variation from the numeric requirement.

Clause 4.1.2 of the MDCP 2013 also limits building to 2 storeys in height. The proposal is 3 storeys in height, which does not satisfy this requirement.

Merit consideration

There are no underlying objectives of this control under which to consider the merits of this variation. This clause instead relies on the objectives for the Height of Buildings at clause 4.3 in the Manly LEP 2013. An assessment against these objectives is as follows:

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The proposed wall and building heights remain compatible with the prevailing building heights of the locality and the new roof form improves the consistency of the dwelling with the sloping topography of the site

(b) to control the bulk and scale of buildings,

Comment:

The proposal complies with the Height of Buildings and Floor Space Ratio Development Standards, which are the fundamental control that governs the bulk and scale of buildings. The proposed development incorporates various building materials and is well articulated, which further minimises visual bulk. Overall, resulting built form is considered to be appropriate in the context of the site.

(c) to minimise disruption to the following—

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),
- (iii) views between public spaces (including the harbour and foreshores),

Comment:

The proposal will not result in any unreasonable view impacts to, from or between residential development and public spaces.

(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The overshadowing impacts arising from the development are minimal and compliance with the solar access control is maintained.

(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

The subject site is not proposed within a recreation or protection zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Description of non-compliance

Clause 4.1.4.2 of the Manly DCP requires development be setback at least 2.53m from the south-eastern boundary and north-western boundary.

Clause 4.1.4.2 of the Manly DCP requires windows be setback 3m from side property boundaries.

Clause 4.4.4.4 of the Manly DCP requires development be setback 8m from the rear boundary.

The development proposes the following:

South-eastern side setback- First floor: 2.025m -2.41m (up to 17.7% variation to the numeric control).

Rear setback- 5.4m (ground and first floor wall), 1m (Retaining wall) (12.5% - 32.5% variation to the numeric control).

Windows- 2.3m (up to 24% variation to the numeric control)

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

Objective 1) 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 includes the addition of a three storey dwelling that is consistent with the streetscape character of the locality. The proposed first floor enhances the streetscape and provides the desired spatial proportions of the street and street edge. The landscape character of the street remains unchanged with the existing landscaping in the front setback area retained.

Objective 2) 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:

The proposed dwelling maintains suitable levels of privacy and solar access for adjoining properties. In regards to views, there will be no unreasonable loss of view as a result of the proposed garage.

Objective 3) To promote flexibility in the siting of buildings.

Comment:

Flexibility is promoted in this circumstance as there are no unreasonable amenity impacts that will result on neighbouring properties.

Objective 4) 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 proposed development retains the existing landscape features on site.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment:

The subject site is not located in a bushfire zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

The proposal seeks consent to vary the minimum open space and landscaped area requirements by providing as follows:

1. Total open space: 339.5m² / 49.6%
2. Landscaped area: 91.2m² / 23.4%

The above results in variations as follows:

1. Total open space: 17.33%
2. Landscaped area: 41.5%

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment:

There are no known remnant population of native flora and fauna on the site. The proposed landscape outcome improves the existing landscape setting of the site by providing a high-quality, detailed landscape plan that provides for a variety of plant species that is sympathetic to the surrounding natural environment.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Comment:

Notwithstanding the shortfall in total open space and landscaped area, the proposal offers a significant improvement upon the existing open space and landscaped area that provides for an improvement on residential amenity for residents of the site, including open space areas that are highly accessible from all internal areas at the ground floor. The proposal, as noted above, is supported by a detailed landscape plan that contributes positively to the landscaped setting.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

Comment:

The variation sought does not detrimentally affect the amenity to the site and surrounding properties, including solar access, privacy and views, while also maintaining a consistent and sympathetic streetscape outcome.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

Comment:

The application is supported by a stormwater management plan that confirms the proposal is capable of ensuring satisfactory infiltration of stormwater. Sufficient landscaping is provided to ensure a positive stormwater outcome.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

Comment:

A condition of consent has been imposed restricting the spread of noxious weeds to ensure a satisfactory landscape outcome and the proposed landscaping will be undertaken in accordance with the approved landscape outcome.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Comment:

The development will not affect any existing wildlife habitat and potential for wildlife corridors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$15,200 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,520,000.

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 DA2021/2393 for Construction of

a dwelling house including a swimming pool on land at Lot A DP 373783, 11 Beatty Street, 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
DA01, Roof, Site & Site Analysis Plan, Issue B	April 2022	Lawton Hurley
DA02, Basement Garage Floor Plan, Issue B	April 2022	Lawton Hurley
DA03, Ground Floor Plan, Issue B	April 2022	Lawton Hurley
DA04, First Floor Plan, Issue B	April 2022	Lawton Hurley
DA05, Sections and Elevations, Issue B	April 2022	Lawton Hurley
DA06, Sections and Elevations, Issue B	April 2022	Lawton Hurley

Engineering Plans		
Drawing No.	Dated	Prepared By
SW-01, Stormwater Services - Basement Garage Floor Plan	15/11/2021	Harris Page & Associates
SW-02, Stormwater Services - Ground Floor Plan	15/11/2021	Harris Page & Associates
SW-03, Stormwater Services - First Floor Plan	15/11/2021	Harris Page & Associates
SW-04, Stormwater Services - Roof Plan	15/11/2021	Harris Page & Associates
SW-05, Stormwater Services - Sediment and Corrosion Control Plan	15/11/2021	Harris Page & Associates

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Assessment, Project No: 2021-091	30/11/2021	Crozier Geotechnical Assessments
Overland Flood Letter, Reference: 21075-L01-A1	17/11/2021	Diversi
Bushfire Assessment Report, Reference: 79BA – 2198	19/11/2021	Sydney Bushfire Consultants
BASIX Certificate, 1247561S	24/11/2021	Damian O'Toole Town Planning

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
Ground Floor Landscape Plan, Page L-02	18/11/2021	Site Design & Studios
First Floor Landscape Plan, Page L-03	18/11/2021	Site Design & Studios
Planting Details, L-04	18/11/2021	Site Design & Studios
Material Imageries, L-05	18/11/2021	Site Design & Studios

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	28/11/2021	Vaughan Milligan

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 2018
 - (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 2021

A monetary contribution of \$15,200.00 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 2021. The monetary contribution is based on a development cost of \$1,520,000.00.

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 2021 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 \$10,000 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. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

7. **Waste Management Plan**

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

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

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

8. **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.

9. **Privacy Screen**

A privacy screen is to be provided across the extent of south-eastern side of the first floor balcony to a height of 1.6m above finished floor level.

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

Reason: to protect the visual privacy of adjoining residences.

10. **Boundary fencing**

No consent is given for any boundary fencing.

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

Reason: To ensure compliance with the Dividing Fences Act 1991.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. **Pre-Construction Dilapidation Report**

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

Properties: Nos. 9 and 13 Beatty Street, Balgowlah Heights.

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

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

Note: This documentation is for record keeping purposes and may be used by an applicant or

affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not approved for removal, 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.
- 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.

13. **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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

14. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

15. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

16. 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.

17. Waste Management During Development

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

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

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

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

18. Required Tree Planting

a) Trees shall be planted in accordance with the following:

- i) 3 native trees capable of attaining a minimum height of 5m at maturity, located within the grounds of the property, minimum pot size 25 litre

b) Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight or where the proposed tree location may impact upon significant views.

c) Native tree planting species may be selected from Council's list:
www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide.

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

Reason: To maintain environmental amenity.

19. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Site Design + Studio 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

20. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

21. **Post-Construction Dilapidation Report**

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

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

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

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

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

22. **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

23. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

24. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

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

Signed



Maxwell Duncan, Planner

The application is determined on 30/05/2022, under the delegated authority of:



Rodney Piggott, Manager Development Assessments