

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

Notice is hereby given that a Meeting of the Northern Beaches Local Planning Panel will be held via teleconference on

WEDNESDAY 17 JUNE 2020

Beginning at 1.00pm for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Peter Biscoe	Chair
Brian Kirk	Town Planner
Robert Hussey	Town Planner
Peter Cotton	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

**Agenda for a Meeting of the Northern Beaches Local Planning Panel
to be held on Wednesday 17 June 2020
Commencing at 1.00pm**

1.0	APOLOGIES & DECLARATIONS OF INTEREST	
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2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 3 JUNE 2020

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Local Planning Panel held 3 June 2020 were adopted by the Chairperson and have been posted on Council's website.

3.0 DEVELOPMENT APPLICATIONS

ITEM 3.1	DA2020/0262 - 4 BUNGALOE AVENUE, BALGOWLAH HEIGHTS - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE
AUTHORISING MANAGER	RODNEY PIGGOTT
TRIM FILE REF	2020/337333
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the applicant/land owner is a councillor.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2020/0262 for alterations and additions to a dwelling house at Lot 120 DP 526584, 4 Bungalow Avenue, Balgowlah Heights subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0262
Responsible officer:	Geoff Goodyer, planning consultant, Symons Goodyer Pty Ltd
Land to be developed (address):	Lot 120, DP 526584, 4 Bungalow Avenue, Balgowlah Heights
Proposed development:	Alterations and additions to an existing dwelling house.
Zoning:	Manly LEP 2013 – Land zoned R2 Low Density Residential
Development permissible:	Yes – dwelling house
Existing use rights:	No
Consent authority:	Northern Beaches Council
Delegation level:	Northern Beaches Local Planning Panel
Land and Environment Court action:	No
Owner:	Paul Murray Grattan and Sarah Elizabeth King
Applicant:	M Groupe
Application lodged:	16 March 2020
Integrated development:	No
Designated development:	No
State reporting category:	Residential – Alterations and additions
Notified:	26/3/2020 – 9/4/2020
Advertised:	Not advertised
Submissions received:	Nil
Recommendation:	Approval
Estimated cost of works:	\$80,000

EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of Development Application DA2020/0262 for alterations and additions to an existing dwelling house at 4 Bungalow Avenue, Balgowlah Heights. The proposal is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as one of the applicants/owners is a Councillor on Northern Beaches Council.

The proposed development complies with the applicable development standards in Manly Local Environmental Plan 2013 (MLEP 2013), being building height and floor space ratio.

The proposed development required a merit assessment in relation to the side boundary setbacks control of the Manly Development Control Plan 2013 (MDCP 2013), due to the replacement of the existing carport with a garage on a nil side boundary setback, and it is concluded that the non-compliant element satisfies the objectives of the control and is acceptable on merit.

Detailed consideration has also been given to the proposal with regards to the impacts of a proposed bin store on the streetscape and impacts of proposed minor excavation, and it is concluded that the proposal satisfies the objectives and matters for consideration contained within the planning controls with regards to these matters.

No submissions were received in response to the public notification of the proposal.

Based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

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 (ie: 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 in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 – 6.2 Earthworks

Manly Local Environmental Plan 2013 – 6.4 Stormwater management

Manly Development Control Plan – 3.4.1 Sunlight access and overshadowing

Manly Development Control Plan – 3.4.2 Privacy and security

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 120 DP 526584, 4 Bungaloe Avenue BALGOWLAH HEIGHTS NSW 2093
Detailed site description:	<p>The site is located on the eastern side of Bungaloe Avenue 20 metres to the north of its intersection with Ernest Street. The site is quadrilateral in shape, with a western frontage to Bungaloe Avenue of 15.775 metres, a northern side boundary of 40.905 metres, a southern side boundary of 45.04 metres, and an eastern rear boundary of 15.24 metres. The site area is 651.3m² (by title).</p> <p>The site is burdened by an easement for drainage and covenant affecting a very small area (~0.35m²) of the site's south-eastern corner.</p> <p>The site contains a 2-storey / 3-storey dwelling house with a swimming pool in the rear yard and a metal carport adjacent to the southern boundary.</p> <p>The surrounding area has been developed predominantly for dwelling houses in landscaped settings.</p>

LOCALITY PLAN (not to scale)



Figure 1 – Location of Site

SITE HISTORY

The site has been used for residential purposes for approximately 85 years prior to which it was probably vacant. A search of Council's records has revealed the following relevant history:

- | | |
|------------|---|
| 15.3.2000 | Consent DA36/00 issued for alterations and additions including a first floor addition to existing residence. |
| 13.9.2002 | Consent DA291/02 issued for construction of inground concrete swimming pool and landscape treatment. |
| 9.9.2003 | Consent DA291/02 modification refused. |
| 11.2.2009 | Consent DA291/02 modification approved. |
| 19.12.2019 | DA2019/1455 for alterations and additions to an existing dwelling house rejected for reasons relating to solar panels exceeding the 8.5m building height control, lack of a Geotechnical Report, and lack of a Flood Assessment Report. |

PROPOSED DEVELOPMENT IN DETAIL

The proposal is to carry out alterations and additions to the existing dwelling house.

The following works are proposed:

- Enclosure of the existing sub floor area to provide a sunroom and construction of a new adjacent sundeck. The existing clothes drying area will be retained outside and adjacent to the sunroom. A paved terrace is proposed between the sundeck and the swimming pool.
- The existing metal carport adjacent to the southern boundary is to be replaced with a single garage in substantially the same location and the external stairs providing access from the rear of the garage to the rear yard are to be reconstructed. The existing external stairs to the ground floor level adjacent to the southern boundary are to be demolished and the ground floor entry door converted to a window with frosted glazing.
- A hard stand area for bin storage is proposed adjacent to the front boundary north of the existing driveway.

It is noted that the current development application has addressed the reasons that DA2019/1455 was rejected in the following ways:

- The solar panels no longer form part of the application. All works comply with the 8.5m building height control applying to the site.
- A Preliminary Geotechnical Assessment checklist has been submitted with the application in accordance with the requirements of the MDCP 2013.
- The applicant has consulted with Council's Natural Environment Officer – Flood and has addressed concerns regarding flooding.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulation 2000
- c) Manly Local Environmental Plan 2013
- d) Manly Development Control Plan 2013
- e) State Environmental Planning Policy No. 55 – Remediation of Land and draft SEPP
- f) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- g) State Environmental Planning Policy (Infrastructure) 2007
- h) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

REFERRALS

Internal referrals

Referral officer	Comments	Consent recommended
Development engineer	No objections subject to conditions	Yes
Landscape officer	No protected trees are proposed for removal and conditions of consent shall be imposed to ensure protection of existing trees. It is unclear from the development application documents if the bins store platform requires the removal of the existing tree that is located on the edge of the proposed bin area. The documents do not indicate removal. It is noted that this deciduous tree is an exempt species that does not require Council consent for removal. No objections subject to conditions.	Yes
Natural Environment – Flood	No objections or conditions	Yes

External referrals

Referral Body External	Comments	Consent Recommended
Ausgrid	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.	Yes

EXISTING USE RIGHTS

Existing use rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS

The subject application was notified to surrounding and nearby properties in accordance with the EPA Regulation 2000 and the Northern Beaches Community Participation Plan.

In response, Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 4.15 of the EPAA 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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	See discussion on "Manly Development Control Plan 2013" in this report.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, relates to whether Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 – 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>development). No upgrading of the building is required.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b)(iv) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed works.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is zoned for the proposed purpose and has been developed for this purpose.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” 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.

ENVIRONMENTAL PLANNING INSTRUMENTS

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

SEPP 55 – Remediation of Land and draft SEPP

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.

The draft SEPP was publicly notified from 31/1/2018 to 13/4/2018. It proposes to maintain the key operational framework of SEPP 55 and will categorize remediation work based on the scale, risk and complexity of the work. The draft SEPP raises no issues for the assessment of the proposal due to the history of land use not being indicative of site contamination.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate number A363879_02 dated 26 February 2020 has been submitted for the alterations and additions to the dwelling. The certificate demonstrates compliance with the state government's requirements for sustainability.

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

SEPP (Infrastructure) 2007

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.

The proposal was referred to Ausgrid who raised no objections to the proposal subject to compliance with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets. In this regard, a condition is included in the recommendation of this report.

SEPP (Vegetation in Non-Rural Areas) 2017

The proposal does not involve the removal of any protected trees.

Local Environment Plans (LEP's)

Manly Local Environmental Plan 2013 (MLEP 2013)

Consideration of proposal against Manly Local Environment Plan 2013:

Definition of proposed development: (ref. MLEP 2013 Dictionary)	Dwelling house
Zone:	R2 Low Density Residential
Permitted with Consent or Prohibited:	Permissible with consent

Objectives of the Zone

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The development is considered to be consistent with the relevant objectives of the zone for the following reasons:

- The proposal continues to provide for the housing needs of the community in a low density residential environment.

Principal Development Standards:

Standard	Permitted	Proposed	Complies
Height of buildings	8.5 metres	4.9 metres	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
4.6 Exceptions to development standards	N/A
6.2 Earthworks	Yes
6.4 Stormwater management	Yes

Detailed Assessment

6.2 Earthworks

Clause 6.2 Earthworks requires development:

- to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

- the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: Given the historical use of the site for residential purposes and the limited extent of excavation proposed it is extremely unlikely the relics will be disturbed.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any drinking water catchment or environmentally sensitive areas and is unlikely to have a negative impact on any watercourse.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

6.4 Stormwater management

Clause 6.4 Stormwater Management requires that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and

Comment: The development will provide a suitable amount of permeable surfaces given the zoning of the land and the proposed use. In this regard, the design will maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water.

(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

Comment: On-site stormwater retention is not required for this development. The proposed development is supported by suitable stormwater management plans. These plans have been reviewed as acceptable by Council's Development Engineer and included in the recommendation.

(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

Comment: The proposal has been assessed by Council's Development Engineers who have raised no objections to approval, subject to conditions. In this regard, the development will minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

Manly Development Control Plan 2013 (MDCP 2013)

Built form controls

Built form controls – site area: 651.3sqm	Requirement	Proposed	% Variation	Complies
4.1.1.1 Residential density and dwelling size	Density: 1 dwelling per 500sqm	1 dwelling per 651.3sqm	-	Yes
	Dwelling size: Min. 90sqm	253.2sqm	-	Yes
4.1.2.1 Wall height	North: 8.0m (based on gradient 1:3.4)	3.8m	-	Yes
	South: 7.7m (based on gradient 1:5.1)	4.5m	-	Yes
4.1.2.2 Number of storeys	2 storeys	2 storeys	-	Yes
4.1.4.2 Street front setbacks	Prevailing building line / 6m	9.3m, consistent with prevailing setback	-	Yes
4.1.4.2 Side setbacks and secondary street frontages (based on wall height)	North: 1266mm	1850mm	-	Yes
	South: 1500mm	Sunroom: 3550mm Garage: Nil	- 100%	Yes No
4.1.4.4 Rear setbacks	8m	16.7m	-	Yes

Built form controls – site area: 651.3sqm	Requirement	Proposed	% Variation	Complies
4.1.5.1 Minimum residential total open space requirements. Residential Open Space Area: OS3	Total open space: Min. 55% of site area (358.2sqm)	68.7% (447.5sqm)	-	Yes
4.1.5.2 Landscaped area	Landscaped area: Min. 35% of total open space (125.4sqm)	42.9% (279.5sqm)	-	Yes
4.1.5.3 Private open space	18sqm	321sqm	-	Yes
4.1.6.1 Parking design and the location of garages, carports or hardstand areas	Maximum 50% of site frontage up to a maximum 6.2m	3.35m	-	Yes
Schedule 3 Parking and access	Dwelling 2 spaces	1 space	100%	Existing

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
3.5 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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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 Residential development controls	Yes	Yes
4.1.1 Dwelling density, dwelling size and subdivision	Yes	Yes
4.1.1.1 Residential density and dwelling size	Yes	Yes
4.1.2 Height of building (incorporating wall height, number of storeys and 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)	Yes	Yes
4.1.8 Development on sloping sites	Yes	Yes
4.4.5 Earthworks (excavation and filling)	Yes	Yes

Detailed Assessment

3.1 Streetscapes and townscapes

The proposal includes a bin platform measuring 2.5m x 1.5m located on the front property boundary. The location is practical in that the site slopes steeply down from the street and the bin platform allows for bins to be easily placed on the street on collection days.

The bin platform is located behind a dense hedge and is well screened from the street, as shown in the following photograph:



Photograph 1: Hedge in front of property.

The proposed bin platform satisfies the objectives of Part 3.1 of the MDCP 2013:

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

Comment: The existing hedge ensures that the bin platform does not have a negative visual impact.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

Comment: The development on the site continues to make a positive contribution to the streetscape due to the dense landscaping provided by the existing hedge.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

Comment: The hedge is a soft landscape alternative to a front fence.

In these circumstances it is considered that the location of the bin platform is acceptable.

4.1.4.2 Side boundary setbacks

The proposed garage is set on the southern side boundary with a nil setback. It replaces the existing carport which is in essentially the same location, as shown in the following photograph:



Photograph 2: Existing carport on nil setback to southern side boundary.

Part 4.1.4.2 of MDCP 2013 requires a minimum side setback of 1/3 of the wall height, which in this case is 1.5m.

Notwithstanding the numerical non-compliance, the proposal satisfies the objectives of the side boundary setback 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 streetscape is maintained, with the existing dense hedging enhancing the streetscape and the character of the area.

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: Local amenity is maintained. The garage has no windows and so creates no privacy impacts. Sunlight access is maintained to the neighbour's private open space and living room glazing in excess of the requirements of the MDCP 2013. There is no impact on views. The pattern of the streetscape is maintained, with the garage set back at the building line and the hedge providing screening from the street. Adequate visibility is maintained and the street has low traffic volumes.

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

Comment: The flexibility provided by the controls enables the garage to be located at the side of the building rather than within the front setback, ensuring the streetscape is maintained.

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 proposal results in no impact on natural features.

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

Comment: The site is not identified as being prone to bush fire.

In summary, the proposed side setback for the garage is considered to be acceptable in the circumstances of the case.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal has an estimated cost of works of less than \$100,000 and consequently no levy is payable under clause 2.7 of the Northern Beaches Section 7.12 Contributions Plan 2019.

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;
- Manly Local Environment Plan 2013;
- Manly Development Control Plan 2013; and
- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Sections 4.15 of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, and all other documentation supporting the application.

Having completed this assessment, 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

The assessment concludes that the proposal fully satisfies the aims and objectives of the relevant planning controls and merits approval subject to the conditions included in the attached recommendation.

RECOMMENDATION

That Council as the consent authority grant Development Consent to Application No. DA2020/0262 for alterations and additions to the existing dwelling house at Lot 120, DP 526584, 4 Bungalow Avenue, 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
8278/19 Sheet 1	20.11.2019	M Groupe.
8278/19 Sheet 2	20.11.2019	M Groupe.
8278/19 Sheet 3	20.11.2019	M Groupe.
8278/19 Sheet 4	20.11.2019	M Groupe.
8278/19 Sheet 5	20.10.2019	M Groupe.
8278/19 Sheet 6	20.10.2019	M Groupe.
8278/19 Sheet 7	20.10.2019	M Groupe.
8278/19 Sheet 8	20.10.2019	M Groupe.

8278/19 Sheet 9	20.11.2019	M Groupe.
8278/19 Sheet 10	20.11.2019	M Groupe.
8278/19 Sheet 14	20.11.2019	M Groupe.
Boral Sampler		

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Statement of Environmental Effects	November 2019	Sam C. S. LAI
BASIX Certificate A363879_02	26.02.2020	Sam C. S. LAI

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

2. Approved Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	4 May 2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

3. 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

4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7 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 removal of materials/buildings/structures 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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

- (i) 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.
- (i) 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.
- (k) 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.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION
CERTIFICATE****5. Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003.

Details that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

6. 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.

7. Stormwater Disposal

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

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

8. 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. 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

10. Tree protection

- (a) Existing trees which must be retained
 - i) All trees located on the subject site
 - ii) All trees located on adjoining land
- (b) Tree protection
 - i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
 - ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
 - iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
 - iv) All tree pruning within the subject site is to be in accordance with MDCP2013 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
 - v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. 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.

12. 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.

13. 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.

14. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

15. Site filling – Virgin Excavated Material (VENM)

Where site fill material is necessary, fill materials must:

1. be Virgin Excavated Natural Material (VENM) only, as defined in: The Protection of the Environment Operations Act 1997; and
2. be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.

Reason: To ensure protection of the natural environment

16. Tree and vegetation protection

- a) Existing trees and vegetation shall be retained and protected as follows:
 - i) all trees and vegetation within the site identified on the Site Plan and the Survey Plan, excluding exempt 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 generally undertaken as follows:
 - i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4,
 - ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
 - iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,
 - iv) to minimise the impact on trees and vegetation to be retained and protected, 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) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
 - vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
 - vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,
 - viii) should either or all of v), vi) and vii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - ix) 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 AS 4970-2009,
 - x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

- c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by a AQF level 5 Arborist that determines that the tree presents an imminent risk to life or property.

Reason: to retain and protect significant planting on development and adjoining sites.

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

17. 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.

18. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management.

19. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

Suite 3P - Unit 1
No.4 Belgrave Street
Kegarah N.S.W. 2217

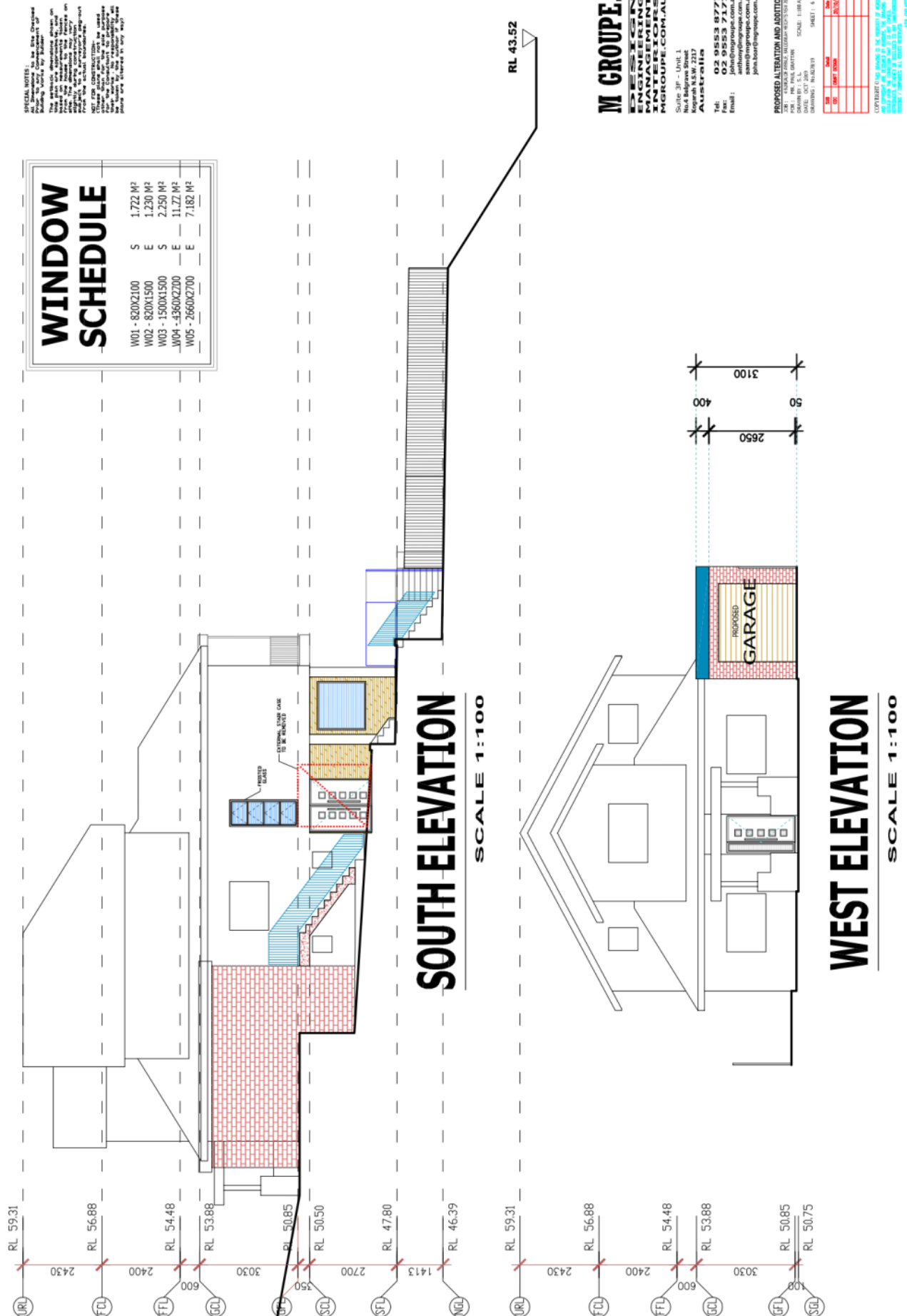
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Email: john.boar@mgroupe.com.au
anthony@mgroupe.com.au
sarah@mgroupe.com.au
john.boar@mgroupe.com.au

PROPOSED ALTERATION AND ADDITION
JOB: 4 SURFACE WALLS, MILLERMAN RD. 12/13/04 2004
FOR: MR. PAUL GRATTAN
DRAWING NO.: 5.1
SCALE: 1"=8'-0"

Slr	Detail	Date
010	DRIFT SCHOOL	20/10/19
020	APPLICATION PROCESS	20/11/19

CONSUMERS SHOULD BE AWARE OF THE FACTS OF THE CASE. THE COMPANY IS NOT AWARE OF ANY OTHER FACTS THAT WOULD AFFECT THE COMPANY'S POSITION. THE COMPANY IS NOT AWARE OF ANY OTHER FACTS THAT WOULD AFFECT THE COMPANY'S POSITION. THE COMPANY IS NOT AWARE OF ANY OTHER FACTS THAT WOULD AFFECT THE COMPANY'S POSITION.





NORTH ELEVATION

SCALE 1:100

WINDOW SCHEDULE

W01 - 820X2100	S	1.722 M ²
W02 - 820X1500	E	1.230 M ²
W03 - 1500X1500	S	2.250 M ²
W04 - 4360X2700	E	11.77 M ²
W05 - 2660X2700	E	7.182 M ²

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PROPOSED ALTERATION AND ADDITION

JOB : 4 SURFACE, MILLING AND ASPHALT
 FOR : MR. PAUL GRATTAN
 DRAWN BY : S. L.
 DATE : OCT 2009
 SCALE : 1:100 A3

SUB	DESD	DATE
CPC	DRAFT DESIGN	26/06/19

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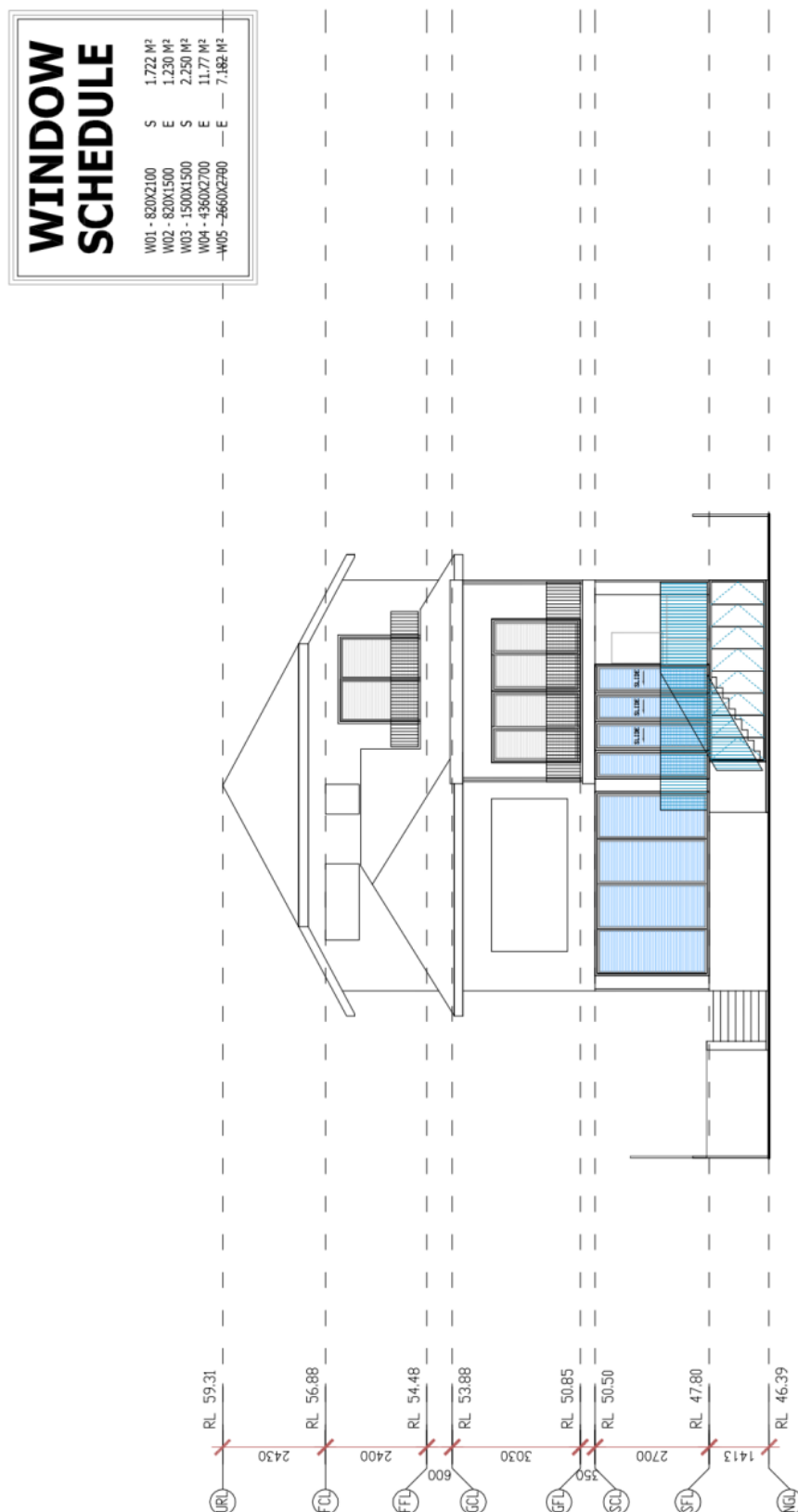
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PROPOSED ALTERATION AND ADDITION

Date		month/year	DOB
06/07/08		09/07/79	06/05

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EAST ELEVATION

SCALE 1:100

ITEM 3.2

**MOD2020/0037 - 46 VICTORIA PARADE, MANLY -
MODIFICATION OF DEVELOPMENT CONSENT DA367/2010
GRANTED FOR DEMOLITION AND CONSTRUCTION OF A
SEVEN (7) STOREY RESIDENTIAL FLAT BUILDING**

AUTHORISING MANAGER STEVE FINDLAY

TRIM FILE REF 2020/337376

ATTACHMENTS
1 [↓ Assessment Report](#)
2 [↓ Site Plan and Elevations](#)

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a modification of a determination or decision made by a local planning panel.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. Mod2020/0037 for Modification of Development Consent DA367/2010 granted for demolition and construction of a seven (7) storey Residential Flat Building at Lot CP SP 10040, 46 Victoria Parade, Manly subject to the conditions and for the reasons set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0037
Responsible Officer:	Renee Ezzy
Land to be developed (Address):	Lot CP SP 10040, 46 Victoria Parade MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA367/2010 granted for Demolition of existing structures and construction of a seven (7) storey Residential Flat Building containing eleven 11 units with two 2 levels of basement car park decks and landscaping
Zoning:	Manly LEP2013 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Proprietors of Strata Plan 10040
Applicant:	Mod Urban Pty Ltd
Application Lodged:	31/01/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	03/03/2020 to 17/03/2020
Advertised:	Not Advertised
Submissions Received:	10
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

This report provides an assessment for a modification application for an approved five (5) storey residential flat building with basement parking.

The original consent was issued by the NSW Land and Environment Court on 23 December 2011 for a residential building containing 13 apartments with basement parking for 18 cars. The consent contained specific conditions relating to the maintenance of amenity through the rear setback of the building.

On 29 July 2010, the Northern Beaches Local Planning Panel (NBLPP) approved a modification application (MOD2019/0029) which modified the building layout, roof design and reduced the number of

apartment from 13 to 11. This modification initially included a roof over the driveway access which was subsequently deleted as part of the proceedings.

The current modification application involves the construction a fire rated boundary 'blast' wall along the southern boundary of the site with the Ausgrid electricity substation, construction a new fire rated roof over the driveway to meet Ausgrid requirements and the relocation of the carpark entry roller door from the bottom of the driveway to the within the top section adjacent to Dungowan Lane.

The site is zoned R3 Medium Density Residential under Manly Local Environmental Plan 2013 (MLEP 2013). Development for the purposes of a Residential Flat Building" is permissible with consent in the zone.

The application was advertised and notified in accordance with the Community Participation Plan and ten (10) submissions were received. The application is referred to the NBLPP for determination due to the Panel's previous involvement in the approval of the original and modified development.

PROPOSED DEVELOPMENT IN DETAIL

The proposed 4.55 application seeks to modify Development Consent No. DA367/2010 for the following:

- *The provision of a new fire rated roof cover over the driveway to meet with Ausgrid's statutory requirements within proximity of the adjacent Ausgrid substation,*
- *Fire rated boundary wall to Ausgrid blast loading requirement, and*
- *Relocation of the car park vehicular entry door from the bottom section of the ramp to the top section immediately fronting Dungowan Lane.*

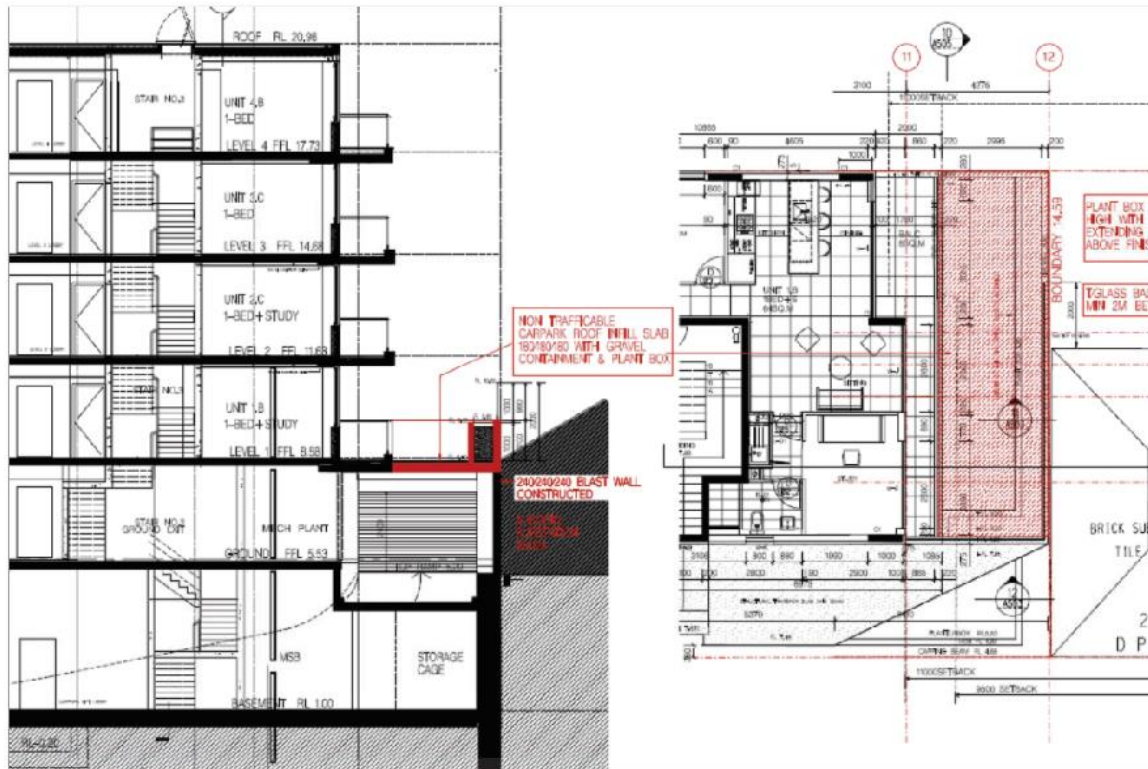


Figure 1 - Proposed roof over driveway (source: ARC Architects)

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

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

SITE DESCRIPTION

Property Description:	Lot CP SP 10040 , 46 Victoria Parade MANLY NSW 2095
Detailed Site Description:	<p>The site is located on the south-eastern side of Victoria Parade, Manly and has a north-western to south-eastern orientation. It is legally described as Strata Plan 10040, No. 46 Victoria Parade, Manly.</p> <p>The site is level and is a rectangular shape. It is 14.56 m wide (at the Victoria Parade frontage) with side boundaries being 42.06 metres. The rear of the site is 14.585 metres wide. It adjoins a heritage-listed electricity substation (No 16124).</p> <p>The substation shares a boundary of 9.265 metres with the subject site. The remainder of the rear boundary and the adjacent north-eastern side boundary adjoin Dungowan Lane. Total site area is approximately 612.8m².</p> <p>The approved development is currently under construction with the building works nearing completion.</p> <p><u>Surrounding Development</u></p> <p>To the north-east: No. 14 South Steyne (heritage listed) and a multi-storey hotel building.</p> <p>To the south-east: A one-storey sub-station and adjacent to that, a multi-storey hotel building.</p> <p>To the south-west: No. 42-44 Victoria Parade (Pacific Harbour), a five-storey residential flat building of twenty (20) units.</p> <p>Opposite the site are several heritage listed buildings which back onto the Royal Far West complex.</p> <p>The street trees of Victoria Parade have environmental heritage status.</p>

Map:



SITE HISTORY

21 April 2011

Development Application No. DA367/2010 for a seven (7) storey residential flat building containing eleven (11) units and two (2) levels of basement parking for eighteen (18) vehicles was refused by the Manly Independent Assessment Panel (MIAP) on 21 April 2011.

22 July 2011

Section 82A Review of Determination against refusal of DA367/2010 was lodged. The application had been amended to a six (6) storey residential flat building with ten (10) apartments and one level of basement car parking for ten (10) vehicles.

12 October 2011

Land and Environment Court appeal lodged for the 'Deemed Refusal' of the S82A review.

23 December 2011

DA367/2010 was approved through a Section 34 agreement and consent orders issued by the NSW Land and Environment Court.

17 September 2012

DA367/2010/2 - Section 34 agreement for S96 modification to the consent for a 5 storey residential flat building with basement carparking for 18 cars.

21 August 2014

DA367/2010/3 - This modification of the court consent (S96AA) was approved by MIAP.

4 December 2018

MOD2018/0294 - This S4.56 modification application of DA367/2010 (court consent) was refused by the NBLPP for the following reasons:

- The information provided with the modification application was insufficient to enable a proper assessment of the shadow impacts on the adjoining property to the west, No. 42 – 44 Victoria

- Parade, Manly.
- The information provided with the modification application was insufficient to enable a proper assessment of the proposed ceiling heights and roof form of the building.

MOD2019/0029

This S4.56 modification application for internal and external alterations was approved by the NBLPP on 29 July 2019.

MOD2019/0499

This s4.56 modification application was lodged with Council on 16 October 2019 to delete condition Nos. 94, 96, 97, 98, 99, 100, 103, and 119. The application was approved by NBLPP at its meeting dated 18 March 2020.

MOD2020/0037 (CURRENT APPLICATION)

This s4.56 modification application was lodged with Council on 31 January 2020 to modify DA367/2010 by constructing a fire rated roof over the driveway, fire rated boundary wall adjoining the substation and relocation of the carpark vehicle entry door. This application is the subject of this assessment report.

MOD2020/0101 (SEPARATE APPLICATION)

This modification application is to modify development consent DA367/2010 by demolishing part of the planter box on Level 3 and replace with glazed balustrade. This application is the subject of a separate assessment report.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA367/2010, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental	Yes The modification, as proposed in this application, is

Section 4.55(1A) - Other Modifications	Comments
impact, and	<p>considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> • The roof structure does not adversely impact the neighbouring properties in terms of bulk, overshadowing or privacy. • Subject to conditions, does not create any additional overlooking • Satisfies the requirements of Ausgrid for development adjacent to an electricity substation.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA367/2010 for the following reasons:</p> <p>The location of the driveway access to the basement has not changed and the additional structural elements forming the roof and the blast wall do not change the substantive form of the building being a five (5) storey residential flat building with basement parking.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environment Plan 2011 and the Northern Beaches Community Participation Plan.</p>
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	<p>See discussion on "Notification & Submissions Received" in this report.</p>

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation was submitted with the original application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&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 in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition</p>

Section 4.15 'Matters for Consideration'	Comments
	in the original consent. Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(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 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 10 submission/s from:

Name:	Address:
Mrs Peta Vivienne Butson	5 / 42 Victoria Parade MANLY NSW 2095
Mr David Nicholas Foodey	87 Condamine Street BALGOWLAH HEIGHTS NSW 2093
Mrs Merran Grace Cooper	23 Elimatta Road MONA VALE NSW 2103

Name:	Address:
George Athol Murray Clapham	56A Cliff Road NORTHWOOD NSW 2066
Lisa Jane Clapham	C/- Manly Owners Group Pty Ltd GPO Box 7085 SYDNEY NSW 2001
Mr Craig Oswald Haskins	13 / 36 Osborne Road MANLY NSW 2095
Dr David Stuart Gordon Ekins	56A Cliff Road NORTHWOOD NSW 2066
Jemima Hannan	2 / 46 Victoria Parade MANLY NSW 2095
Ms Belinda Jane Hannan	11 Soniver Road NORTH CURL CURL NSW 2099
Mr Paul Brendan Hannan	11 Soniver Road NORTH CURL CURL NSW 2099

Notification of the proposed modification resulted in ten (10) submissions being made by seven (7) individual properties. Of the submissions received from the seven (7) properties, only one (1) submission raised objections, the remaining submissions are in support of the modified development. The following issues were raised in the submissions objecting to the application:

- Lack of details for Western Elevation
- Fire Safety (BCA and Ausgrid Substation)
- Approved Drawings

The matters raised within the submissions are addressed as follows:

- **Western Elevation**
By adding a roof over the driveway from Dungowan Lane to the end of the Level 1 balconies only, it will result in creating a GAP or open space at the western end of the driveway roof. With all the premise and issues being stated as for fire safety, surely the western end of the driveway roof must be fully enclosed with fire rated concrete.

No details provided in relation to the subsequent western elevation changes and finishes.

Concerns the GAP will funnel fumes, exhaust, noise from mechanical ventilation toward No. 42 Victoria Parade.

The wall below the transition beam remains unfinished with no render.

Comment:

The drawings provided with the application do not indicate any gaps in the structure. Ausgrid have reviewed the plans and are satisfied that they meet the stringent requirements for development adjoining an electricity substation in terms of fire safety.

A Western Elevation drawing was submitted to Council and was provided to the neighbour (drawing 2424-A203 Revision 11). The finishes should match the rest of the development. It should be noted that this elevation is not included in the plans listed in the recommendation as there is a discrepancy with an approved window at Level 3. The window adjoins the kitchen as approved by MOD2019/0029 for Unit 3B, now known as Unit 8. On the Western Elevation drawing this window is shown substantially larger and potentially has a door. As the detail on this drawing is identified on other drawings, there is no need to replace this drawing within the approved plan set.



Figure 1 - Window approved by MOD2019/0029



Figure 2 - Window depicted on Western Elevation Drawing 2424-A2013 Rev 11

Issues with the unfinished elements of the building on the western facade and transition beam is a matter for the PCA. Council's Compliance Section have contacted the Certifier asking them to provide a response.

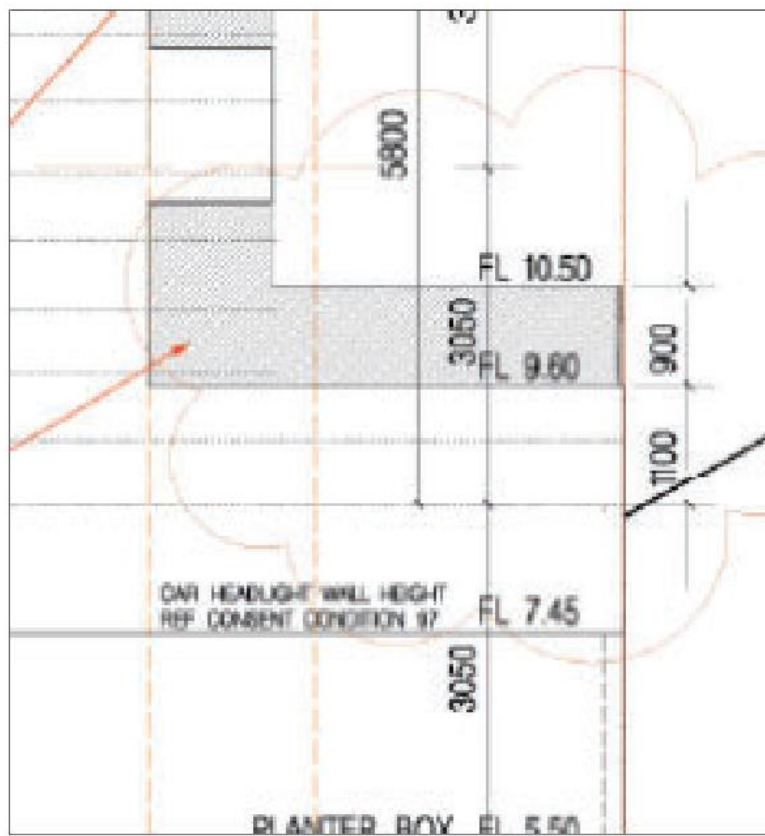
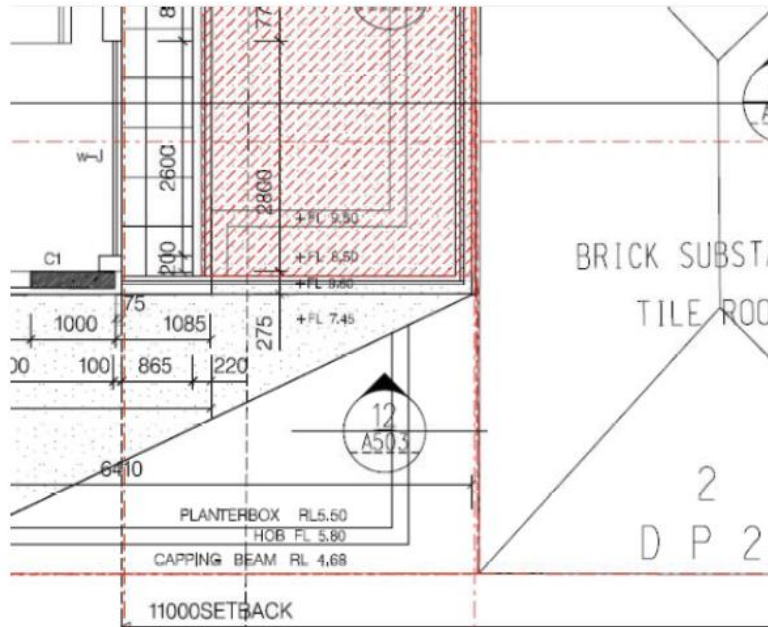


Figure 3 and 4 - New driveway roof connection to building (plan and elevation (west))

- **Fire Safety**

In the plans there is reference to Ausgrid's needs. Is this correct? What is happening in regards to the consultants Fire Report dated 8 June 2018, and previously submitted by the Owners as a reason to meet the BCA requirements.

Comment:

The Fire Report for the development relates to the fire egress for the buildings compliance with the BCA. It does not relate to the adjoining electricity substation which is the jurisdiction of Ausgrid requirements.

- **Approved Drawings**

How can the applicant make application for changes when they have not used the stamped approved drawings as the starting point?

Drawings appear to be CC drawings dated August 2018 and not from the approved plan list.

Comment:

The drawings provided for this modification are considered to reflect the plans previously stamped as part of MOD2019/0029 with the exception of the new details relating to the driveway roof treatment and one opening on Level 3 being on the western side of Apartment 3B. This is detailed as a window adjoining the kitchen in the previous consent and has been shown as a different, larger opening on the current plans. A condition of consent has been recommended in relation to this window for it to remain the size approved under MOD2019/0029.

It is noted that the plans reference CC August 2018. The drawings are now revision 5 beyond the date in the title. There is no concern raised with the plans used as the base for this detail.

REFERRALS

Internal Referral Body	Comments
Traffic Engineer	Supported No objections are raised to the proposed modifications on traffic grounds and no additional conditions are imposed.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Supported, subject to conditions The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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 (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 in accordance with Clause 45 (2) of the SEPP. Ausgrid initial response did not support the proposed design. Following further consultation with the Applicant, Ausgrid on 15 May 2020 provided their consent to the proposed design subject to specific conditions. These conditions are included as part of the recommendation.

SEPP (Coastal Management) 2018

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

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

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

- (a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
- (b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries*

- Management Act 1994,*
- (c) *the carrying out of any of the following:*
- (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
- (d) *any other development.*

Comment:

The site is not identified on the coastal wetlands or littoral rainforest map.

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

(1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The site is not located in proximity to coast wetlands or littoral rainforest.

12 Development on land within the coastal vulnerability area

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

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

Comment:

The site is not identified within the coastal vulnerability area.

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 site is not located within the coastal environment area.

(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 site is not located within the coastal environment area.

14 Development on land within the coastal use area

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

Comment:

The site is located within the coastal use area. The proposed modifications will not impact on the developments impact on the surrounding coastal and built environment.

As such, it is considered that the application does comply 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 modifications are not considered to cause any adverse impact on coastal hazards.

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	Approved	Approved (Mod2019/0029)	Proposed	Complies
Height of Buildings:	11m	17.25m	Roof - 17.048m Lift overrun - 18.814m	No change to approved height	Yes
Floor Space Ratio	FSR:0.75:1 (1072.4m ²)	FSR: 1.78:1 (1090.7m ²) (DA0367/2010/3)	FSR: 1.78:1	No change to approved FSR	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
6.1 Acid sulfate soils	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	Requirement	Approved	Approved (Mod2019/0029)	Proposed Compliance
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Area: 607m²				
4.1.2.1 Wall Height	East: 9m	15.95m (RL21.2)	15.73m (RL20.98)	No change to approved
	West: 9m	15.95m	15.73 (RL20.98)m	No change to approved
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	7.25m, consistent with prevailing setback	Victoria Parade 7.22m, consistent with prevailing setback	No change to approved
4.1.4.2 Side Setbacks and Secondary Street Frontages	Secondary street frontage - East: 5.26m (based on wall height)	Nil	Nil	No change to approved
	West: 5.26m	Nil to basement 3.45m to face of building	Nil to basement 3.45m to face of building	No change to approved
4.1.4.4 Rear Setbacks	8m (substation)	Nil to basement 4.765m to building 5.5m to balcony	Nil to basement 3.2m to balcony L1 & L2 5.195m to building (east) L1 & L2 3.5m to balcony L3 & L4	No change to approved **
Schedule 3 Parking and Access	Total - 17 Spaces 14 x Residential 3 x Visitor	Total - 17 Spaces 14 x Residential 3 x Visitor	Total - 22 Spaces 17 x Residential (car stacker) 2 x Accessible (Basement) 3 x Visitor (Ground Level)	No change to approved

** The proposed new roof over the driveway will extend to the boundary with the substation and will provide a finished slab at RL8.50 which is just under the finished level of Level 1 at RL 8.58.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4 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
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.10 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1 Residential Development Controls	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

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

Description of Non-Compliance

The proposed modifications involve new works, including the constructed fire rated blast wall on the southern boundary and the proposed fire rated roof over the driveway, which will sit on the boundary with no setback to Dungowan Lane in line with the existing approved driveway access. The security shutter will be setback 2.0m from the Dungowan Lane boundary.

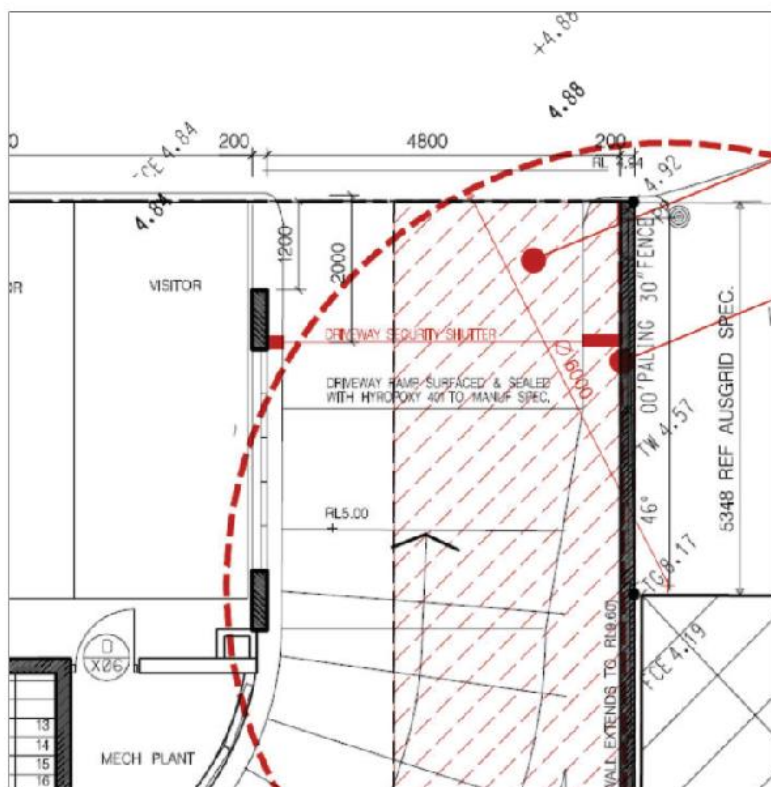


Figure 5 - Relocated roller shutter and roof over driveway (Source: Arc Architects Level 1 Site Plan)



Photograph 1 - View of driveway and blast wall from Dungowan Lane

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 works will be visible from Dungowan Lane (which is primarily a service lane) and the neighbouring western property. The proposed roof structure will have minimal visual impact on the neighbouring properties and is not considered compromise the existing streetscape of Dungowan Lane.

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 roof structure will not result in an adverse impact on any views in this location. In addition, there is a separation of approximately 3.4m from the end of the new handrail to the boundary with the western neighbour ensuring there is no adverse impact in relation to light or air movement. In terms of privacy, the new roof form is not intended to be trafficable and a condition of consent is recommended in relation to this issue.

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

Comment:

The proposed roof is primarily a requirement which has emerged due to the proximity of the development to the adjoining electricity substation. Ausgrid have required this treatment to ensure safe clearances between the new residences and the substation.

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 modification works do not impact on the approved landscape areas of the site.

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

Comment:

The site is not bushfire prone.

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 effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

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

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

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

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

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 (SEPP 55, SEPP 65, SEPP Coastal Management and SEPP Infrastructure)
- Manly Local Environmental Plan 2011
- Manly Development Control Plan 2011
- Codes and Policies of Council

This Clause 4.56 Modification Application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act, 1979, MLEP 2013 and the relevant codes and policies of Council. This assessment has taken into consideration application form, modification plans, Statement of Environmental Effects and other documentation submitted with the application and public submissions and the favourable Ausgrid referral response.

The proposed addition of a roof over the driveway access and amended location of the roller door has been assessed as satisfactory and are supported.

Three (3) new conditions (Conditions DA1B, 120 and 121) are considered essential to ensure the integrity of the proposed development and subsequent modifications.

The modification of the development consent is supported, subject to conditions and it is recommended that the NBLPP approve the application as detailed in this report.

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

RECOMMENDATION

THAT Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2020/0037 for Modification of Development Consent DA367/2010 granted for Demolition of existing structures and construction of a seven (7) storey Residential Flat Building containing eleven 11 units with two 2 levels of basement car park decks and landscaping on land at Lot CP SP 10040,46 Victoria Parade, MANLY, subject to the conditions printed below:

A. Add Condition No.DA1B - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
2424-A509 - Rev 5 - Ausgrid (Detail Plan and Section)	10/01/2020	ARC Architects
2424-A001 - Rev 5 - Site Ground Plan	10/01/2020	ARC Architects
2424-A002 - Rev 6 - Level 1 Site Plan	10/01/2020	ARC Architects
2424-A201 - Rev 5 - East Elevation	10/01/2020	ARC Architects
2424-A202 - Rev 9 - South Elevation	10/01/2020	ARC Architects
2424 - Rev A - Exterior Materials -- Non-Trafficable Roof Terrace	Jan 2020	ARC Architects

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

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

B. Add Condition 120. Non Trafficable Roof Over Driveway to read as follows:

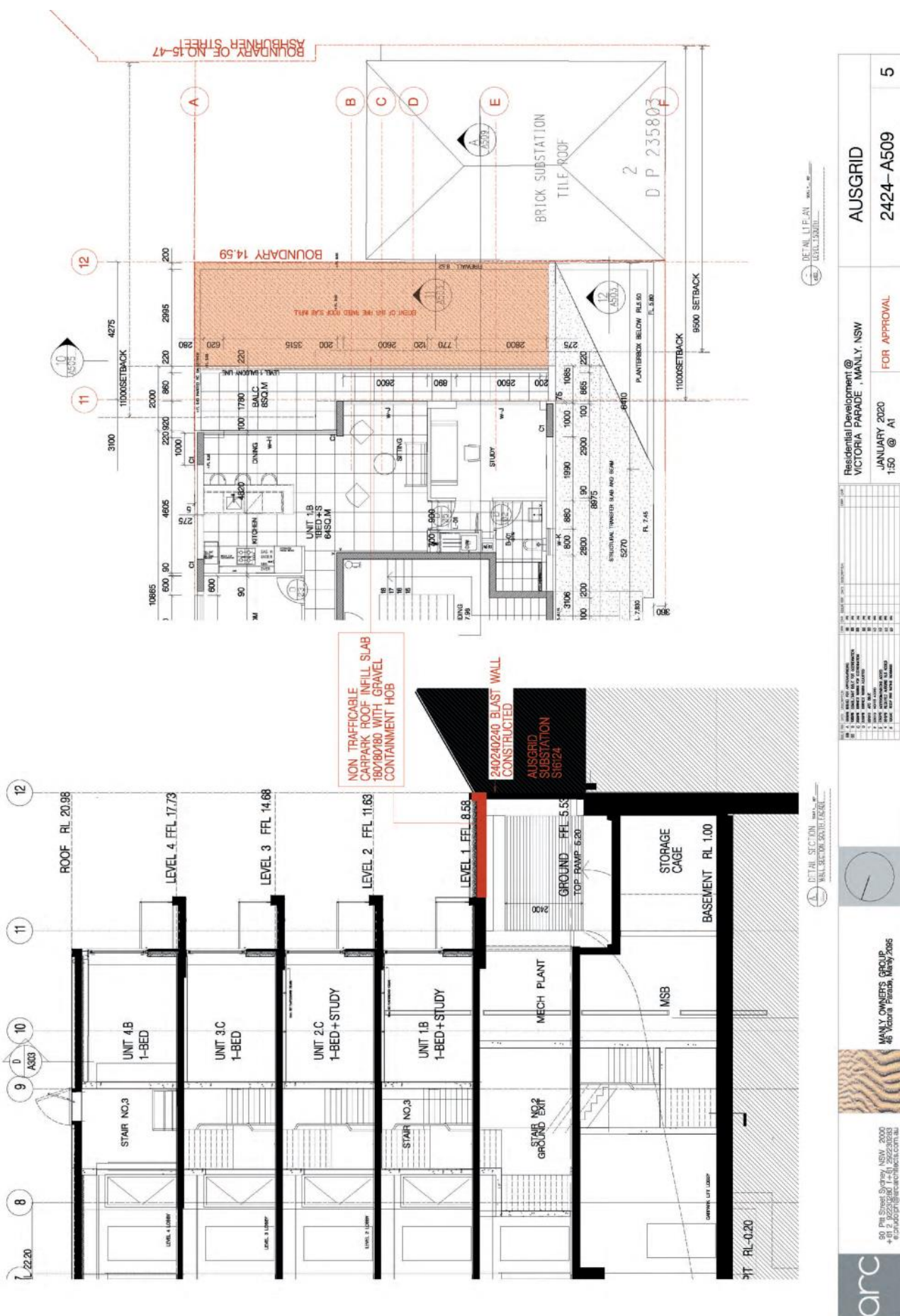
The roof structure over the driveway access to the basement carpark is to be non-trafficable and accessed for maintenance purposes only.

Reason: To ensure adequate separation between the development and adjoining properties.

C. Add Condition 121. Compliance with Ausgrid Specifications to read as follows:

Details demonstrating compliance with and acceptance by Ausgrid of the south facing balustrade (referenced as "T/Glass Balustrade (shaded)" above the driveway roof satisfying the Ausgrid Specification. The glass must demonstrate resistance to both thermal shock and sustained heat with a 2kPa Blast Resistance. Written acceptance by Ausgrid of these details must be provided to Council and the Certifying Authority prior to the issue of a Final Occupation Certificate.

Reason: To ensure compliance with the Ausgrid requirements for developments adjacent to electricity substations.







ITEM 3.3

**MOD2020/0101 - 46 VICTORIA PARADE, MANLY -
MODIFICATION OF DEVELOPMENT CONSENT DA367/2010
GRANTED FOR DEMOLITION OF EXISTING AND
CONSTRUCTION OF A SEVEN (7) STOREY RESIDENTIAL
FLAT BUILDING**

AUTHORISING MANGER**STEVE FINDLAY****TRIM FILE REF****2020/337409****ATTACHMENTS**

- 1 [↓](#) **Assessment Report**
- 2 [↓](#) **Floor Plan and Elevations**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a modification of a determination or decision made by a local planning panel.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. Mod2020/0101 for Modification of Development Consent DA367/2010 granted for demolition of existing and construction of a seven (7) storey Residential Flat Building at Lot CP SP 10040, 46 Victoria Parade, Manly subject to the conditions and for the reasons set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0101
Responsible Officer:	Renee Ezzy
Land to be developed (Address):	Lot CP SP 10040, 46 Victoria Parade MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA367/2010 granted for demolition of existing and construction of a seven 7 storey Residential Flat Building containing eleven 11 units with two 2 levels of basement car park decks and landscaping
Zoning:	Manly LEP2013 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Proprietors of Strata Plan 10040
Applicant:	Mod Urban Pty Ltd
Application Lodged:	10/03/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	26/03/2020 to 09/04/2020
Advertised:	Not Advertised
Submissions Received:	5
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

This report provides an assessment for a modification application for an approved five (5) storey residential flat building with basement parking.

The original consent was issued by the NSW Land and Environment Court on 23 December 2011 for a residential building containing 13 apartments with basement parking for 18 cars. The consent contained specific conditions relating to the maintenance of amenity through the rear setback of the building.

On 29 July 2010, the Northern Beaches Local Planning Panel (NBLPP) approved a modification application (MOD2019/0029), which modified the building layout, roof design and reduced the number

of apartment from 13 to 11. This modification also included changes to the facade and balcony arrangements.

The assessment of the current modification application is to extend the front north facing balcony at Level 3 to incorporate additional area, which is currently a ledge to the west. In addition, the application seeks to reconfigure the planter box at Level 3 where it meets the front balcony to reflect the structure as it has been constructed with a space to enable access along the western terrace. A further change on the plans was identified in relation to the window adjoining the kitchen on the western elevation.

The site is zoned R3 Medium Density Residential under Manly Local Environmental Plan 2013 (MLEP 2013). Development for the purposes of a Residential Flat Building" is permissible with consent in the zone.

The application was advertised and notified in accordance with the Manly Development Control Plan 2013 (MDCP 2013) and five (5) submissions were received. The application is referred to the NBLPP for determination due to the Panel's previous involvement in the approval of the original and modified development.

PROPOSED DEVELOPMENT IN DETAIL

The modification seeks to demolish part of the existing planter and extension to the glass balustrade at the north-western corner of Level 3 of the building.

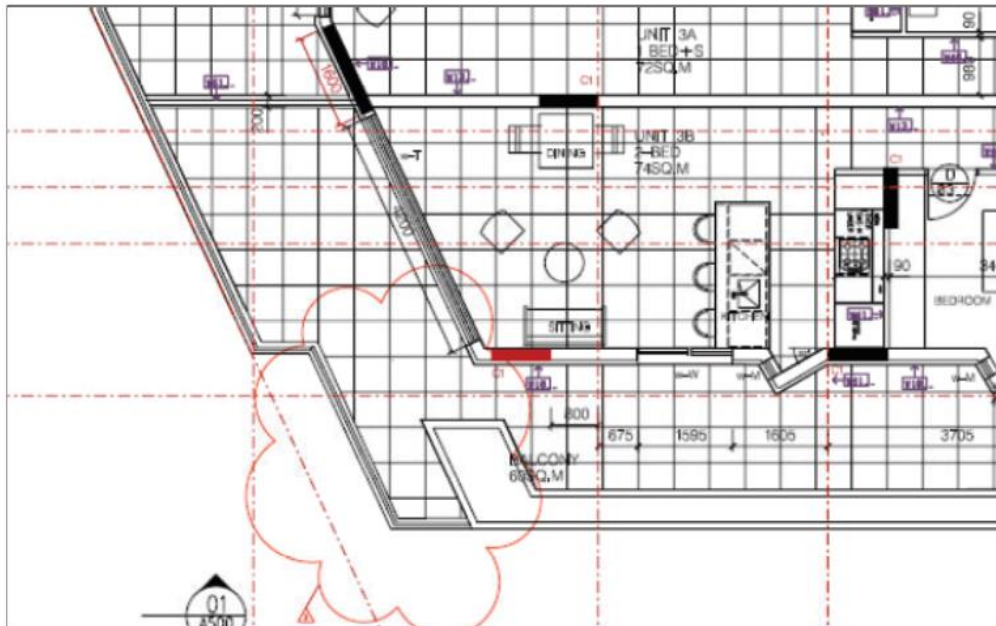


Figure 1 - The proposed balcony extension and reconfigured planter box at Level 3.

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 - 3.4.3 Maintenance of Views

SITE DESCRIPTION

Property Description:	Lot CP SP 10040 , 46 Victoria Parade MANLY NSW 2095
Detailed Site Description:	<p>The site is located on the south-eastern side of Victoria Parade, Manly and has a north-western to south-eastern orientation. It is legally described as Strata Plan 10040, No. 46 Victoria Parade, Manly.</p> <p>The site is level and is a rectangular shape. It is 14.56 m wide (at the Victoria Parade frontage) with side boundaries being 42.06 metres. The rear of the site is 14.585 metres wide. It adjoins a heritage-listed electricity substation (No 16124).</p> <p>The substation shares a boundary of 9.265 metres with the subject site. The remainder of the rear boundary and the adjacent north-eastern side boundary adjoin Dungowan Lane. Total site area is approximately 612.8m².</p> <p>The approved development is currently under construction with the building works nearing completion.</p> <p><u>Surrounding Development</u></p> <p>To the north-east: No. 14 South Steyne (heritage listed) and a multi-storey hotel building.</p> <p>To the south-east: A one-storey sub-station and adjacent to that, a multi-storey hotel building.</p> <p>To the south-west: No. 42-44 Victoria Parade (Pacific Harbour), a five-storey residential flat building of twenty (20) units.</p>

Opposite the site are several heritage listed buildings which back onto the Royal Far West complex.
The street trees of Victoria Parade have environmental heritage status.

Map:



SITE HISTORY

21 April 2011

Development Application No. DA367/2010 for a seven (7) storey residential flat building containing eleven (11) units and two (2) levels of basement parking for eighteen (18) vehicles was refused by the Manly Independent Assessment Panel (MIAP) on 21 April 2011.

22 July 2011

Section 82A Review of Determination against refusal of DA367/2010 was lodged. The application had been amended to a six (6) storey residential flat building with ten (10) apartments and one level of basement car parking for ten (10) vehicles.

12 October 2011

Land and Environment Court appeal lodged for the 'Deemed Refusal' of the S82A review.

23 December 2011

DA367/2010 was approved through a Section 34 agreement and consent orders issued by the NSW Land and Environment Court.

17 September 2012

DA367/2010/2 - Section 34 agreement for S96 modification to consent for a 5 storey residential flat building with basement carparking for 18 cars.

21 August 2014

DA367/2010/3 - This modification of the court consent (S96AA) was approved by MIAP.

4 December 2018

MOD2018/0294 - This S4.56 modification application of DA367/2010 (court consent) was refused by the NBLPP for the following reasons:

- The information provided with the modification application was insufficient to enable a proper assessment of the shadow impacts on the adjoining property to the west, number 42 – 44 Victoria Parade Manly.
- The information provided with the modification application was insufficient to enable a proper assessment of the proposed ceiling heights and roof form of the building.

MOD2019/0029

This S4.56 modification application for internal and external alterations was approved by the NBLPP on 29 July 2019.

MOD2019/0499

This s4.56 modification application was lodged with Council on 16 October 2019 to delete condition Nos. 94, 96, 97, 98, 99, 100, 103, and 119. The application was approved by NBLPP at its meeting dated 18 March 2020.

MOD2020/0037 (SEPARATE APPLICATION)

This s4.56 modification application was lodged with Council on 31 January 2020 to modify development consent DA367/2010 by constructing a fire rated roof over the driveway, fire rated boundary wall adjoining the substation and relocation of the carpark vehicle entry door. This application is the subject of a separate assessment report.

MOD2020/0101 (CURRENT APPLICATION)

This modification application is to modify development consent DA367/2010 by demolishing part of the planter box on Level 3 and replace it with a glazed balustrade. This application is the subject of this assessment report.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA367/2010, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Part Yes The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>In relation to the modification of the planter box within the Level 3 terrace area, this change to the configuration is considered a logical and acceptable change to the development which will allow direct access from the main balcony but does not change the proximity of this space to adjoining properties or enable increased activity due to its narrow width.</p> <p>Part No With regard for the extension of the main balcony terrace to encompass the ledge overhang to the west, this element of the modification is not supported, as it provides minimal improvement to the amenity of the subject apartment but will cause more substantial impact on the adjacent development at No. 42.</p> <p>Incorporating this area will enable access to be approximately 3.0m closer to these neighbours who at each level have their primary living and private open space balconies in a direct line of sight. The extension of the balcony over this ledge is not supported due to the increased impact of privacy and overlooking.</p>
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA367/2010 for the following reasons:</p> <p>The proposed realignment of the planter box does not change the substantive nature of the development being a five (5) storey residential flat building with basement parking.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the</p>	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environment Plan 2011 and the Northern Beaches Community Participation Plan.

Section 4.55(1A) - Other Modifications	Comments
consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><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.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	The proposed reconfiguration of the planter box is considered a logical and reasonable modification to the approved development and

Section 4.15 'Matters for Consideration'	Comments
	<p>is supported.</p> <p>However, the assessment has found the proposed balcony extension to the west to be contrary to the relevant requirement(s) of Part 3.4.2 of Manly DCP and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. This aspect of the development is not considered to be in the public interest and has been deleted from the approval by condition.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Mr Peter Charles Achterstraat	16 / 51 Ashburner Street MANLY NSW 2095
Vicki Maree Achterstraat	12 / 42 Victoria Parade MANLY NSW 2095
Ms Sandee Gai Walker	67 Irrubel Road NEWPORT NSW 2106
Ms Ann Beth Hatton Mr Geoff Kaye	16 / 42 Victoria Parade MANLY NSW 2095
Mr Graham John Butson	5 / 42 Victoria Parade MANLY NSW 2095

The following issues were raised in the submissions:

- Amenity/privacy impacts from balcony extension
- Beach View
- Demolition of planter box
- Window changed to a door on the western elevation

The matters raised within the submissions are addressed as follows:

- **Amenity Impacts on privacy**
 1. *Extending the balcony (approx. 2 meters - 25%), towards us will only have them closer and further impacting our privacy in our living area and balcony. The current location of the balustrade is an adequate distance away.*
 2. *Placing a pot plant on the extension is no solution in that it can be removed at any time. It would not add to privacy and would detract from the designer landscaping.*

3. *The current cut out section (approved by Council 15/7/2019), provides some distance and hence privacy for the neighbours. It also provides a lighter impact from within our living room and a view over it to Manly beach from our kitchen area. This section should not be used to extend the balcony.*
4. *The current balcony is in alignment with the balconies below and forms part of the overall design from the street and side view. Each floor below level 3 has a planter box in the north/western corner. The result being level 3 would be much closer than the other levels.*

Comment:

The area which is the subject of this modification is a ledge section which forms part of the roof for the apartment below and represents an architectural relief to the facade and stepping of the building form as the building increases in height.



Photo 1 - View of ledge from site



Photo 2 - View of ledge from neighbours terrace and lounge room

As can be seen from the photo from the subject site and the neighbouring property, this ledge will provide negligible usable space for the occupant of the unit due to its shape and size, however it will enable people to stand in that location and be 3m closer to occupants of the adjoining building and their primary living area. The planter box behind this ledge has not been constructed in accordance with the approved plans which had this element extending across the terrace in line with the ledge effectively restricting access to the western side balcony area. While the reduced planter can be supported to enable direct access to this secondary outdoor area, the inclusion of the ledge as part of the terrace is not supported.

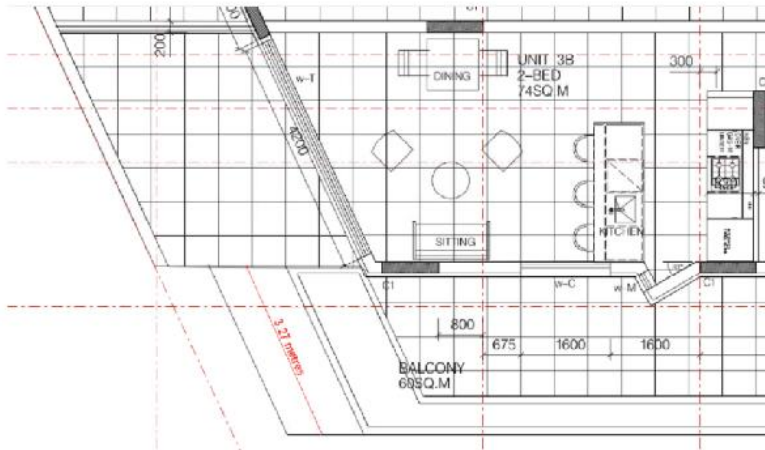


Figure 2 - Planter box as approved (MOD2019/0029)

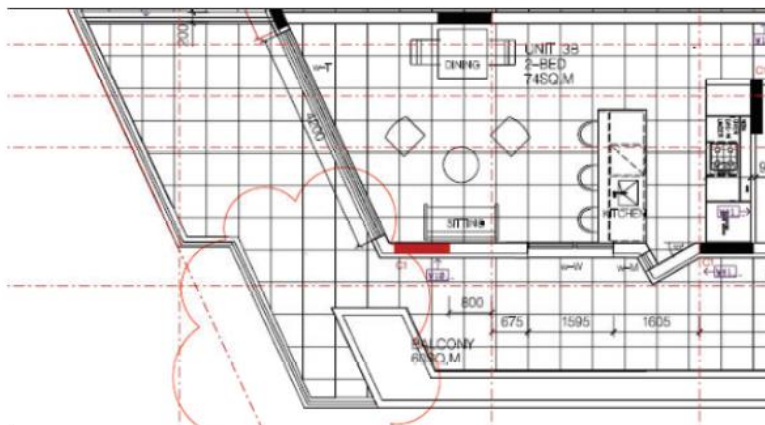


Figure 3 - Planter box as proposed (MOD2020/0101)

The owner of the subject apartment has stated that keeping the ledge clean and free of dirt and bird droppings was the main reason to extend the deck to include this area. The building contains numerous similar details forming the facade of the building and cleaning this area is not considered to be a sufficient justification for the change considering the additional impact on the adjoining properties.

Further, the facade of the building at each level incorporates either a planter box or physical recession to ensure the overall bulk and scale of the development is reduced as the building increases in height.

- **Impact on Beach View**

Comment:

While the apartment (No.16) on Level 3 of 42 Victoria Parade does have views across the front of the site to Manly Beach, the view line remains mostly unaffected by this ledge. There is a small section of Norfolk Island Pines and water which would be interrupted from the kitchen window were this area to be infilled. However, this impact is considered negligible in context of the full view available from the dining room and terrace and therefore view loss is not considered a determinative factor in this application.

- **Window changed to a door on Level 3 of the western elevation.**

Comment:

While the application and the supporting documentation with this modification make no reference to this change to the window opening adjoining the kitchen of this apartment, there is a definite change identifiable on these plans. The small balcony area along this side of the apartment was designed as a secondary space for maintenance of the planter boxes that extend along the length of the unit. They are narrow to discourage use for recreation and entertaining and unnecessary traffic due to the fact they directly face numerous windows to bedrooms and living areas within the apartments of No. 42 Victoria Parade. As the planter box has not been constructed to separate this space from the main balcony, there is no supporting reason why a door should be or needs to be installed in this location. No objection is raised to the change to the planter box, however the change to the opening in this location is not supported.



Figure 4 - Window to Level 3 apartment as approved (MOD2019/0029)



Figure 5 - Window changed to a larger opening (MOD2020/0101)

REFERRALS

No referrals were sent in relation to this application

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 (Coastal Management) 2018

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

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

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

(a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,

(b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,

(c) the carrying out of any of the following:

(i) earthworks (including the depositing of material on land),

(ii) constructing a levee,

(iii) draining the land,

(iv) environmental protection works,

(d) any other development.

Comment:

The site is not identified on the coastal wetlands or littoral rainforest map.

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

(1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The site is not located in proximity to coast wetlands or littoral rainforest.

12 Development on land within the coastal vulnerability area

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

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

Comment:

The site is not identified within the coastal vulnerability area.

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 site is not located within the coastal environment area.

(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 site is not located within the coastal environment area.

14 Development on land within the coastal use area

(a) has considered whether the proposed development is likely to cause an adverse impact on the following:

(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,

(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,

(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,

(iv) Aboriginal cultural heritage, practices and places,

(v) cultural and built environment heritage, and

(b) is satisfied that:

(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or

(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The site is located within the coastal use area. The proposed modifications will not impact on the developments impact on the surrounding coastal and built environment.

As such, it is considered that the application does comply 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 modifications are not considered to cause any adverse impact on coastal hazards.

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	Approved	Approved (Mod2019/0029)	Proposed	Complies
Height of Buildings:	11m	17.25m	Roof - 17.048m Lift overrun - 18.814m	No change to approved height	Yes
Floor Space Ratio	FSR:0.75:1 (1072.4m ²)	FSR: 1.78:1 (1090.7m ²) (DA0367/2010/3)	FSR: 1.78:1	No change to approved FSR	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.1 Acid sulfate soils	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: 607m ²	Requirement	Approved	Approved (Mod2019/0029)	Proposed Compliance
4.1.2.1 Wall Height	East: 9m	15.95m (RL21.2)	15.73m (RL20.98)	No change to approved
	West: 9m	15.95m	15.73 (RL20.98)m	No change to approved
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	7.25m, consistent with prevailing setback	Victoria Parade 7.22m, consistent with prevailing setback	No change to approved
4.1.4.2 Side Setbacks and Secondary Street	Secondary street frontage - East: 5.26m (based on wall height)	Nil	Nil	No change to approved

Frontages	West: 5.26m	Nil to basement 3.45m to face of building	Nil to basement 3.45m to face of building	No change to approved
4.1.4.4 Rear Setbacks	8m (substation)	Nil to basement 4.765m to building 5.5m to balcony	Nil to basement 3.2m to balcony L1 & L2 5.195m to building (east) L1 & L2 3.5m to balcony L3 & L4	No change to approved
Schedule 3 Parking and Access	Total - 17 Spaces 14 x Residential 3 x Visitor	Total - 17 Spaces 14 x Residential 3 x Visitor	Total - 22 Spaces 17 x Residential (car stacker) 2 x Accessible (Basement) 3 x Visitor (Ground Level)	No change to approved

* The proposed extension to the balcony does not change the developments numerical compliance.

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
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	No	No
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	No	No
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
3.6 Accessibility	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)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

Description of non-compliance

The proposed extension of the balcony to incorporate the ledge to the west is considered to result in unnecessary and unacceptable privacy loss.

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 extension of the balcony will result in this space being up to 3.0m closer to the adjoining neighbours principal private open space and will exacerbate existing privacy and overlooking between the properties.

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 works decrease existing privacy and separation between the properties and is not considered to provide any meaningful additional amenity to the subject site.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

Increased overlooking and compromised privacy does not contribute to neighbourhood security.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of MDCP in relation to the extension of the balcony 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 not supported, in this particular circumstance.

3.4.3 Maintenance of Views

Merit Consideration:

The adjoining property owners have raised concerns with view loss resulting from the proposed infill of the ledge at Level 3 to extend the balcony. The development is considered against the Objectives of the Control:

Objective 1) To provide for view sharing for both existing and proposed development and existing and

future Manly residents.

Objective 2) 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).

Objective 3) 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.

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comment:

The view affected is a small section of part of the Norfolk Island Pines on Manly Beach and a small amount of water between the foliage.

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment:

Views to Manly Beach are unobstructed by the adjoining development from the front north facing balcony and internal lounge and dining room area within Unit 16, No. 42 Victoria Parade. The view in question is obtained from the kitchen window which is on the side of the building and has a small obstructed view from an oblique angle.



Photo 3 - Oblique view obtained from the kitchen window within Unit 16, 42 Victoria Parade.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20 percent if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment:

Given that the views from the front of the apartment on the balcony and from the lounge and dining room are unobstructed by the proposal toward Manly Beach, the small impact from the side kitchen window is considered negligible.



Photo 4 - Full view from the balcony and lounge room across the front of the subject site.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Comment:

The proposed extension of the balcony to include the ledge is considered reasonable in terms of view sharing. The proposal however is considered unreasonable and unacceptable due to other reasons including privacy and overlooking and for those reasons is not supported.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent 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 not supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

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

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

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

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

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 (SEPP 55, SEPP 65, SEPP Coastal Management and SEPP Infrastructure)
- Manly Local Environmental Plan 2011
- Manly Development Control Plan 2011
- Codes and Policies of Council

This Clause 4.56 Modification Application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act, 1979, MLEP 2013 and the relevant codes and policies of Council. This assessment has taken into consideration application form, the submitted plans, Statement of Environmental Effects and other documentation submitted with the application and public submissions.

The proposed reconfiguration of the planter box on the north-western corner of Level 3 has been

assessed as satisfactory and is supported. The other modifications including an extension of the north facing balcony and a larger window opening have been assessed as unsatisfactory in terms of privacy and overlooking and have been recommended for deletion from the proposal by condition. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2020/0101 for Modification of Development Consent DA367/2010 granted for demolition of existing and construction of a seven 7 storey Residential Flat Building containing eleven 11 units with two 2 levels of basement car park decks and landscaping on land at Lot CP SP 10040,46 Victoria Parade, MANLY, subject to the conditions printed below:

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

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
2424-A107 - Rev 11 -- Level 3 Plan	20/01/2020	ARC Architects

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:

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

B. Add Condition 122. No Extension of Level 3 Balcony to the West to read as follows:

No consent is given or implied for any extension of the north facing balcony at Level 3 adjoining Unit 3B (known as Unit 8) to include the existing rendered ledge. This north facing balcony should be retained as approved by MOD2019/0029.

Reason: To ensure adequate privacy, overlooking and separation is maintained with adjoining building to the west.

C. Add Condition 123. No Consent to Window Change at Level 3 on Western Elevation to read as follows:

No consent is given or implied for any change or increase to the window opening adjoining the kitchen on the western elevation of Level 3 Unit 3B (known as Unit 8).

Reason: To ensure adequate privacy, overlooking is maintained with adjoining building to the west.





