

Decisions

Manly Independent Assessment Panel

Held at Council Chambers, 1 Belgrave Street Manly on:

Thursday 21 August 2014

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TO THE MAYOR AND COUNCILLORS OF THE COUNCIL:

The Manly Independent Assessment Panel, having met at 10.46am on Thursday 21 August 2014, in the Council Chambers, Town Hall, Manly, to consider the various matters referred to it, now reports the decisions reached which are stated hereunder.

PRESENT

The Hon Paul Stein QC AM - Chair
Paul Vergotis
Lloyd Graham
Jennifer Grant Jary

ALSO PRESENT

Stephen Clements, Deputy General Manager, Executive Manager, Landuse & Sustainability
David Stray, Manager, Development Assessment & Determination
Natalie Graham, Administration, Landuse & Sustainability

DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST

Note: There were no Declarations of Interest.

MIAP

MIAP Report No. 40

East Esplanade, Manly - Manly Wharf - Hugo's Restaurant - Shop 210 (Lot 1 DP 809933 Areas 2839 and 2840) - DA0233/2013 (MC/14/92655)

Application Lodged: 19 November 2013
Applicant: David Evans
Owner: TMG Developments Pty Ltd
Estimated Cost: \$10,000.00
Zoning: Manly Local Environmental Plan, 2013 – Unzoned
Surrounding Development: Public Transport Infrastructure; Mixed Use; Commercial; Residential; Serviced Apartments; Public Open Space; Public Recreation; Manly Cove
Heritage: State Heritage Item; Regional Heritage Item and Local Heritage Item
Officer: Ritu Shankar

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR OUTDOOR SEATING FOR HUGO'S RESTAURANT TO THE EXISTING PUBLIC WHARF ALONG THE SOUTH WESTERN SIDE AREA INCLUDING THREE (3) UMBRELLAS, THIRTY SIX (36) SEATS, ALTERATIONS AND ADDITIONS TO THE STAIRS AND ENCLOSURE OF AREA - MANLY WHARF- SHOP 210
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND THREE HUNDRED & NINETY EIGHT (398) SUBMISSIONS RECEIVED INCLUDING THREE (3) CONFIDENTIAL SUBMISSIONS. ONE (1) PETITION IN SUPPORT OF THE APPLICATION WAS ALSO RECEIVED.
3. THE APPLICATION WAS REFERRED TO ALL THE PRECINCT COMMUNITY FORUMS FOR COMMENTS, DETAILS OF THE COMMENTS ARE INCLUDED IN THE REPORT.

4. THE APPLICATION WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT MEETING ON THE 16 JULY 2014 WHERE IT WAS RECOMMENDED FOR APPROVAL.
5. SITE INSPECTION IS RECOMMENDED.
6. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL **APPROVAL**.

The following people addressed the meeting in relation to this item:

Against the Recommendation: Gregory Grivas, Paul Klarenaar, Patricia Sheekey, Max Hunter, Elizabeth Joyce, Ann Sharp and Anna Maria Nicholson

For the Recommendation: Terry Tyler, Vince Squillace, Giovanni Cirillo, Mark Stanley, Steve Eden, Sabrina Jacquier-Parr, Brendan Riley, Megan Clancy, Natalie Habib and David Evans

41/14 Decision of the Panel:

The Panel notes that the proposed outdoor dining area is on land which is sub-leased to the applicant from TMG Development, which in turned has leased the whole of the Manly Wharf area from the Roads and Maritime Services (RMS) and accordingly is not public land for the purposes of the Local Government Act 1993.

That Development Application No. DA 233/2013 for Outdoor seating for Hugo's Restaurant to the existing public wharf along the south-western side area including four (4) umbrella's, thirty-six (36) seats, alterations and additions to the stairs and enclosure of area - Manly Wharf - Shop 210 at Shop 210 - Hugo's, Manly Wharf East Esplanade, Manly be **Approved** subject to the following conditions:-

DA1

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation

Plans affixed with Council's stamp relating to Development Consent No. DA233/2013:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
Drawing No - DA101	Issue P1 dated 02.09.13	19/11/2013

Documentation affixed with Council's stamp relating to Development Consent No. DA233/2013:

- Statement of Environmental Effects prepared by BBC Consulting Planners dated October 2013 and received by the Council on 19 November 2013.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

ANS00

This approval is limited to a period of three (3) years from the date of determination. Any new application for the continued use of the subject outdoor dining area is to be lodged within six (6) months of the expiry date.

ANS01

General Terms of Approval Provided by NSW Heritage Council as follows:

1. **All work shall comply with the information contained within:**
 - a) **Brief Statement of Heritage Impact Statement for proposed outdoor seating area – Hugo's Manly Wharf, dated 13 February 2014, prepared by City Plan Heritage; and**

b) Drawing No DA101 Issue P1, dated August 2013, prepared by Squillace Nicholas Architects.

EXCEPT AS AMENDED by the following conditions of this consent:

2. That the new outdoor seating, the subject of this application, is to remain on site for a period of no longer than 3 years;
3. No approval is implied for additional works/ additional furniture other than that included in the subject proposal;
4. No signage forms part of this proposal. Any proposed signage associated with the use of this tenancy requires a separate approval under the Heritage Act;
5. The operating hours for the outdoor seating area, subject of this application, shall commence from 11:00 am. The area shall be open to public access before and after the operating hours of Hugo's Manly restaurant. A notice informing the public regarding the accessible hours should be installed on site. The location and general design of the notice shall be submitted to and approved by the Director, Heritage Division, or her nominee, along with the Section 60 application prior to commencement of works;
6. An amended drawing with the following modifications shall be submitted to and approved by the Director, Heritage Division, or her nominee, along with the Section 60 application prior to commencement of works:
 - The existing eastern steps to the south western deck shall be retained; and
 - The proposed new balustrade to the northern end of the deck shall be deleted.

Instead, a low timber seating shall be placed to reduce the visual separation between the south western and the western decks.

7. The nominated heritage consultant shall provide advice on the detail design of new elements and inspect the installation works to ensure that no unapproved loss of significant fabric or elements occurs (to minimise impacts on significant fabric and to manage the implementation of the conditions of approval);
8. Significant built elements are to be adequately protected during the works from potential damage. Protection systems must ensure historic fabric is not damaged or removed; and
9. An application under section 60 of the NSW Heritage Act must be submitted and approved by the NSW Heritage Council prior to work commencing.

ANS02

The numbers of patrons are restricted to no more than 50 (fifty) diners at any time.

Reason: To ensure compliance with relevant Australian Standards and Codes.

ANS03

The hours of operation for the outdoor dining area are 11.00am to 11.30pm on all days.

Upon expiration of the permitted hours of operation, all restaurant service shall immediately cease and all customers on premises shall be required to leave within the following half hour. All service to the is to cease at 11.15pm.

Reason: To ensure that the amenity of the surrounding area is maintained and hours of operation are consistent with those in close vicinity.

ANS04

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with where relevant, *Australia Standard AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance and design requirements* and *Australian Standard AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

Reason: To protect public health and amenity.

ANS05

Noise associated with the subject outdoor dining area must not be audible within any residential habitable room at any time.

Reason: To minimise noise disturbance to neighbouring residential properties.

ANS06

Patron noise must be controlled so as not to disturb or intrude upon the surrounding residential community. Noise arising from patrons located within the grounds of the premises whether indoors, or within any approved outdoor dining must not be audible within any residential habitable room at any time.

Reason: To minimise noise disturbance to neighbouring residential properties.

ANS07

Normal construction hours are to be adhered to, with no machinery to be used outside the hours of 7:30am and 4:30pm.

Reason: Noise and vibration discourages and disturbs Little Penguins.

ANS08

Lighting for the area is to be provided by candles only. No additional lighting is to be used for the outside dining area other than candles. No additional lighting from within Hugo's is to be directed out towards the outside dining area.

Reason: Further, lighting is a known disturbance to Little Penguins and may discourage them from using the wharf area. The proposal is for dim lighting provided by candles only, and the submitted assessments were prepared on that basis. The use of additional lighting has not been assessed.

ANS09

Umbrellas within the proposed outdoor dining area should only be raised from midday

Reason: to prevent additional shading of seagrass beds and Little Penguin foraging habitat.

ANS10

Smoking is to be prohibited within the outdoor dining area.

Reason: To prevent cigarette butts from entering the water.

ANS11

DELETED

ANS12

A continuous 800mm high Perspex sheet barrier is to be installed along the floor inside the existing balustrade, on the water side of the proposed outdoor dining area.

Reason: To prevent rubbish that falls off tables from entering the water.

ANS13

The LA10 noise level emitted from the licensed premises must not exceed the background noise level in any Octave Band Frequency (31.5Hz to 8k Hz inclusive) by more than 5dB(A) between 7:00am and 12 midnight at the boundary of any affected residence.

Reason: Noise Control and Little Penguins are sensitive to noise, and may be discouraged from utilising the habitat if noise levels are increased.

ANS14

All requirements outlined in these conditions of consent are to be maintained post-construction.

Reason: To ensure the mitigating measures for impacts on the population of Little Penguins are maintained.

ANS15

All work on the site may only be undertaken from 1st March and completed by 31st May. If Penguins arrive in the study area whilst construction/demolition/excavation works are being undertaken, all works are to cease and Manly Council's Natural Resources Branch should be contacted on 9976 1500 or the Office of Environment and Heritage, Conservation and Regulation Division Metropolitan Branch Manager Biodiversity Conservation Section on 9585 6657 for advice.

Reason: major works can prevent Little Penguins from choosing nest sites, nesting or coming ashore to feed their young, hence restrictions on some works during the Penguin breeding season.

Additional notes**Little Penguins – Best Practices for Residents**

Residents are encouraged to follow a number of "Best Practices" to assist with the protection and management of the endangered population of Little Penguins:

- Little Penguins and other native animals should never be fed as it may cause them nutritional problems, hardship if supplementary feeding is stopped, and it may increase predation.
- Feral cats or foxes should never be fed or food left out where they can access it, such as rubbish bins without lids or pet food bowls, as these animals present a significant threat to Little Penguins and other wildlife.
- The use of insecticides, fertilisers, poisons and/or baits should be avoided on the property.
- Dead Little Penguins should be reported by phoning Manly Council on 9976 1500 or OEH Conservation and Regulation Division, via tel. 131555.
- Please drive carefully as vehicle related injuries and deaths of Little Penguins have occurred in the area.

ANS16

No single use sachets e.g. sugar/salt and pepper, no paper napkins, straws and lightweight paper items, balloons and disposable cutlery are to be used in the proposed outdoor dining area.

Reason: To prevent disposable waste from entering the water.

ANS17

The premises install additional CCTV as set out by the Office of Liquor Gaming & Racing (attached PDF). This is to ensure the premises has CCTV operating uniformly with other venues in the Manly Local Area Command and as set out as a minimum by the Authority.

Reason: Compliance with the requirements of Manly Police.

ANS18

There is to be no live bands/DJ's played outside on the new additional dining area on the lower deck.

Reason: Compliance with the requirements of Manly Police.

ANS19

The licensee or manager to be present at closing times to ensure patrons do not disturb the quiet and good order of the neighbourhood, whilst at the premises or when leaving the premises.

Reason: Compliance with the requirements of Manly Police.

ANS20

The dining area on the proposed deck area shall be for restaurant use only. The venue will not seek to have a mobile bar where alcohol can be purchased by patrons. All alcohol sales are to be waiter service only.

Reason: Compliance with the requirements of Manly Police.

ANS21

Prior to use of the premises a Plan of Management including the outdoor dining area shall be submitted to and approved by Council which must include but not limited to noise, waste management, rubbish removal, complaints management, the use of non-breakable crockery and glassware for the service of beverages and meals in the outdoor dining area.

Reason: To ensure compliance by the management.

ANS22

The applicant must submit amended plans prior to occupation which provide for access for disabled persons to the outdoor dining area.

Reason: To comply with discrimination legislation.

ANS23

The umbrellas in the outdoor dining area shall be fixed to the deck.

Reason: To ensure safety in times of high wind.

ANS24

No advertising material is to be fixed or including in the umbrellas.

Reason: To comply with Council's Corso DCP and Heritage concerns.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**1 (2AP01)**

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

2 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$420.00. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a Final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

3 (2FR01)

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

Reason: Compliance with the Environmental Planning and Assessment Act 1979.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

4 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

5 (3CD02)

Any demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

6 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

7 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

8 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 11) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or

- other activities likely to pollute drains or water courses.
- 12) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
 - 13) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
 - 14) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
 - 15) Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
 - 16) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
 - 17) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

9 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday. No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

10 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

11 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

12 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

13 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

14 (6NL04)

External sound amplification equipment or loud speakers must not be used for the announcement, broadcast, playing of music (including live music) or similar purposes.

Reason: To protect the acoustic amenity of neighbouring properties and the public.

15 (6NL05)

The use of amplified sound equipment and public address systems is not permitted, unless located entirely within the shop and used in such a manner that the noise cannot be heard in any public place.

Reason: To ensure compliance with legislation and to protect public health and amenity.

For the Decision: Stein and Vergotis

Against the Decision: Graham and Grant Jary

The Chair exercised his casting vote so that the application was approved by three (3) votes to two (2).

MIAP Report No. 41

46 Victoria Parade, Manly - DA0367/2010

Section 96 (AA) - Part 3 (MC/14/96173)

<u>Application Lodged:</u>	07 February 2014
<u>Applicant:</u>	Manly Property Holdings Pty Ltd
<u>Owner:</u>	Manly Property Holdings Pty Ltd
<u>Property Description:</u>	SP 10040, previously Lot 1 of DP 233281, known as 46 Victoria Parade Manly
<u>Estimated Cost:</u>	\$7.6 million
<u>Zoning:</u>	Manly LEP 2013, Amendment 2; Zoned: R3 Medium Density Residential and is within the Foreshore Scenic Protection Area
<u>Surrounding Development:</u>	R3 Medium Density Residential and SP3 Tourist Zone
<u>Heritage:</u>	The site adjoins a heritage item (Ausgrid Substation), and is opposite two heritage items (29 & 31 Victoria Parade) and a third is across Dungowan Lane (14 South Steyne).

SUMMARY:

1. **08 NOVEMBER 2010** - DEVELOPMENT CONSENT IS SOUGHT FOR A SEVEN (7) STOREY RESIDENTIAL FLAT BUILDING WITH ELEVEN (11) UNITS AND TWO LEVELS OF BASEMENT CAR PARKING FOR EIGHTEEN (18) CARS.
2. **12 APRIL 2011** – APPLICATION WAS RECOMMENDED FOR REFUSAL AT THE DEVELOPMENT ASSESSMENT UNIT (DAU) AND REFERRED TO THE MANLY INDEPENDENT ASSESSMENT PANEL (MIAP) FOR DETERMINATION.
3. **21 APRIL 2011** – MIAP DETERMINED THE APPLICATION AS A REFUSAL.
4. **22 JULY 2011** – A S82A REVIEW AGAINST REFUSAL WAS LODGED FOR AN AMENDED PROPOSAL FOR A SIX (6) STOREY RESIDENTIAL FLAT BUILDING WITH TEN (10) APARTMENTS AND ONE LEVEL OF BASEMENT CAR PARKING FOR TEN (10) CARS).
5. **12 OCTOBER 2011** – LAND & ENVIRONMENT COURT ACTION COMMENCED FOR 'DEEMED REFUSAL' OF S82A REVIEW.
6. **23 DECEMBER 2011** – S34 AGREEMENT REACHED.
7. **17 SEPTEMBER 2012** – S 34 AGREEMENT FOR S96(8) MODIFICATION TO CONSENT FOR 5 STOREY RESIDENTIAL FLAT BUILDING WITH BASEMENT CARPARKING FOR 18 CARS.
8. **07 FEBRUARY 2014** - DEVELOPMENT APPROVAL IS SOUGHT FOR S96(AA) MODIFICATION TO CONSENT INVOLVING CHANGE TO ROOF DESIGN / PROFILE AND MODIFICATION TO THE FLOOR LEVELS OF THE BUILDING FROM LEVEL 1 TO LEVEL 4 AND MODIFICATION TO GROUND FLOOR FOYER/FIRE STAIRS AND BASEMENT.
9. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND SIXTEEN (16) SUBMISSIONS RECEIVED.
10. COMMENTS WERE RECEIVED FROM THE CORSO PRECINCT COMMUNITY FORUM.
11. ADDITIONAL INFORMATION WAS REQUESTED ON: 25 MAY 2014.
12. AMENDED PLANS WERE RECEIVED: 30 JUNE 2014 AND A COMPLETE SET OF DRAWINGS INCLUDING PLANS FOR OTHER FLOORS, ON 7 JULY 2014.
13. SITE INSPECTION IS RECOMMENDED.
14. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL **APPROVAL**.

The following people addressed the meeting in relation to this item:

Against the Recommendation: Colin Box and Peta Butson

For the Recommendation: Greg Boston

42/14 Decision of the Panel:

That pursuant to Section 96(AA) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 0367/2010 for Demolition of an existing three (3) storey Residential Flat Building and construction of a five (5) storey Residential Flat Building with basement level parking – involving change to roof design / profile and modification to the floor levels of the building from Level 1 to Level 4 at 46 Victoria Parade Manly be **Approved** subject to:

1. The original conditions of consent approved by the Land and Environment Court on 23 December 2011
2. As modified by Section 96(8) – Part 2 - approved by the Land and Environment Court on 17 September 2012
3. As modified by Section 96(AA) – Part 3 – to amended Condition Nos. DA1, 21, 66 and 96; the following Condition Nos updated: 33, 55, 58, 69 and 87; the following Condition Nos deleted: 89 & 91; and the addition of Condition Nos : 104 – 119: -

DA1 (Amended)

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation.

Plans affixed with Council's stamp relating to Section 96 (AA) – Part 3 - DA367/2010 – determined on 21 August 2014

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
130526 s96: 200 Roof Plan	C 28 May 2014	07 July 2014
130526 s96: 206 Basement Plan	B 28 May 2014	07 July 2014
130526 s96: 204 Ground Floor Plan	B 19 May 2014	07 July 2014
130526 s96: 208 Level 1 (First Floor) Plan	B 01 July 2014	07 July 2014
130526 s96: 209 Level 2 (Second Floor) Plan	B 01 July 2014	07 July 2014
130526 s96: 210 Level 3 (Third Floor) Plan	B 01 July 2014	07 July 2014
130526 s96: 207 Level 4 (Fourth Floor) Plan	B 28 May 2014	07 July 2014
130526 s96: 201 East & West Elevations	C 28 May 2014	07 July 2014
130526 s96: 202 North & South Elevations, Section A-A	C 28 May 2014	07 July 2014
130526 s96: 203 Section B-B	C 28 May 2014	07 July 2014
130526 s96: 205 Column locations: Partial Ground/First/Second	B 19 May 2014	07 July 2014
1304-LP1 Landscape Plan – Ground Level	G January 2014	15 July 2014
1304-LP2 Landscape Plan –Level 1, 2	G January 2014	15 July 2014
1304-LP3 Landscape Plan –Level 3, 4	G January 2014	15 July 2014
1304-LP4 Landscape Plan – Notes	G January 2014	15 July 2014
1304-LP1 Landscape Plan – Council Footpath Details	G January 2014	15 July 2014

Documentation affixed with Council's stamp relating to Section 96 (AA) – Part 3 - DA367/2010 – determined on 21 August 2014:

- Statement of Modification prepared by Design Cubicle dated: 24 January 2014 and received by Council on the 07 February 2014.
- Statement of Modification prepared by Design Cubicle dated: 24 March 2014 and received by Council on the 26 March 2014.
- Statement of Modification prepared by Design Cubicle dated: 01 July 2014 and received by Council on the 07 July 2014.
- Geo-technical report prepared by JK Geotechnics dated 21 May 2014 and received by Council on the 23 May 2014.
- Preliminary Acid Sulphate Soil Management Plan prepared by Environmental Investigation Services dated 19 May 2014 and received by Council on the 23 May 2014.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

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

1

The rear wall (southern elevation) of the proposed building is to be setback a minimum 11.0 metres from the rear (northern) boundary of the property known as 27 Ashburner Street Manly being SP76027. The rear balconies are to be setback a minimum 9.5 metres from the rear (northern) boundary of the property known as 47 Ashburner Street, Manly being SP76027. Plans are to be suitably amended prior to issue of the Construction Certificate.

Reason: To achieve closer compliance with Council's Development Control Plan for the Residential Zone Amendment 1 and reduce impacts on the amenity of adjoining properties.

The following Condition No. 2 was deleted by the Land and Environment Court on 23 December 2011:

2

DELETED

3 (2AC03)

Access in accordance with Australian Standard AS4299 - Adaptable Housing must be provided to at least two units in the development. Details demonstrating compliance are to be submitted to the Council/Accredited Certifier for approval with the Construction Certificate.

Reason: To comply with the relevant Australian Standards.

4 (2AC05)

A minimum of TWO (2) car parking spaces are to be provided for people with disabilities.

The car parking spaces must be identified and reserved at all times and be in the vicinity of a lift or as close as possible to public areas and facilities. The car parking spaces must have minimum dimensions and headroom to conform to *Australian/New Zealand Standard AS/NZS 2890.1:2004*. A notice must be displayed at the entrance to the parking station and at each change in direction indicating the location of car parking spaces and the maximum headroom for vehicles. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Disability Discrimination Act 1992 and Australian Standards

5 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

6 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the *Dividing Fences Act 1991* which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

7 (2BM01)

All external cladding and trim (including windows and doors) of the approved development must have a reflectivity index of no greater than 20%. The manufacturer's written confirmation of the reflectivity index for each material is to be submitted to the Council/Accredited Certifier for approval prior to the issue of the Construction Certificate.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers.

Reason: To ensure that there is no excessive glare or reflectivity nuisance from the proposed development.

8 (2BM02)

Roofing materials are to be factory pre-finished with a low glare surface and maximum reflectivity of 20% and be compatible with the colours of neighbouring buildings' roof colours. The applicant is to provide evidence with the Construction Certificate that the selected roofing material will not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties.

Reason: To ensure roofing material does not cause excessive glare or reflectivity nuisance to adjoining properties and those overlooking the site.

The following Condition No. 9 was deleted from the consent as per Section 96(8) – Part 2 – determined on 17 September 2012

9 (2BM03)

DELETED

10 (2CD01)

Pursuant to Section 97 of the *Local Government Act, 1993*, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$30,000. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a Final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

11 (2CD02)

A Dilapidation Report is required for this development. A photographic survey of adjoining properties No. 42-44 Victoria Parade, 8-13 and 14 South Steyne and 43 and 45 Ashburner Street detailing the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other such items, is to be submitted to Council and the Accredited Certifier (where Council does not issue the Construction Certificate) prior to the issue of the Construction Certificate. This survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining properties.

All costs incurred in achieving compliance with this condition must be borne by the person entitled to act on this Consent.

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to Council's satisfaction, attempts have been made to obtain access and/or advise the affected property owner of the reason for the survey and these attempts have been unsuccessful. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining

owner's interest for it to be as full and detailed as possible.

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

12 (2CD04)

Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings and specifications certifying the shoring will be adequate for their intended purpose and must be submitted to the Council/Accredited Certifier for approval with the Construction Certificate. The documentation prepared and certified by an appropriately qualified and practising structural engineer is to show all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements. A copy of this documentation must be provided to the Council for record purposes at the time of Construction Certificate application.

Reason: To ensure the protection of existing public infrastructure and adjoining properties.

13 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

14 (2CD06)

Four (4) certified copies of the structural engineer's details for the proposed development; including but not limited to all reinforced concrete, structural steel support construction and any proposed retaining walls; must be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure construction of the new development is in accordance with the structural engineer's design.

15 (2CD08)

A Geotechnical Report on the stability of the subject site, is to be prepared by a suitably qualified geotechnical engineer in accordance with the guidelines contained in the current *Manly Development Control Plan for Landslip and Subsidence*. All recommendations of the report are to be complied with during the construction process. The report is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To structural integrity is to be maintained.

16 (2CD13)

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes are to be concealed within the building. Plumbing other than stormwater downpipes must not be attached to the external surfaces of the building.

Reason: To ensure the visual quality of the development.

17 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's *Specification for On-site Stormwater Management 2003* and *Specification for Stormwater Drainage 2003* and must be submitted to Council for approval prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

18 (2DS02)

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) is to be provided within the property in accordance with Council's *Specification for On-site Stormwater Management 2003*. The design and details must be submitted to Council and be approved by Council prior to the issue of the Construction Certificate. The stormwater management plan and

designs must be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

19 (2DS04)

The basement car parking level is to be adequately protected from flooding. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To prevent property damage and ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

20 (2DS06)

All balconies (above 2 storeys) are to be graded and drained to an internally concealed drainage system.

Reason: To ensure adequate provision is made for stormwater drainage from the balconies.

The following Condition No. 21 is to be amended as per Section 96(AA) – Part 3 – determined on 21 August 2014:

21 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the *Roads Act 1993*, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, of 8.4 metres, and in accordance with the current policy of Council and *Specifications for the Construction of Vehicle Crossings*; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with *Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking*. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's *Specification for Civil Infrastructure Works, Developments & Subdivisions 2003* and *Australian Standard AS 1428.1:2001 - Design for access and mobility*.

Reason: To facilitate suitable vehicular access to private sites.

22 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the *Local Government Act 1993*. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

23 (2FP04)

The pedestrian footpaths and pavements in the streets surrounding the proposed development are to be constructed as per *Manly Council Paving Design Guidelines* as amended. The design details are to be submitted with the Construction Certificate application for approval by Council prior to the issue of the Construction Certificate.

Reason: To ensure appropriate quality of public infrastructure arising from the development works.

24 (2FR01)

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction

Certificate application, in accordance with Part 9 Clause 168 of the *Environmental Planning and Assessment Regulation 2000*.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.
Reason: Compliance with the Environmental Planning and Assessment Act 1979.

The following Condition No. 25 was deleted by the Land and Environment Court on 23 December 2011:

25. (2HT07)
DELETED

26 (2LD01)

Details must be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate indicating the proposed method of water proofing and drainage of the concrete slabs over which landscaping is being provided.

Reason: To ensure the appropriate type of water proofing is carried out and descriptive information about drainage is provided.

27 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council *Guidelines on Erosion and Sediment Control*, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

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

28 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the *Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking*.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

29 (2PT02)

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

30 (2PT03)

The dimensions of car parking bays and aisle widths in the car park are to comply with *Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004*.

Reason: To ensure compliance with this consent and Australian Standards relating to manoeuvring, access and parking of vehicles.

The following Condition No. 31 was deleted from the consent as per Section 96(8) – Part 2 – determined on 17 September 2012

31 (2US01)
DELETED

32 (2US05)

The applicant must consult with the energy provider, to determine the need and location of any electrical enclosure for the development. Should an electrical enclosure be required, the location and dimensions of this structure are to be detailed prior to the issue of a Construction Certificate. In the event of the energy provider requiring a sub-station, the applicant must consult with Council or its delegate with a view to dedication of the land for the sub-station as public roadway.

Reason: To ensure services are in accordance with the requirements of Energy Australia. [Ausgrid]

The following Condition No. 33 is to be amended as per Section 96(AA) – Part 3 – determined on 21 August 2014:

33 (2US07)

The design of water cooling systems, evaporative coolers and hot/warm water systems within the premises (including access to the system for maintenance) must comply with the following:

- *Public Health Act 2010, Legionella Control*
- *Public Health Regulation 2012 - Legionella Control*
- *AS/NZS 3666.1:2011 Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning,*
- *AS/NZS 3666.2:2011 Air-handling and water systems of buildings—Microbial control—Operation and maintenance,*
- *AS/NZS 3666.3:2011 Air-handling and water systems of buildings—Microbial control—Performance-based maintenance of cooling water systems.*
- *NSW Health's Code of Practice for the Control of Legionnaires disease 2nd Edition 2004, NSW, or later revisions.*

Reason: To comply with the provisions of the Public Health Act 2010 and to protect public health and amenity.

34 (2US09)

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained. Application must be made through an authorised Water Servicing Coordinator; for details see the Sydney Water web site www.sydneywater.com.au or telephone 13 20 92.

The Section 73 Certificate must be submitted to Council/Accredited Certifier prior to release of the Construction Certificate.

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

35 (2WM01)

Details of waste management facilities are to be submitted with the application for a Construction Certificate in accordance with the *Manly Development Control Plan for Waste Minimisation and Management 2000*. [Manly Development Control Plan 2013(as amended)].

Reason: To ensure appropriate management of waste.

36 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the *Manly Development Control Plan for Waste Minimisation and Management 2000*. (Manly Development Control Plan 2013, (as amended))

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess

construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

The requirement for a Waste Management Plan is included in the Office of Environment and Heritage (OEH) *Waste Service Performance Improvement Payment Criteria* (WSPIP).

37 (2WM03)

Garbage rooms or grease arrester rooms must be constructed of solid material: cement rendered and steel trowelled to a smooth even surface. The door to the garbage room is to be designed and constructed to ensure the room is vermin proof and can be opened from the inside at all times. The garbage room is to be ventilated to the external air by natural ventilation or an approved air handling exhaust system.

Reason: To keep garbage rooms in a clean and sanitary condition to protect public health.

38 (2WM05)

All Multi Unit Dwellings (MUDs) must locate the waste storage and recycling area with convenient access to Council's usual collection point.

To assist the servicing of a Council provided bins. Council allocates a 240 litre general waste bin, a 240 litre paper recycling bin and a 240 litre co-mingled recycling bin to be shared by every 4 residential dwellings. Provision for an additional 240 litre vegetation bin should be included.

The storage area for MUDs of 17 or more dwellings must be accessible to Council Garbage Collectors unless bins requiring collection are normally presented at kerbside. For residential MUDs with 16 or fewer dwellings, kerbside collection is usually required. Refer to *Manly Development Control Plan for Waste Minimisation and Management 2000*. [Manly Development Control Plan 2013, (as amended)]

Reason: To ensure Multi Unit Dwelling developments allow sufficient space for waste bins.

39 (2WM06)

All Multi Unit Dwellings must provide a location for dry recycling systems (i.e. recycling of paper and recyclable containers) and services. Manly Council provides recycling services to all residential dwellings.

Reason: To provide of dry recycling systems as required by the Department of Environment and Climate Change (DECC). [Office of Environment and Heritage (OEH)]

This refers to a stipulation in the OEH Waste Service Performance Improvement Payment Criteria and is to be included in all DA consents issued after 30 June 2009 for the building of multi-unit dwellings.

40 (2WM07)

All Multi Unit Dwellings are to designate a non paved area (min. 80 cm x 80 cm) on site as space for communal or individual composting or worm farming units.

Reason: For composting and worm farming in Multi Unit Dwellings to reduce waste to landfill.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

41 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with *Australian Standard AS 3740*. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

42 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

43 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

44 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

45 (3CD06)

Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising structural engineer. The engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority prior to the commencement of framework.

Reason: To ensure structural adequacy.

46 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

47 (3PT01)

In accordance with the *Roads Act 1993*, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

48 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

49 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

50 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with *Australian Standard AS 2601-2001*.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition / excavation / building / construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the *Protection of the Environment Operations Act 1997*. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) Section 143 of the *Protection of the Environment Operations Act 1997* requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 11) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 12) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 13) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 14) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 15) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 16) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 17) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

51 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7:00 a.m. and 6:00 p.m. Monday to Friday and 7:00 a.m. to 1:00 p.m. Saturday. No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

52 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

53 (4CD05)

Retaining walls being constructed in conjunction with excavations must be in accordance with structural engineer's details. Certification by a suitably qualified structural engineer that the constructed works comply with the structural detail must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the structural adequacy of the retaining walls.

54 (4CD06)

All construction works must be strictly in accordance with the Reduced Levels (RLs) as shown on the approved drawings. A copy of approved drawing should be kept at site. Certification from a registered surveyor is to be submitted to the Principal Certifying Authority during construction to confirm floor and finished ridge levels.

Reason: To ensure compliance with the consent.

The following Condition No. 55 is to be amended as per Section 96(AA) – Part 3 – determined on 21 August 2014:

55 (4CD07)

Anyone who removes or repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from the WorkCover Authority of NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from WorkCover. A permit will not be granted without a current WorkCover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- *Work Health and Safety Act 2011,*
- *Work Health and Safety Regulation 2011*
- *The Protection of the Environment Operations Act, 1997*
- *Manly Council – Asbestos Management Guideline 2011*
- *Model Code of Practice - How to Safely Remove Asbestos* available at:
<http://www.safeworkaustralia.gov.au/AboutSafeWorkAustralia/WhatWeDo/Publications/Pages/Safely-Remove-Asbestos-COP.aspx>
- *Model Code of Practice - How to Manage and Control Asbestos in the Workplace* available at:
<http://www.safeworkaustralia.gov.au/AboutSafeWorkAustralia/WhatWeDo/Publications/Pages/Manage-Control-Asbestos-COP.aspx>, and
- *The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.*

Note: The Model Codes of Practice referred to above are specifically referenced in the *Work Health and Safety Act 2011*. Council is not the appropriate regulatory authority to act upon this legislation; readers are referred to the WorkCover Authority of NSW. Further advice is available online at: www.workcover.nsw.gov.au.

Reason: To ensure the health of site workers and the public.

56 (4DS01)

A suitable sub-surface drainage system is to be provided adjacent to all excavated areas and such drains being connected to an approved disposal system. The details of this drainage system should be shown in a plan and submitted to Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To prevent uncontrolled seepage entering excavated areas.

57 (4DS02)

Any de-watering from the excavation or construction site must comply with the *Protection of the Environment Operations Act 1997* and the following:

- a) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA accredited laboratory or Manly Council for compliance with ANZECC *Water Quality Guidelines*, and
- b) if tested by NATA accredited laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the *Protection of the Environment Operations Act 1997*, prior to the commencement of de-watering activities; and
- c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received, and
- d) It is the responsibility of the applicant to ensure during de-watering activities, the capacity of the stormwater system is not exceeded, there are no issues associated with erosion or scouring due to the volume of water pumped; and turbidity readings must not at any time exceed the ANZECC recommended 50 p.p.m. (parts per million) for receiving waters.

Reason: To ensure compliance with legislation and to protect the surrounding natural environment.

The following Condition No. 58 is to be amended as per Section 96(AA) – Part 3 – determined on 21 August 2014:

58 (4DS03)

Rainwater tanks must be installed on residential properties by a suitably qualified and licensed plumber and in accordance with the following:

- Australian/New Zealand Standard AS/NZS 3500:2003,
- NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).
- Council's Rainwater Tank policy

Reason: To protect public health and amenity.

59 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

60 (4FR01)

The building is to be erected in Type A construction for a Class 2 and 7 building in accordance with the Fire Resistance Provisions of the *Building Code of Australia*.

Reason: To specify the standard of construction and the level of fire safety required by the Building Code of Australia.

61 (4FR02)

All requirements of the NSW Fire Brigades for the building must be complied with in accordance with the requirements of the *Building Code of Australia*.

Reason: To comply with the requirements of the Building Code of Australia and to provide an adequate level of fire safety for the occupants of the building.

The following Condition No. 62 was deleted from the consent as per Section 96(8) – Part 2 – determined on 17 September 2012

62 (4LD01)

DELETED

63 (4MS02)

In order to ensure compliance with approved drawings, a Survey Certificate, to Australian Height Datum, must be prepared by a registered surveyor as follows:

- a) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries, and
- b) at the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials, and
- c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

Progress certifications in response to points (a) through (c) must be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved drawings and the proposed works.

Reason: To ensure compliance with the development consent.

64 (4MS03)

Each level of the building, at completion of construction of the external walls, is to be certified by a registered surveyor as complying with floor area calculations, with a certificate from the registered surveyor being submitted to the Principal Certifying Authority.

Reason: To ensure compliance with the development consent.

65 (4MS04)

The Sediment Control Plan is to be implemented from the commencement of works and maintained until completion of the development.

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

The following Condition No. 66 is to be amended as per Section 96(AA) – Part 3 – determined on 21 August 2014:

66 (4MS05)

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan prepared by Environmental Investigation Services dated 19 May 2014.

Reason: To ensure management of potential acid sulfate soils.

67 (4MS08)

At no time during the building works can any encroachment, temporary or permanent be made onto another property without prior written agreement being entered into with all persons to whom these encroachments affect and any persons whose land is subject to the encroachment.

Reason: To ensure adequate protection of property.

68 (4PT01)

All requirements of the Local or Regional Traffic Advisory Committees are to be complied with.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner which respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community.

The following Condition No. 69 is to be amended as per Section 96(AA) – Part 3 – determined on 21 August 2014:

69 (4US01)

The installation of water cooling systems, evaporative coolers and hot/warm water systems within the premises (including access to the system for maintenance) must comply with:

- *Public Health Act 2010, Legionella Control*
- *Public Health Regulation 2012 - Legionella Control*
- *AS/NZS 3666.1:2011 Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning,*
- *AS/NZS 3666.2:2011 Air-handling and water systems of buildings—Microbial control—Operation and maintenance,*
- *AS/NZS 3666.3:2011 Air-handling and water systems of buildings—Microbial control—Performance-based maintenance of cooling water systems.*
- *NSW Health's Code of Practice for the Control of Legionnaires disease 2nd Edition 2004, NSW, or later revisions.*

Water cooling systems must be maintained by a qualified person to ensure air born disease is prevented.

Reason: To comply with the provisions of the Public Health Act 2010 and to protect public health and amenity.

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

70 (5CD01)

On completion of the works and prior to the issue of a final Occupation Certificate, a certificate is to be prepared stating that no damage has resulted to adjoining premises, and is to be provided to Council and the Principal Certifying Authority.

Alternatively, if damage is identified which is considered to require rectification, the damage is to be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to the issue of a final Occupation Certificate.

Reason: To ensure adjoining owners' property rights are protected.

71 (5DS02)

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) drawing showing Works as Executed (WAE) details must be submitted to Council for approval prior to the issue of the Occupation Certificate. The WAE drawing is to be in accordance with Council's standards and *Specification for Stormwater Drainage 2003* and *Specification for On-site Stormwater Management 2003*.

Reason: Compliance with the consent and Council standards and specifications.

72 (5DS03)

A positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit. The detailed information for a restriction on the use of land and a positive covenant is shown in Council's *Specification for On-site Storm Water Management 2003*.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

73 (5FP01)

All surplus vehicular crossings and/or kerb laybacks must be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

Reason: To provide on-street parking, suitable vehicular access to private sites, and infrastructure

protection.

74 (5FP02)

The reconstruction and/or construction of footpath paving and any associated works along all areas of the site fronting Victoria Parade is required. These works are to be carried out prior to the issue of the Occupation Certificate by a licensed construction contractor, at the applicant's expense and must be in accordance with Council's *Specification for Civil Infrastructure Works and Paving Design Guide*.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

75 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

76 (5LD02)

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.

77 (5SD01)

Prior to any Occupation Certificate being issued for the building works associated with land or strata subdivision, the person acting upon this consent must apply to the Manly Council GIS Group [formerly Design and Technical Group] and receive written confirmation of the allocated street address(es) or house/unit number(s) for the completed project. These numbers will be recorded in Council records and must be displayed at the property in accordance with the provisions of *Australian/New Zealand Standard AS/NZS 4819:2003 – Geographic information – Rural and Urban Addressing*.

To assist Council when applying for strata unit number allocations, a draft proposal for unit numbering within the strata scheme should be submitted for concurrence to Council, as these unit numbers will be used to maintain Council's property and mapping database.

Reason: To ensure Council records are accurate and to assist emergency services in readily locating properties.

78 (5US01)

Any adjustment to a public utility service is to be carried out in compliance with its standards; where consent is required, with its concurrence; and with the full cost being borne by the applicant. Full documents of adjustments to any public utility service should be submitted to Council.

Reason: To ensure compliance with the terms of this consent.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

79 (6AP03)

Prior to the sale, transfer, assignment or other disposal of or leasing or parting with provision of any part of the land subject to this approval, a copy of the approval must be given to the purchaser, transferee, assignee, lessee, occupier or other person of that part of the land.

Reason: To ensure that any future owners are made aware of the conditions of consent.

80 (6AP04)

All towers, ventilation/ducting, exhaust fan structures, chillers and condensers for air-conditioning and any other structures on the roof are to be the subject of a separate Development Application.

Reason: To maintain the amenity of the surrounds.

81 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Land & Property Management Authority. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

82 (6LP04)

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

83 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

84 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

85 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the *Protection of the Environment Operations Act 1997*.

Reason: To ensure compliance with legislation and to protect public health and amenity.

86 (6PT01)

The visitor parking is to be accessible at all times, and a sign post erected at the vehicular entry point(s) of the development indicating the location of the visitor parking.

Reason: To ensure visitors are not forced to park on public streets when visitor parking has been provided and is available within the development.

The following Condition No. 87 is to be amended as per Section 96(AA) – Part 3 – determined on 21 August 2014:

87 (6US01)

The ongoing operation of water cooling systems, evaporative coolers and hot/warm water systems within the premises (including access to the system for maintenance) must comply with the following:

- *Public Health Act 2010, Legionella Control*
- *Public Health Regulation 2012 - Legionella Control*
- *AS/NZS 3666.2:2011 Air-handling and water systems of buildings—Microbial control—Operation and maintenance,*
- *AS/NZS 3666.3:2011 Air-handling and water systems of buildings—Microbial control—Performance-based maintenance of cooling water systems.*
- *NSW Health's Code of Practice for the Control of Legionnaires disease 2nd Edition 2004, NSW, or later revisions.*

Water cooling systems must be maintained by a qualified person to ensure air born disease is prevented.

Reason: To comply with the provisions of the Public Health Act 2010 and to protect public health and amenity.

88 (6WM01)

Activities must not detrimentally affect impact existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.

Reason: To protect existing and future amenity of the adjoining occupations from excessive waste emissions.

The following Condition No. 89 is to be deleted as per Section 96(AA) – Part 3 – determined on 21 August 2014:

89 (6WM02)

DELETED

90 (6WM06)

Signage on the correct use of the waste management system and materials to be recycled must be posted in the communal waste storage cupboard/room or bin bay prior to receiving an occupation certificate. Signs are available from Manly Council's Customer Service.

Reason: To ensure all residents are aware of Council's waste and recycling system with regard to their dwelling.

The following Condition No. 91 is to be deleted as per Section 96(AA) – Part 3 – determined on 21 August 2014:

91 (3MS01)

DELETED

92.

An amended landscaping plan showing details of proposed plantings being predominantly native screening species not exceeding 2.0 m mature height within 9.0 m of the front boundary of the property; and not exceeding 4.0 metres mature height elsewhere on the property is to be submitted to Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure appropriate landscaping is carried out on the development site.

93.

External lighting including any vehicle movement control devices such as traffic lights or similar are to be arranged, located and fitted with suitable shields to prevent nuisance to adjoining residential properties, details being provided to Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To reduce impacts on the amenity of adjoining residential properties.

94.

The privacy screens separating terraces of Units 3 and 4 at Level 1, terraces of Units 5 and 6 at Level 2 and terraces of Units 9 and 10 at Level 3. Are to be a maximum 1.0 metre high for the first 1.0 metre from the front edge of the balconies, plans are to be suitably amended/detailed prior to the issue of the Construction Certificate.

Reason: To reduce impacts on the amenity of adjoining residential properties and reduce the visual bulk and scale of the building.

95.

The external surfaces of the building is to be finished in accordance with the external materials and finishes board No 1109 50B dated 3 September 2012.

Reason: To maintain the visual amenity and maintain the character of the immediate locality.

The following Condition No. 96 is to be amended as per Section 96(AA) – Part 3 – determined on 21 August 2014:

96.

Access to the planter area adjacent to the lift lobby, stair and Bedroom 2 at Level 4 is to be for service and maintenance purposes only. The access doors must be locked at all other times. The keys are to be held by maintenance staff and the Owners' Corporation executive only.

Reason: To reduce impacts on the amenity of adjoining residential properties.

97.

The level at the top of the headlight cut-off wall adjoining the driveway shall be RL7.450, plans being suitably notated prior to the issue of the Construction Certificate.

Reason: To reduce impacts on the amenity of adjoining residential properties.

98.

The level 3 obscure glass balcony divider shall be 1.8 metres above finished balcony floor level.

Reason: To reduce impacts on the amenity of adjoining residential properties.

99.

The northern balcony obscure glass divider on level 3 if supported by framing shall be no more than 75 mm in overall plan width.

Reason: To reduce impacts on the amenity of adjoining residential properties.

100.

The obscure glass screens to the west end of the rear balconies shall each be 1.6 metres high above each finished balcony floor level.

Reason: To reduce impacts on the amenity of adjoining residential properties.

101.

The extent of the proposed west elevation (including new services room at Level 4) is to be limited such that there will be no shadowing of the adjoining property and existing building at No 44 Victoria Parade additional to that cast by the agreed Section 34 proposal. Revised shadow diagrams (existing and proposed shadows) certified by a Registered Architect confirming compliance with the requirement of this condition are to be submitted to Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To reduce impacts on the amenity of adjoining residential properties.

102 (2US01)

A section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development of demolition of existing residential flat building containing six (6) apartments and construction of residential flat building containing thirteen (13) apartments with basement car parking is \$140,000, being \$20,000 per additional dwelling. This contribution shall be paid to Council prior to the release of the Construction Certificate.

Note: The Section 94 Contribution fees are indexed annually in accordance with movements in the Consumer Price Index (all Groups Index) for Sydney issued by the Australian Statistician.

Reason: To enable provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

NOTE: Short term use of the building is to be the subject of a separate development application to Council.

103.

The proposed privacy screen separating the terraces of Units 9 and 10 at Level 3 is to terminate at the same point as the Level 4 terrace/planter above.

Reason: To reduce impacts on the amenity of adjoining residential properties.

COVENANTS, etc. Irrespective of and notwithstanding the terms of this development consent you must ensure that all covenants on the title of the property, as well as agreements and other instruments, are complied with in respect of the proposed development, to the extent to which they are applicable. Please see clause 1.9A of *Manly Local Environmental Plan 2013 (as amended)* as to the suspension of certain covenants, agreements and instruments (but not others). For more details contact Land and Property Information, NSW Department of Lands - www.lands.nsw.gov.au or call 9228 6713 or contact your solicitor or licensed conveyancer.

The following Condition Nos. 104 – 119 (inclusive) are to be added as per Section 96(AA) – Part 3 – determined on 21 August 2014:

104.

General Terms of Approval issued by the Office of Water for Construction De-watering, noting these terms do not represent any form of authorisation for the extraction of groundwater.

General

1. An authorisation shall be obtained from NSW Office of Water for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified in the authorisation.
2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.
3. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

Prior to excavation

4. Appropriate studies should be completed to ascertain the depth and shape of the water table and the salt water/fresh water interface (more accurately termed a zone of dispersion) beneath the proposed basement. Although not prescribed, it is anticipated that these investigations would require drilling, construction and monitoring of at least three groundwater monitoring wells. A suitably qualified Hydrogeologist or Groundwater Consultant should be engaged to design and oversee the monitoring and then to undertake an assessment of how the saltwater interface is likely to be affected by the proposed dewatering and excavation works and whether the neighbouring abstraction system (if operational) is likely to be affected both in terms of reduced groundwater levels and water quality.
5. A Dewatering Management Plan report prepared by a suitably qualified Hydrogeologist or Groundwater Consultant should be provided to the NSW Office of Water in support of the dewatering licence application, along with a schedule and indicative level and water quality predictions expected to occur during construction and until at least two months after the cessation of pumping or until impacts on the neighbouring system are expected to become insignificant. In addition a copy of this report should be provided for information to both Manly Council and the neighbouring property owner that has the domestic bore GW105988.
6. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and provided in the report provided to the NSW Office of Water. Details of the parameters (e.g. permeability predicted by slug-testing, pump-testing or other means) and calculation method shall be included in support of the dewatering licence.
7. A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.
8. Groundwater quality testing shall be conducted on a suitable number of samples using a suitable suite of analytes and completed by a NATA-certified laboratory, with the results collated and certificates appended to a report supplied to the NSW Office of Water. Samples must be taken prior to the substantial commencement of dewatering, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
9. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (sometimes referred to as "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
10. Contaminated groundwater (i.e. above appropriate NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment Protection Authority (any such discharge would be regulated through a licence issued under the *Protection of the Environment Operations Act 1997* [POEO Act]). The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the Dewatering Management Plan report that should be provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

11. Monitoring of water levels and the impacts of pumping on groundwater quality at the site and in the neighbouring water supply shall be undertaken to confirm the predictions provided in the hydrogeological report described above.
12. The proponent shall provide compensatory water supplies to any owner of privately-owned land where monitoring indicates that the dewatering operations is causing a reduction in pumping yield from bores or significant groundwater quality variation from a measured baseline. As there is a neighbouring domestic bore GW105988 the proponent must include in the Dewatering Management Plan "Trigger Levels" for management of both levels and

groundwater quality. Where the groundwater quality is predicted to or is found to deteriorate (become saline) in the neighbouring groundwater supply, arrangements should be made directly with the neighbouring licence holder to “make good” the lost water supply within 24 hours of the loss being identified, e.g. by providing town water for the duration of impacts.

13. Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
14. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
15. Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.
16. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
17. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
18. The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.
19. Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety procedures.

Following excavation

20. All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual groundwater resource and third party impacts.

Please direct all related correspondence to the following address:

Water Regulation Group - South
NSW Office of Water
PO Box 3720
Parramatta NSW 2124

Reason: The proposal is required to comply with NSW Office of Water requirements.

105.

The following Ausgrid Conditions apply to the development:

- a) Prior to any development being carried out, the approved plans must be submitted to Ausgrid’s local customer service office for approval to determine whether the development will affect Ausgrid’s network or easements.
[ref: <http://www.energy.com.au/energy/ea.nsf/Content/Safety+advice+for+contractors>]
- b) The applicant must check the location of underground cables by using *Dial Before You Dig* and comply with the requirements of Ausgrid’s *NS 156 – Working Near or Around Underground Cables*.
[ref: <http://www.energy.com.au/energy/ea.nsf/Content/Safety+Dial+before+you+dig> & <http://www.energy.com.au/energy/ea.nsf/Content/Network+standards>]
- c) The development must comply with both the Reference Levels and precautionary requirements of the draft ARPANSA’s *Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz, 7 December 2006*. [ref: http://arpansa.gov.au/Publications/drafts/dr_elf.cfm]

- d) The development must comply with Ausgrid's *Tree Safety Management Plan*. [ref: <http://www.energy.com.au/energy/ea.nsf/Content/Safety+Trees+and+powerlines>]
- e) The development must be carried out in accordance with the *Energy Network Association's Substation Earthing Guide ENA EGI-2006* so that hazardous step, touch and transfer voltages do not exist during fault conditions (50 Hz or transient). [ref: <http://www.saiglobal.com/shop/script/search.asp>]

Reason: To ensure the safety and compatibility of both the development and Ausgrid's assets.

106.

The applicant must identify existing underground services prior to commencement of excavation. For works over or adjacent to Sydney Water assets, Jemena assets, Telstra assets, or any other applicable utility or service provider, a copy of approved plans, stamped by the relevant utility or service provider/s is to be submitted as part of the Construction Certificate application.

Reason: Telecommunication and utility or service provider approval is required for works adjacent to assets.

107 (2CD15)

In a Class 2 building containing more than ten (10) sole occupancy units, a WC and wash basin in a compartment or room at or near ground level for the use of employees must be provided in accordance with part F2.1 of the *Building Code of Australia*. Details are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To comply with part F2.1 of the Building Code of Australia Volume 1.

108 (3MS01)

Works in connection with this Section 96(AA) modification are not to be commenced/carried out until a new Construction Certificate is issued.

Reason: The Environmental Planning and Assessment Act 1979 requires a new updated Construction Certificate to cover any or all approved Section 96 modifications involving changes in the design of the development.

109 (4HT04)

Should any historic relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the *Heritage Act 1977*.

Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the NSW Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*.

Reason: To ensure the proper management and preservation of historical artefacts.

110.

The proposed footpath paving work on the Council Road Reserve is to be terminated in line with the north-eastern boundary of the site.

Amended drawings are to be submitted to Council/Accredited Certifier with the Construction Certificate application.

Reason: Council requirements for paving.

111.

The required amended stormwater management drawings of must be prepared and certified by a Chartered Engineer with NPER number and date of signature. Each drawing must be signed by the Chartered Engineer.

Reason: Council requirement for stormwater design.

112.

DELETED

113.

The following applies during the works:

- a) Adequate erosion and sediment controls must be implemented prior to the construction phase of the proposed development and maintained on site until sediment on the site has been stabilised.
- b) Any exposed acid sulphate soils are treated as required.
- c) Stormwater runoff from this property into the Cabbage Tree Bay Aquatic Reserve must not increase after the construction. If stormwater runoff from this site is likely to increase with the current designs then mitigation measures must be implemented to prevent any increase.

Reason: This condition is a NSW Fisheries requirement.

114.

Screening fencing to enclose the terrace of Unit 1 must not exceed the height RL6.800. Drawings are to be amended prior to the issue of the Construction Certificate.

Reason: To maintain neighbours' views and for occupant and neighbour amenity.

115. (1AP03)

Where the drawings relate to alterations, additions, or Section 96 modifications, only those works shown in colour, clouded, annotated or highlighted are approved, except where modified by a condition of this consent.

Reason: To ensure that only those works considered by Council form part of the consent.

116.

The garbage room must accommodate 9 (nine) x 240 litre mobile garbage bins (MGBs) for the storage of waste and recycling.

Reason: To comply with waste requirements for multi-unit dwellings.

117.

Bins must not be stored on the public footpath/road reserve.

Reason: Bins must be stored within the subject site.

118 (4AP01)

The recommendations detailed in the Geotechnical Appraisal: *Report to Manly Property Holdings on Geotechnical Investigation for Proposed Residential Development at 46 Victoria Parade Manly NSW*, dated: 21 May 2014 and prepared by: JK Geotechnics; are to be complied with throughout the works.

Reason: To ensure excavation is undertaken in an appropriate manner.

119

The solid balustrade on western elevation of level four at RL17.265 which is related to the lobby area of Units 12 and 13 is to be replaced with a clear glass balustrade so as to remove the proposed planter.

Reason: To protect the amenity of neighbours.

For the Decision: Stein, Vergotis, Graham and Grant Jary

Against the Decision: Nil

MIAP Report No. 42

62-64 Pittwater Road, Manly - DA0262/2013 (MC/14/95629)

<u>Application Lodged:</u>	20 December 2013
<u>Applicant:</u>	Blackmore Design Group Pty Ltd
<u>Owner:</u>	Norfolk Manly Pty Ltd
<u>Estimated Cost:</u>	\$2,850,000
<u>Zoning:</u>	Manly Local Environmental Plan 2013 – R3 Medium Density Residential.
<u>Surrounding Development:</u>	Multi storey commercial properties with residential above, residential dwellings and holiday accommodation fronting Pittwater Road.
<u>Heritage:</u>	Pittwater Road Conservation Area, In-the-vicinity of Heritage Items (35-49 Pittwater Road – Rylands Cottages).
<u>Officer:</u>	David Stray

SUMMARY:

1. DEMOLITION OF EXISTING BUILDING, CONSTRUCTION AND STRATA SUBDIVISION OF AN EIGHTEEN (18) UNIT RESIDENTIAL FLAT BUILDING INCLUDING TWENTY (20) BASEMENT CAR SPACES.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND SIX (6) SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE OCEAN BEACH PRECINCT COMMUNITY FORUM WITH COMMENTS RECEIVED.
4. THE PROPOSAL SEEKS A VARIATION OF 118% TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD AND VARIATION OF 12% TO THE HEIGHT OF BUILDINGS DEVELOPMENT STANDARD.
5. AN APPEAL AGAINST DEEMED REFUSAL OF THE APPLICATION HAS BEEN LODGED WITH THE LAND & ENVIRONMENT COURT OF NSW.
6. SITE INSPECTION IS RECOMMENDED.
7. THE APPLICATION IS RECOMMENDED FOR **APPROVAL**.

The following people addressed the meeting in relation to this item:

Against the Recommendation: Louie Skinner and Paul McInerney

For the Recommendation: Greg Boston

43/14 Decision of the Panel:

That pursuant to Clause 4.6 of the Manly Local Environmental Plan 2013, the proposed variation to the floor space ratio development standard of 118% and the height of buildings development standard of 12% is considered well founded.

That Development Application DA0262/2012 for the Demolition of existing building, construction and strata subdivision of an eighteen (18) unit residential flat building including twenty (20) basement car spaces at 62 and 64 Pittwater Road, Manly be **Approved** subject to the following conditions;

ANS01

A minimum of five (5) Adaptable Units are to be provided in the development as required by the Manly Development Control Plan 2013. Plans are to be suitably amended prior to the issue of the Construction Certificate.

Reason: To ensure equitable access and facilities are available within the development and achieve compliance with the Manly Development Control Plan 2013.

ANS02

An additional three (3) car parking spaces are to be provided within the basement car parking area for visitor parking in accordance with the Manly Development Control Plan 2013. All car parking spaces are to be capable of being independently accessed. Plans are to be suitably amended prior to the issue of the Construction Certificate.

Reason: To ensure adequate on site car parking is provided and achieve compliance with the Manly Development Control Plan 2013.

ANS03

Storage for bicycles is to be provided in the basement area of the proposed building in accordance with the Manly Development Control Plan 2013. Plans are to be suitably amended prior to the issue of the Construction Certificate.

Reason: To ensure adequate on site car parking is provided and achieve compliance with the Manly Development Control Plan 2013.

ANS04**Mechanical Ventilation**

Details of the proposed mechanical exhaust systems, detailing compliance with the relevant requirements of Clause F4.12 of the *Building Code of Australia* and *Australian Standard 1668 Parts 1 and 2* are to be submitted to Council or the Principal Certifying Authority for approval prior to the issue of a Construction Certificate.

Reason: To ensure compliance with legislation and to protect public health and safety.

ANS05**Construction Noise**

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the *New South Wales Environment Protection Authority Environmental Noise Control Manual*.

Reason: To ensure compliance with legislation and to prevent disturbance to the surrounding community.

ANS06**Noise and Vibration Management Plan**

Prior to the commencement of works, a Noise and Vibration Management Plan is to be prepared by a suitably qualified person addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliance with the relevant legislation and Australian Standards. The report that itemises equipment to be used for excavation works. The Plan shall address, but not be limited to, the following matters:

- a) Identification of activities carried out and associated noise sources
- b) Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- c) Determination of appropriate noise and vibration objectives for each identified sensitive receiver
- d) Noise and vibration monitoring, reporting and response procedures
- e) Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles
- f) Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction
- g) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- h) Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration

- i) Contingency plans to be implemented in the event of non-compliances and/or noise complaints. A register should be kept of complaints received, and the action taken to remediate the issue.

Reason: To protect acoustic amenity of surrounding properties and the public.

ANS07

Outdoor Lighting

Prior to the issue of a Construction Certificate, the Certifying Authority must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of *Australian Standard 1558.3:2005 Pedestrian area (Category P) lighting – Performance and design requirements* and *Australian Standard 4282:1997 Control of the obtrusive effects of outdoor lighting*.

Reason: To protect public health and amenity.

ANS08

Air Quality

The construction and ongoing use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to air pollution.

All works shall ensure air quality controls are in place and all activity is in accordance with the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Clean Air) Regulation 2002*

Reason: To ensure compliance with legislation and to protect public health and amenity.

ANS09

Asbestos Removal

Anyone who removes, repairs, or disturbs bonded or friable asbestos material must hold a current removal licence from WorkCover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from WorkCover NSW. All removal, repair or disturbance of or to asbestos material must comply with the requirements of WorkCover NSW and with the following:

- *Work Health and Safety Act 2011*;
- *Work Health and Safety Regulation 2011*; and
- *How to Safely Remove Asbestos Code of Practice [WorkCover NSW (2011)]*.

Reason: To ensure compliance with legislation and protect the health and safety of site workers and of the public.

ANS10

Acid Sulphate Soils

All excavation, construction and associated works must be conducted in accordance with the *New South Wales Acid Sulfate Soils Manual 1998* (Acid Sulfate Soils Management Advisory Committee) and managed in accordance with the associated *Acid Sulfate Soils Assessment Guidelines*.

Reason: To ensure compliance with legislation.

ANS11

Level 5 arboriculturalist to provide specification for the protection during development for neighbours trees and street trees to Council prior to issue of the Construction Certificate.

Reason: To ensure existing trees are protected.

ANS12

All works shall comply with AS4970-2009 Protection of Trees on Development sites.

Reason: To ensure existing trees are protected.

ANS13

A Section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development is \$280,000, being \$20,000.00 per additional dwelling. This contribution shall be paid to Council prior to the release of the Construction Certificate.

Note: The Section 94 Contribution fees are indexed annually in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

ANS14

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator; for details see the Sydney Water web site www.sydneywater.com.au or telephone 13 20 92.

The Section 73 Certificate must be submitted to Council/Accredited Certifier prior to release of the Construction Certificate.

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

ANS15

Approval of the application to Strata/Land Subdivide the subject property is subject to the lodgement of a Subdivision Certificate application and payment of the appropriate fee.

Reason: Compliance with the Environmental Planning and Assessment Act 1979.

DA1

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation

Plans affixed with Council's stamp relating to Development Consent No. 262/2013:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA1.01 – Basement Plan	B – 04.02.14	06.02.14
DA1.02 – Ground Floor Plan	B – 04.02.14	06.02.14
DA1.03 – First Floor Plan	A – 20.12.13	20.12.13
DA1.04 – Second Floor Plan	A – 20.12.13	20.12.13
DA1.05 – Roof Plan	A – 20.12.13	20.12.13
DA1.06 – Demolition Plan	A – 20.12.13	06.02.14
DA2.01 – West Elevation & South Elevation	A – 20.12.13	20.12.13
DA2.02 – East Elevation & North Elevation	A – 20.12.13	20.12.13
DA3.01 – Section A-A & B-B	A – 20.12.13	20.12.13
DA3.02 – Driveway Section & Plan	B – 04.02.14	06.02.14
DA5.01 – Landscape Plan	A – 20.12.13	20.12.13
DA7.01 – Adaptable Unit Plan	A – 20.12.13	20.12.13

Documentation affixed with Council's stamp relating to Development Consent No. 262/2013

- Statement of Environmental Effects, dated December 2013, prepared by Blackmore Design Group received by Council 20 December 2013;
- Supplementary Statement of Environmental Effects/Clause 4.6 variations – Height of Buildings and floor space ratio prepared by Boston Blyth Fleming Planners dated 22 January 2014 received by Council 6 February 2014;

- Architectural Design Verification Statement prepared by Blackmore Design Group dated December 2013 received by Council 20 December 2013;
- BASIX Assessment prepared by Efficient Living Pty Ltd dated 20 December 2013 received by Council 20 December 2013;
- Geotechnical Investigation report prepared by Jeffery & Katauskas Pty Ltd dated 7 June 2012 received by Council 20 December 2013;
- Conceptual Acid Sulfate Soil Management Plan prepared by EIS dated 23 November 2012 received by Council 20 December 2013;
- Traffic Impact Assessment prepared by GTA Consultants dated 5 February 2014 received by Council 20 December 2013;
- Concept Stormwater Management Plan prepared by Roz Engineering Pty Ltd dated 19 December 2013 received by Council 20 December 2013;

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

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

1 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

2 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

3 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a Final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

4 (2CD02)

A Dilapidation Report is required for this development and specifically in relation to 60 Pittwater Road, Manly 68 & 70 Pittwater Road, Manly, 35 & 37 Whistler Street, Manly and 18-22 Denison Street, Manly. A photographic survey of adjoining properties detailing the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other such items, is to be submitted to Council and the Accredited Certifier (where Council does not issue the Construction Certificate) prior to the issue of the Construction Certificate. This survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property/ies.

All costs incurred in achieving compliance with this condition must be borne by the person entitled to act on this Consent.

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to Council's satisfaction attempts have been made to obtain access and/or advise the affected property owner of the reason for the survey and these attempts have been unsuccessful. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

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

5 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

6 (2CD08)

A Geotechnical Survey, on the stability of the subject site, is to be prepared by a suitably qualified geotechnical engineer in accordance with the guidelines contained in the current Manly Development Control Plan 2013. All recommendations of the report are to be complied with during the construction process. The report is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure structural integrity of the works maintained.

7 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council for approval prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

8 (2DS02)

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) is to be provided within the property in accordance with Council's Specification for On-site Stormwater Management 2003. The design and details must be submitted to Council and be approved by Council prior to the issue of the Construction Certificate. The stormwater management plan and designs must be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater

generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

9 (2DS04)

The basement car parking level is to be adequately protected from flooding. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To prevent property damage and ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

10 (2DS05)

Pump systems will only be permitted for the drainage of seepage waters from basement areas. In this case, pump systems should be inspected and serviced regularly. Hydraulic analyses carried out by suitable qualified hydraulic engineer, confirming suitability of pumps should be submitted to Council.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner which protects adjoining properties.

11 (2DS07)

Detailed plans and specifications of the design of the rainwater tanks must be provided prior to the issue of the Construction Certificate complying with the requirements:-

- Australian/New Zealand Standard AS/NZS 3500:2003,
- NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).
- Council's rainwater tank policy.

Reason: To protect public health and amenity.

12 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, and in accordance with the current policy of Council and Specifications for the construction of vehicle crossings; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's Specification for Civil Infrastructure Works, Developments & Subdivisions 2003 and Australian Standard AS 1428.1:2001 - Design for access and mobility.

Reason: To facilitate suitable vehicular access to private sites.

13 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

14 (2HT03)

The recycling of significant elements such as verandah thresholds, wall vents, ceiling roses and timber joinery etc. is required. The recycling is to occur, preferably on site and/or to suitable professional recycling yards specializing in the recycling of historic building materials. Demolition and storage of these materials is to be carefully carried out by the workers and a specific stockpile area is to be designated and protected. An experienced heritage practitioner is to submit details of the above requirements to Council prior to issue of the Construction Certificate.

Reason: To allow for preservation of cultural resources within the Manly Council area.

15 (2HT04)

A schedule of external colours is to be submitted to Council's satisfaction prior to the release of the Construction Certificate. The external colour schemes of new buildings are to be in keeping with the original character of the heritage buildings on the site. On the heritage buildings the external colour scheme for surfaces intended for painting is to be based where possible on physical and documentary evidence in keeping with the architectural style and period of the buildings.

Reason: To ensure the proposed colour scheme is appropriate to the type and style of the building and the surrounding area.

16 (2HT07)

A photographic archival record is to be made of all the existing buildings and structures (including the interiors and exteriors and their setting) in accordance with NSW Heritage Council Guidelines prior to commencement of works or any demolition works. The record is to include measured drawings of the existing buildings. Two copies are to be submitted to Council's satisfaction prior to the release of the Construction Certificate. Written confirmation that the Council reserves the right to use the photographs for its own purposes and genuine research purposes is also to be included.

Reason: To provide a historic record of heritage significant works on the site for archival purposes.

17 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

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

18 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

19 (2PT02)

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

20 (2PT03)

The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Reason: To ensure compliance with this consent and Australian Standards relating to manoeuvring, access and parking of vehicles.

21 (2WM03)

Garbage rooms or grease arrester rooms must be constructed of solid material: cement rendered and steel trowelled to a smooth even surface. The door to the garbage room is to be designed and constructed to ensure the room is vermin proof and can be opened from the inside at all times. The garbage room is to be ventilated to the external air by natural ventilation or an approved air handling exhaust system.

Reason: To keep garbage rooms in a clean and sanitary condition to protect public health.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

22 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with Australian Standard AS 3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

23 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

24 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

25 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

26 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

27 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

28 (3LD02)

All trees on the site clear of the building are to be retained, and those trees within 7.5m of the building are to be provided with a tree guard and a notice on each guard reading: 'This tree is the subject of a Tree Preservation Order by Manly Council'. This notice is to be in position prior to any work being commenced on the site. This does not include trees which have Council approval to be removed.

Reason: To ensure trees clear of the building are retained and those within 7.5m of the building are protected.

29 (3LD03)

Where trees greater than 5 metres in height which are not within the proposed footprint (i.e. not directly affected by the development) and are proposed for removal, a tree permit is required subject to the Tree Preservation Order 2001 criteria.

Reason: Retain the number of existing trees on site which are protected by the Tree Preservation Order and not directly in the way of development.

30 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

31 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

32 (3PT03)

Applications for a construction zone on a State Road require 28 days notice to Council and RTA State Network Services indicating the location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council, the Traffic Committee and the RTA have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

33 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

34 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

35 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

36 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

37 (4CD06)

All construction works must be strictly in accordance with the Reduced Levels (RLs) as shown on the approved drawings. A copy of approved drawings should be kept at site. Certification from a registered surveyor is to be submitted to the Principal Certifying Authority during construction to confirm floor and finished ridge levels.

Reason: To ensure compliance with the consent.

38 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Work Health and Safety Act 2011.
- The Work Health and Safety Regulation 2011.
- How to Safety Remove Asbestos Code of Practice – WorkCover 2011.

Reason: To ensure the health of site workers and the public.

39 (4DS02)

Any de-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- 1) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA accredited laboratory or Manly Council for compliance with ANZECC Water Quality Guidelines, and
- 2) If tested by NATA accredited laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities; and
- 3) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received, and
- 4) It is the responsibility of the applicant to ensure during de-watering activities, the capacity of the stormwater system is not exceeded, there are no issues associated with erosion or scouring due to the volume of water pumped; and turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.

Reason: To ensure compliance with legislation and to protect the surrounding natural environment.

40 (4DS03)

Rainwater tanks must be installed on residential properties by a suitably qualified and licensed plumber and in accordance with the following:

- Australian/New Zealand Standard AS/NZS 3500:2003,
- NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).
- Council's rainwater tank policy

Reason: To protect public health and amenity.

41 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

42 (4FR01)

The building is to be erected in Type A construction for a Class 2 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.

Reason: To specify the standard of construction and the level of fire safety required by the Building Code of Australia.

43 (4HT04)

Should any potentially historic relics be discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the NSW Office of Environment and Heritage of NSW should be contacted for advice.

Should any potentially significant Aboriginal material be discovered on the site, all excavation or disturbance of the area is to stop immediately and the NSW Office of environment and Heritage is to be contacted for advice.

Reason: To ensure the proper management and preservation of potentially significant archaeological material.

44 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 3LD01.

45 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

46 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

47 (4LD05)

Trees and shrubs liable to damage (including, but not limited to street trees) are to be protected with suitable temporary enclosures for the duration of the works. These enclosures are to only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground and spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

Reason: To ensure protection of the trees on the site which could be damaged during any development works and to outline the type of protection.

48 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

49 (4LD07)

Where development/construction necessitates the pruning of more than 10% of existing tree canopy, a permit application must be lodged with the Council's Civic Services Division, subject to the Tree Preservation Order 2001.

Reason: To ensure those trees are maintained appropriately and compliance with Australian Standard AS 4373:2007 – Pruning of Amenity Trees.

50 (4MS02)

In order to ensure compliance with approved drawings, a Survey Certificate, to Australian Height Datum, must be prepared by a registered surveyor as follows:

- a) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries, and
- b) at the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials, and
- c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

Progress certifications in response to points (a) through (c) must be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved drawings and the proposed works.

Reason: To ensure compliance with the development consent.

51 (4MS04)

The Sediment and Erosion Control Plan is to be implemented from the commencement of works and maintained until completion of the development.

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

52 (4MS05)

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan:

Reason: To ensure management of potential acid sulfate soils.

53 (4PT01)

All requirements of the Local or Regional Traffic Advisory Committees are to be complied with.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner which respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community.

54 (4PT02)

All construction vehicles associated with the development must to obtain a permit from Council on a daily basis, for access onto The Corso and Sydney Road Plazas.

Reason: To manage and minimise disruption to the area.

55 (4WM02)

Removal of trackable wastes from the site must comply with the Protection of the Environment Operations (Waste) Regulation 2005 for the transportation, treatment and disposal of waste materials. Waste materials must not be disposed on land without permission of the land owner and compliance with the provisions of the Protection of the Environment and Operations Act 1997.

Reason: To ensure compliance with legislation.

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

56 (5DS02)

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) drawing showing Works as Executed (WAE) details must be submitted to Council for approval prior to the issue of the Occupation Certificate. The WAE drawing is to be in accordance with Council's standards and Specification for Stormwater Drainage 2003 and Specification for On-site Stormwater Management 2003.

Reason: Compliance with the consent and Council standards and specifications.

57 (5DS03)

A restriction on the use of land and a positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.

The detailed information for a restriction on the use of land and a positive covenant is shown in Council's Specification for On-site Storm Water Management 2003.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

58 (5FP01)

All surplus vehicular crossings and/or kerb laybacks must be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

Reason: To provide on-street parking, suitable vehicular access to private sites, and infrastructure protection.

59 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

60 (5LD02)

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.

61 (5MS01)

At the completion of the installation of the mechanical exhaust ventilation system, a certificate from a practising mechanical engineer shall be submitted to Council or the Principal Certifying Authority prior to the issue of the Occupation Certificate indicating compliance with Australian Standard AS 1668.

Reason: To ensure the mechanical exhaust ventilation system complies with Australian Standard AS1668.

62 (5US01)

Any adjustment to a public utility service is to be carried out in compliance with its standards; where consent is required, with its concurrence; and with the full cost being borne by the applicant. Full documents of adjustments to any public utility service should be submitted to Council.

Reason: To ensure compliance with the terms of this consent.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

63 (6AP04)

All towers, ventilation/ducting, exhaust fan structures, chillers and condensers for air-conditioning and any other structures on the roof are to be the subject of a separate Development Application.

Reason: To maintain the amenity of the surrounds.

64 (6AQ01)

The use of the premises must not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997 and must be controlled in accordance with the requirements of this Act.

Reason: To ensure compliance with legislation and to protect public health and amenity.

65 (6DS01)

The ongoing use and operation of the rainwater tank(s) must be maintained in accordance with:

- Sydney Water Guidelines for Rainwater Tanks on Residential Properties, 2003.
- Australian Government EnHealth Council publication Guidance on the use of Rainwater Tanks, 2004.

Reason: To protect public health and amenity.

66 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

67 (6LP01)

No existing street trees can be removed without Council approval. Where such approval is granted, the trees must be replaced at full cost by the applicant with an advanced tree of a species nominated by Council's relevant officer.

Reason: To encourage the retention of street trees.

68 (6LP02)

No tree other than on land identified for the construction of buildings and works as shown on the building drawing can be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.

Reason: To prevent the destruction of trees on other properties adjoining the development site.

69 (6LP03)

Landscaping is to be maintained in accordance with the approved Landscaping Drawing.

Reason: This is to ensure that landscaping is maintained appropriately.

70 (6LP04)

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

71 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

72 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

73 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

74(6WM01)

Activities must not detrimentally affect impact existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.

Reason: To protect existing and future amenity of the adjoining occupations from excessive waste emissions.

75 (6WM02)

Deliveries and waste collection must only occur during the following hours:

- Weekdays – 7:00am – 8:00pm
- Weekends and Public Holidays – 8:00am – 8:00pm

Reason: To minimise disruption to neighbouring properties.

For the Decision: Stein, Vergotis and Graham

Against the Decision: Grant Jary

MIAP Report No. 43

76 Condamine Street, Balgowlah - DA0255/2013 (MC/14/92287)

Application Lodged: 18 December 2013

Applicant: Ms BA Oliver

Owner: Ms B A Oliver

Estimated Cost: \$702,700.00

Zoning: Manly Local Environmental Plan, 2013 – Residential

Surrounding Development: Predominantly residential

Heritage: Located opposite House No 155 Condamine St- an item of heritage significance – Local

Officer: Ritu Shankar

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING INCLUDING REAR ADDITION TO LOWER GROUND FLOOR LEVEL WITH TERRACE, GROUND FLOOR SIDE AND REAR ADDITION WITH DECKS, NEW UPPER FLOOR LEVEL WITH ELEVATED DOUBLE CARPORT, NEW CROSS OVER AND LANDSCAPING.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND SIX (6) SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE NORTH HARBOUR PRECINCT COMMUNITY FORUM FOR COMMENTS, WHO HAVE OBJECTED TO THE PROPOSAL
4. THE APPLICATION INCLUDES A VARIATION TO THE BUILDING HEIGHT DEVELOPMENT STANDARD OF 2.5%.
5. THE APPLICATION WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT MEETING ON THE 23 JULY WHERE IT WAS RECOMMENDED FOR APPROVAL.
6. SITE INSPECTION IS RECOMMENDED.
7. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL **APPROVAL**.

The following people addressed the meeting in relation to this item:

Against the Recommendation: Simon Vaughan and Daniel West

For the Recommendation: Greg Boston

44/14 Decision of the Panel:

That the application to vary the development standard for Building Height pursuant to clause 4.6 of the Manly Local Environmental Plan 2013 is well founded.

That Development Application No. DA255/2013 for Alterations and additions to an existing dwelling including rear addition to lower ground floor level with terrace, ground floor side and rear addition with decks, new upper floor level with elevated double carport, new cross over and landscaping at 76 Condamine Street, Balgowlah be **Approved** subject to the following conditions:-

DA1

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation

Plans affixed with Council's stamp relating to Development Consent No. DA255/2013

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
Drawing No A02 to A11 (both inclusive)	Issue G dated 16.04.14	22/4/2014
LP 01- Landscape Plan	Rev E dated 28/11/13	16/12/2013

Documentation affixed with Council's stamp relating to Development Consent No. DA 255/2013

- Statement of Environmental Effects dated 15 April 2014 prepared by Boston Blyth Fleming Pty Ltd and received by the Council on 22/4/2014.
- BASIX Certificate No A 176070_02 dated 9 April 2014 and received by the Council on 22/4/2014.
- Arboricultural Impact Report prepared by Landscape Matrix Pty Ltd dated 10 December 2013 and received by the Council on 16/4/2014 and Letter in support of Amended proposal prepared by Landscape Matrix Pty Ltd dated 11 April 2014 and received by the Council on 22/4/2014.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

ANS 01

A 'Consent to use a portion of the Road Reserve' application will be required for the proposed suspended driveway and cross over and any associated structures on Council's Road Reserve. In this regard please contact Council's Administration Section on 9976 1517 to discuss the requirements of this application further.

Please note that the Consent application to use the Road Reserve must be approved prior to the issue of the Construction Certificate.

Reason for the condition: Approved private use of Council property must be formalised by means of an agreement.

ANS 02

The proposed carport is to be setback from the front western side and provide a length of no more than 6m and width of 6m.

Full details demonstrating compliance with this condition shall be detailed upon the plans to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure consistent streetscape and amenity for the adjoining property towards the northern side.

ANS 03

The proposed south facing verandah and associated roof located off the living room and entry area on the ground floor is to be setback a minimum of 2.4m from the southern side boundary.

Full details demonstrating compliance with this condition shall be detailed upon the plans to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure amenity of the adjoining property towards the northern side.

ANS 04

No ground level changes to occur within the identified Tree Protection Zones (TPZ) as identified in the submitted Arboricultural Impact Assessment authored by Guy Paroissien Landscape Matrix Pty Ltd dated 10 December 2013 for T1 & T2 (Angophora costata).

Reason: To ensure stability and health of trees being retained.

ANS 05

Any excavation for the required piers of the suspended driveway and carport shall be hand dug under supervision of an Australian Qualifications Framework (AQF) Level 5 Arboriculturist.

Reason: To ensure stability and health of trees being retained.

ANS 06

Certification shall be provided to PCA/Council by Project Arboriculturist of all excavation of piers within the TPZ of trees identified as T1 and T2.

Reason: To ensure stability and health of trees being retained.

ANS 07

Tree protection measures shall be as indicated within Arboricultural Impact Assessment a authored by Guy Paroissien Landscape Matrix Pty Ltd dated 10 December 2013, Part 5. A1-4 & B 5-8 in relation to T1 & T2.

Reason: To ensure stability and health of trees being retained.

ANS 08

Tree pruning will be required to accommodate works – all pruning for tree number T1 & T2 (as identified within submitted Arboricultural Impact Assessment Landscape Matrix Pty Ltd, 10 December 2013) is subject to a Tree Pruning Permit Application to Manly Council prior to any site works commencing. Pruning of T2 requires (in addition to a permit application to Council) to be carried out by Council Tree Contractor of choice at full cost to applicant.

Reason: T2 is a Council owned tree, correct pruning techniques will ensure continues stability and health of trees being retained.

ANS 09

All works shall be carried out as per AS4970-2009 – Australian Standard Protection of trees on development sites.

Reason: To ensure industry standards are met in relation to tree work.

ANS10

The Upper Floor northern elevation, relating only to the two (2) sections of the wall that correspond to the main bedroom robe, shall be setback an additional 500mm from the northern site boundary (ie setbacks of 3545mm and 4345mm), and the eaves reduced accordingly. Plans to be amended prior to the issue of Construction Certificate.

Reason: To improve view sharing between properties.

GENERAL CONDITIONS RELATING TO APPROVAL**1 (1AP04)**

Alteration and demolition of the existing building is limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is not shown to be altered or demolished.

Reason: To ensure compliance with the approved development.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**2 (2AP01)**

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

3 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining

owners.

4 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a Final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

5 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

6 (2CD07)

A Certificate of Adequacy signed by a practising structural engineer stating the existing structure is capable of supporting the proposed additions, is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: The existing building must be able to support proposed additional loading.

7 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council for approval prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

8 (2DS02)

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) is to be provided within the property in accordance with Council's Specification for On-site Stormwater Management 2003. The design and details must be submitted to Council and be approved by Council prior to the issue of the Construction Certificate. The stormwater management plan and designs must be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

9 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, and in accordance with the current policy of Council and Specifications for the construction of vehicle crossings; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's Specification for Civil Infrastructure Works, Developments & Subdivisions 2003 and Australian Standard AS 1428.1:2001 - Design for access and mobility.

Reason: To facilitate suitable vehicular access to private sites.

10 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

11 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

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

12 (2MS03)

An amended BASIX Certificate is required to reflect all the approved works. All commitments embodied within the BASIX Certificate must be incorporated in drawings submitted with the Construction Certificate.

Reason: To ensure the development complies with the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

13 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

14 (2PT02)

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

15 (2PT03)

The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Reason: To ensure compliance with this consent and Australian Standards relating to manoeuvring, access and parking of vehicles.

16 (2PT04)

The carport is not to be enclosed on any elevation (including enclosure by the installation of garage door/s or gates) without separate development consent.

Reason: To maintain the open nature of the streetscape and ensure compliance with this consent.

17 (2TC01)

Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements must be submitted to the Council / Accredited Certifier prior to issue of the Construction Certificate. Attention is drawn to the provisions of Australian Standard AS 3660.1 - 2000 Termite management – New building work, and to the Manly Code for the Protection of Buildings Against Termite Attack 1996.

Reason: To protect the building from possible termite damage.

18 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

19 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with Australian Standard AS 3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

20 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

21 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

22 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

23 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

24 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

26 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.

- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

27 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

28 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

29 (4CD06)

All construction works must be strictly in accordance with the Reduced Levels (RLs) as shown on the approved drawings. A copy of approved drawings should be kept at site. Certification from a registered surveyor is to be submitted to the Principal Certifying Authority during construction to confirm floor and finished ridge levels.

Reason: To ensure compliance with the consent.

30 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Work Health and Safety Act 2011.
- The Work Health and Safety Regulation 2011.
- How to Safety Remove Asbestos Code of Practice – WorkCover 2011.

Reason: To ensure the health of site workers and the public.

31 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

32 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 3LD01.

33 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

34 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

35 (4LD05)

Trees and shrubs liable to damage (including, but not limited to street trees) are to be protected with suitable temporary enclosures for the duration of the works. These enclosures are to only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground and spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

Reason: To ensure protection of the trees on the site which could be damaged during any development works and to outline the type of protection.

36 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

37 (4LD07)

Where development/construction necessitates the pruning of more than 10% of existing tree canopy, a permit application must be lodged with the Council's Civic Services Division, subject to the Tree Preservation Order 2001.

Reason: To ensure those trees are maintained appropriately and compliance with Australian Standard AS 4373:2007 – Pruning of Amenity Trees.

38 (4MS04)

The Sediment and Erosion Control Plan is to be implemented from the commencement of works and maintained until completion of the development.

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

39 (4PT01)

All requirements of the Local or Regional Traffic Advisory Committees are to be complied with.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner which respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community.

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

40 (5CD02)

Where any habitable room is located below ground level, internal walls are to be suitably treated so as to prevent ingress of moisture.

Reason: To provide a safe and healthy environment and to comply with the Building Code of Australia.

41 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

42 (5DS02)

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) drawing showing Works as Executed (WAE) details must be submitted to Council for approval prior to the issue of the Occupation Certificate. The WAE drawing is to be in accordance with Council's standards and Specification for Stormwater Drainage 2003 and Specification for On-site Stormwater Management 2003.

Reason: Compliance with the consent and Council standards and specifications.

43 (5DS03)

A restriction on the use of land and a positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit. The detailed information for a restriction on the use of land and a positive covenant is shown in Council's Specification for On-site Storm Water Management 2003.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

44 (5FP01)

All surplus vehicular crossings and/or kerb laybacks must be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

Reason: To provide on-street parking, suitable vehicular access to private sites, and infrastructure protection.

45 (5FR01)

An automatic fire detection and alarm system must be installed in the proposed dwelling in accordance with the requirements of the Building Code of Australia.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

46 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

47 (5LD02)

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.

48 (5TC01)

Prior to issue of the Occupation Certificate, a durable termite protection notice must be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with the Manly Code for the protection of Buildings against Termite Attack.

Reason: To inform owners and future owners of the type of termite protection installed and of the need for regular inspections.

49 (5US01)

Any adjustment to a public utility service is to be carried out in compliance with its standards; where consent is required, with its concurrence; and with the full cost being borne by the applicant. Full documents of adjustments to any public utility service should be submitted to Council.

Reason: To ensure compliance with the terms of this consent.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

50 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

51 (6LP01)

No existing street trees can be removed without Council approval. Where such approval is granted, the trees must be replaced at full cost by the applicant with an advanced tree of a species nominated by Council's relevant officer.

Reason: To encourage the retention of street trees.

52 (6LP02)

No tree other than on land identified for the construction of buildings and works as shown on the building drawing can be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.

Reason: To prevent the destruction of trees on other properties adjoining the development site.

53 (6LP03)

Landscaping is to be maintained in accordance with the approved Landscaping Drawing.

Reason: This is to ensure that landscaping is maintained appropriately.

54 (6LP04)

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

55 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

56 (6AP01)

- 1) Nothing in this consent authorises the use of the premises other than for a single occupancy.
- 2) No kitchen facilities are to be installed in the Lower Ground Floor, including the installation of any appliance, fixtures or fittings so as to alter the nature or concept of a single occupancy.

Reason: To ensure the premises is occupied in compliance with the consent.

57 (6AP02)

The premises are to be used or occupied solely as a dwelling house and not at any time for separate occupation as flats, without the prior consent of Council.

Reason: To ensure the premises is occupied in compliance with the consent.

For the Decision: Stein, Vergotis, Graham and Grant Jary

Against the Decision: Nil

MIAP Report No. 44

6 Acacia Road, Seaforth - DA0049/2014 (MC/14/95159)

Application Lodged: 27 March 2014
Applicant: Mayez and Sonya Chahine
Owner: Mayez and Sonya Chahine
Estimated Cost: \$565,000.00
Zoning: Manly Local Environmental Plan, 2013 – R2 Low Density Residential
Surrounding Development: Residential development
Heritage: Not applicable
NSW LEC: Not applicable.
Officer: Philippa Frecklington

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR ALTERATIONS AND ADDITIONS TO THE EXISTING TWO (2) DETACHED DWELLINGS WITH A FIRST FLOOR ADDITION TO THE PRIMARY DWELLING WITH CARPORT AND VESTIBULE AND EXTENSIONS TO THE SECONDARY DWELLING AND SEMI DETACHED TERRACE WITH STORAGE ROOMS UNDERNEATH.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS WITH FOUR SUBMISSIONS RECEIVED INCLUDING THREE (3) CONFIDENTIAL SUBMISSIONS.
3. THE APPLICATION WAS NOT REFERRED TO THE SEAFORTH PRECINCT COMMUNITY FORUM AS THE PRECINCT IS CURRENTLY NOT OPERATIONAL.
4. PURSUANT TO CLAUSE 4.6 OF THE MLEP 2013 (AS AMENDED) A VARIATION OF 9.97% (36.03M²) IS SOUGHT TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD UNDER CLAUSE 4.4(2) OF THE MLEP 2013 (AS AMENDED). THE VARIATION IS NOT CONSIDERED TO BE WELL FOUNDED IN THIS INSTANCE. ACCORDINGLY, IT IS RECOMMENDED THE UNDER TERRACE STORAGE AREA BE DELETED, THEREBY MAKING THE PROPOSED FLOOR SPACE RATIO COMPLIANT.
5. A SITE INSPECTION WAS CARRIED OUT ON 8 JULY 2014. PHOTOGRAPHS ARE ON FILE.
6. ON 21 OCTOBER 2011 COUNCIL APPROVED COMPLYING DEVELOPMENT APPLICATION NUMBER 68/11 FOR NEW FRONT MASONRY FENCING.
7. ON 16 OCTOBER 2013 COUNCIL APPROVED BUILDING CERTIFICATE NUMBER 6/2013 FOR INCREASE IN HEIGHT TO FRONT FENCE PIERS, PAVING, FOUNDATIONS AND STEPS.
8. THE APPLICATION WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT MEETING ON THE 8 AUGUST 2014 WHERE IT WAS RECOMMENDED FOR APPROVAL.
9. SITE INSPECTION IS RECOMMENDED.
10. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL **APPROVAL**.

The following people addressed the meeting in relation to this item:

Against the Recommendation: Wayne Collins and John Mitchell

For the Recommendation: Nil

45/14 Decision of the Panel:

That Development Application No. 49/14 for alterations and additions to the existing two (2) detached dwellings with a first floor addition to the primary dwelling with carport and vestibule and extensions to the secondary dwelling and semi-detached terrace with storage rooms underneath at 6 Acacia Road, Seaforth be **Approved** subject to the following conditions:

ANS01

The principal dwelling on the site is to be used for the purpose of a single dwelling house.

Reason: To ensure compliance with this consent.

ANS02

Any home industry on the site is to be in accordance with the definition of *home industry* under the Manly Local Environmental Plan 2013 (Amendment 2) and shall not involve interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash dust, waste water, waste products, grit or oil, traffic generation or otherwise.

Reason: To maintain amenity to the adjoining properties.

ANS03

All new work shall comply with the requirements of Section 3 of Australian Standard AS3959-2009 Construction of Buildings in Bushfire Prone Areas.

Reason: In accordance with the recommendations contained within the Bushfire Risk Assessment Report prepared by Bushfire Planning Services Pty Ltd dated 5 October 2012 and received by Council on 27 March 2014.

ANS04

All new works shall comply with the requirements of BAL-12.5 Australian Standard AS3959-2009 "Construction of buildings in bushfire prone areas" and Section A3.7 Addendum Appendix 3 of Planning for Bushfire Protection 2006.

Reason: In accordance with the recommendations contained within the Bushfire Risk Assessment Report prepared by Bushfire Planning Services Pty Ltd dated 5 October 2012 and received by Council on 27 March 2014.

ANS05

Any new roofing valleys and guttering should be fitted with a non combustible leaf protection to stop the accumulation of debris.

Reason: In accordance with the recommendations contained within the Bushfire Risk Assessment Report prepared by Bushfire Planning Services Pty Ltd dated 5 October 2012 and received by Council on 27 March 2014.

ANS06

Any new electricity and gas connections are to comply with the requirements of Section 4.1.3 of Planning for Bushfire Protection 2006.

Reason: In accordance with the recommendations contained within the Bushfire Risk Assessment Report prepared by Bushfire Planning Services Pty Ltd dated 5 October 2012 and received by Council on 27 March 2014.

ANS07

At the commencement of building work and in perpetuity the entire property shall be managed in a manner that does not create a bushfire hazard to the property.

Reason: In accordance with the recommendations contained within the Bushfire Risk Assessment Report prepared by Bushfire Planning Services Pty Ltd dated 5 October 2012 and received by Council on 27 March 2014.

ANS08

Any new landscaping to the site is to comply with the principles of Appendix 5 of "Planning for Bushfire Protection 2006.

Reason: In accordance with the recommendations contained within the Bushfire Risk Assessment Report prepared by Bushfire Planning Services Pty Ltd dated 5 October 2012 and received by Council on 27 March 2014.

ANS09

The ground floor portico to the east of the secondary dwelling is not to be walled in or enclosed. The door identified as DR4 and adjoining walls are to be deleted. Plans are to be amended accordingly, prior to the issue of the Construction Certificate.

Reason: To ensure the portico is not enclosed.

ANS10

The southern fence to the ground floor portico is to be setback in line with the southern wall to the secondary dwelling. Plans are to be amended accordingly, prior to the issue of the Construction Certificate.

Reason: To maintain amenity to the adjoining property.

ANS11

The proposed open terrace and store proposed in the secondary dwelling is to be deleted. The existing mature trees and landscaping in the area of the open terrace are to be retained. Plans are to be amended accordingly, prior to the issue of the Construction Certificate.

Reason: To comply with the maximum allowable floor space ratio on the site, to maintain consistency with the identified streetscape, and to circumvent potential use of the storage area as a third dwelling on the site.

ANS12

The lower ground level of the secondary dwelling comprising the original residence workshop and bathroom is not to be used for habitable purposes and is not to be accessed internally from ground level above.

Reason: To ensure the proposal complies with the maximum allowable floor area for a secondary dwelling.

ANS13

All works shall comply with Australian Standard AS4970-2009 Protection of Trees on Development Sites.

Reason: To ensure the protection of trees to be retained on the site.

ANS14

A consulting Arboriculturist (minimum AQF Level 5) is to be engaged to provide specifications for method of/suitability of works within five (5) metres of any onsite trees (5m or more in height) or neighbouring trees (regardless of height) prior to the issue of the Construction Certificate. Periodic reports of the compliance of said specifications at key phases of development are to be sent to the Council/Accredited Certified.

Reason: In accordance with Council's Landscape Officer's recommendation.

ANS15

The proposed planting of one (1) *Angophora Costata* as per the submitted Landscape Plans prepared by Living Colour Landscapes being Drawing No's 02/2014 Sheets 1 to 2 inclusive Issue F dated 13 March 2014 and received by Council on 27 March 2014, is to be relocated to the Acacia Road eastern boundary. Plans are to be amended accordingly, prior to the issue of the Construction Certificate.

Reason: To ensure adequate space growth to maturity.

ANS16

The site is to contain a minimum number of three (3) native trees on the site. The minimum requirement may include either existing established native trees or new native trees planted at a pot/container size of at least 25 litres capacity and being a species selected in accordance with Schedule 4 Part B – Native Tree Selection of the Manly Development Control Plan 2013 (Amendment 2).

Reason: To ensure compliance with the minimum number of native trees required for the site.

ANS17

The south-facing first floor windows to the WC, Bathroom and Bed 5 Ensuite being windows W7, W8 and W9 respectively are to be translucent or opaque and compliance demonstrated to the Principal Certifying Authority.

Reason: To maintain privacy to the adjoining property to the south in the event of future redevelopment of the adjoining site.

ANS18

The proposed low lying retaining wall to the north of driveway off Acacia Road and new entry steps adjacent the sites north-east corner are located on Council's Road Reserve. These works are not approved as part of this consent and are to be discussed separately with Council's Compliance and Administration Sections. Plans are to be amended accordingly, prior to the issue of the Construction Certificate.

Reason: No part of the proposed works is to encroach upon any road reserve or other public land

ANS19

The maximum ridge height of the proposed development shall be lowered to RL105.275

Reason: To provide for reasonable view sharing between neighbours.

DA1

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation

Plans affixed with Council's stamp relating to Development Consent No. 49/2014

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA 03 C / Proposed Site Plan and General Notes	Revision C / 30 December 2013	27 March 2014
DA 04 C / Proposed Ground Floor Plans	Revision C / 30 December 2013	27 March 2014
DA 05 C / Proposed First Floor Plan	Revision C / 30 December 2013	27 March 2014
DA 06 C / Roof Plan	Revision C / 30 December 2013	27 March 2014
DA 07 C / Proposed Eastern and Northern Elevations	Revision C / 30 December 2013	27 March 2014
DA 08 C / Proposed Western and Southern Elevations	Revision C / 30 December 2013	27 March 2014
DA 10 C / Lower Ground Floor Plan and Elevations	Revision C / 30 December 2013	27 March 2014
DA 11 C / Proposed Sections	Revision C / 30 December 2013	27 March 2014

Documentation affixed with Council's stamp relating to Development Consent No. 49/2014:

- Statement of Environmental Effects prepared by Landscapes Living Colour Design Group dated March 2014 and received by Council on 27 March 2014.
- Application Form to Vary a Development Standard – Floor Space Ratio, undated and received by Council on 27 March 2014.

- Bushfire Risk Assessment Report prepared by Bushfire Planning Services Pty Ltd dated 5 October 2012 and received by Council on 27 March 2014.
- BASIX Certificate No. A186909 dated 28 April 2014 and received by Council on 28 April 2014.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

GENERAL CONDITIONS RELATING TO APPROVAL

1 (1AP04)

Alteration and demolition of the existing building is limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is not shown to be altered or demolished.

Reason: To ensure compliance with the approved development.

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

2 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

3 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a Final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

4 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

5 (2CD07)

A Certificate of Adequacy signed by a practising structural engineer stating the existing structure is capable of supporting the proposed additions, is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: The existing building must be able to support proposed additional loading.

6 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council for approval prior to issue of the Construction Certificate. The Stormwater Management Plan is to be prepared and certified by a Chartered Professional Engineer with NPER Number, name and date of signature included. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

7 (2DS02)

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) is to be provided within the property in accordance with Council's Specification for On-site Stormwater Management 2003. The design and details must be submitted to Council and be approved by Council prior to the issue of the Construction Certificate. The stormwater management plan and designs must be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

8 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

9 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

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

10 (2MS03)

An amended BASIX Certificate is required to reflect all the approved works. All commitments embodied within the BASIX Certificate must be incorporated in drawings submitted with the Construction Certificate.

Reason: To ensure the development complies with the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

11 (2US01)

A Section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development of alterations and additions to an existing dwelling and alterations and additions to and change of use of an existing detached structure to a secondary dwelling is \$20,000.00, being \$20,000.00 per additional dwelling. This contribution shall be paid to Council prior to the release of the Construction Certificate.

Note: The Section 94 Contribution fees are indexed annually in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

12 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

13 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with Australian Standard AS 3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

14 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

15 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

16 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

17 (3LD02)

All trees on the site clear of the building are to be retained, and those trees within 7.5m of the building are to be provided with a tree guard and a notice on each guard reading: 'This tree is the subject of a Tree Preservation Order by Manly Council'. This notice is to be in position prior to any work being commenced on the site. This does not include trees which have Council approval to be removed.

Reason: To ensure trees clear of the building are retained and those within 7.5m of the building are protected.

18 (3LD03)

Where trees greater than 5 metres in height which are not within the proposed footprint (i.e. not directly affected by the development) and are proposed for removal, a tree permit is required subject to the Tree Preservation Order 2001 criteria.

Reason: Retain the number of existing trees on site which are protected by the Tree Preservation Order and not directly in the way of development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

19 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

20 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.

- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

21 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

22 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

23 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Work Health and Safety Act 2011.
- The Work Health and Safety Regulation 2011.
- How to Safety Remove Asbestos Code of Practice – WorkCover 2011.

Reason: To ensure the health of site workers and the public.

24 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 3LD01.

25 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

26 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

27 (4LD05)

Trees and shrubs liable to damage (including, but not limited to street trees) are to be protected with suitable temporary enclosures for the duration of the works. These enclosures are to only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground and spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

Reason: To ensure protection of the trees on the site which could be damaged during any development works and to outline the type of protection.

28 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

29 (4LD07)

Where development/construction necessitates the pruning of more than 10% of existing tree canopy, a permit application must be lodged with the Council's Civic Services Division, subject to the Tree Preservation Order 2001.

Reason: To ensure those trees are maintained appropriately and compliance with Australian Standard AS 4373:2007 – Pruning of Amenity Trees.

30 (4LD08)

Retain and protect trees and planting on council's Road Reserve during construction.

Reason: To maintain the number of street trees and preserve the amenity of the local area.

31 (4MS04)

The Sediment and Erosion Control Plan is to be implemented from the commencement of works and maintained until completion of the development.

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

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

32 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

33 (5DS02)

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) drawing showing Works as Executed (WAE) details must be submitted to Council for approval prior to the issue of the Occupation Certificate. The WAE drawing is to be in accordance with Council's standards and Specification for Stormwater Drainage 2003 and Specification for On-site Stormwater Management 2003.

Reason: Compliance with the consent and Council standards and specifications.

34 (5DS03)

A restriction on the use of land and a positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit. The detailed information for a restriction on the use of land and a positive covenant is shown in Council's Specification for On-site Storm Water Management 2003.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

35 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

36 (5LD02)

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

37 (6LP01)

No existing street trees can be removed without Council approval. Where such approval is granted, the trees must be replaced at full cost by the applicant with an advanced tree of a species nominated by Council's relevant officer.

Reason: To encourage the retention of street trees.

38 (6LP04)

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

For the Decision: Stein, Vergotis, Graham and Grant Jary

Against the Decision: Nil

MIAP Report No. 45

9 Monash Crescent, Clontarf - DA0069/2014 (MC/14/94982)

Application Lodged: 23.04.14
Applicant: DJSP Consulting Pty Ltd
Owner: L & J Huang
Estimated Cost: \$383,905.74
Zoning: Manly Local Environmental Plan, 2013 – Zone E3
 Environmental Management
Surrounding Development: Two storey residential dwellings in landscaped settings adjoining foreshore
Heritage: In the vicinity of the Heritage listed Harbour Foreshore
NSW LEC: N/A
Officer: Nancy Sample

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR ALTERATIONS AND ADDITIONS TO EXISTING DWELLING INCLUDING FIRST FLOOR EXTENSION, REAR EXTENSION, NEW ROOF AND DECKS.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND THERE WERE FOUR (4) SUBMISSIONS RECEIVED.
3. THE APPLICATION INCLUDES A VARIATION TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD OF 4.6%.
4. THE APPLICATION WAS REFERRED TO THE CLONTARF PRECINCT COMMUNITY FORUM FOR COMMENTS AND NONE HAVE BEEN RECEIVED TO DATE.
5. THE APPLICATION WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT MEETING ON THE 6 AUGUST 2014 WHERE IT WAS RECOMMENDED FOR APPROVAL.
6. SITE INSPECTION IS RECOMMENDED.
7. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL **APPROVAL**.

The following people addressed the meeting in relation to this item:

Against the Recommendation: Hiraani Scott Campbell Clapin

For the Recommendation: David Pisani

46/14 Decision of the Panel:

That the application to vary the development standard for floor space ratio pursuant to clause 4.6 of the Manly Local Environmental Plan 2013 is well founded.

That Development Application No.0069/2014 for alterations and additions to existing dwelling including first floor extension, rear extension, new roof and decks at 9 Monash Crescent, Clontarf be approved subject to the following conditions:-

DA1

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation

Plans affixed with Council's stamp relating to Development Consent No.69/2014:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
Sheet 1 of 11 - Site Plan prepared by DJSP Consulting Pty Ltd	07.04.14	23.04.14
Sheet 3 of 11 – proposed ground floor plan prepared by DJSP Consulting Pty Ltd	07.04.14	23.04.14
Sheet 4 of 11 – proposed first floor plan prepared by DJSP Consulting Pty Ltd	07.04.14	23.04.14
Sheet 5 of 11 –NE, SW & SE elevations prepared by DJSP Consulting Pty Ltd	07.04.14	23.04.14
Sheet 6 of 11 – NW elevation and section A-A prepared by DJSP Consulting Pty Ltd	07.04.14	23.04.14
Sheet 7 of 11 – Roof plan prepared by DJSP Consulting Pty Ltd	07.04.14	23.04.14
Sheet 8 of 11 – Window schedule & BASIX prepared by DJSP Consulting Pty Ltd	07.04.14	23.04.14

Documentation affixed with Council's stamp relating to Development Consent No. 69/2014:

- Statement of Environmental Effects prepared by DJSP Consulting Pty Ltd dated 07.04.14;
- Statement entitled Scenic Harbour Foreshore Protection prepared by DJSP Consulting Pty Ltd dated 10.04.14;
- BASIX Certificate No.A170695 dated 16 April 2014;
- Detail Plan prepared by Acre Surveying dated 18 January 2013.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

NON-STANDARD CONDITIONS**ANS01**

Three (3) trees in compliance with the requirements of MDCP 2013 are to be indicated on a landscape plan prepared by a suitably qualified person (in accordance with requirements of MDCP 2013) prior to the issue of any construction certificate. The location of the trees is not to cause any additional view impacts for neighbouring properties and the height is to be minimised. Where existing trees meet this requirement the new plantings will not be required.

Reason: To meet the requirements of Clause 2.1.3 of MDCP 2013 and enhance the amenity of the property and foreshore

ANS02

The proposed hardwood door and gate for the garage (as indicated on the North-East elevation) are not to encroach on to Council land during operation.

Details of the door and gate are to be provided with the application for Construction Certificate and to be to the satisfaction of Council/Accredited Certifier.

Reason: Details of the garage door and gate not provided and the elevation contradicts the floor plan.

ANS03

Prior to the issue of Construction Certificate a schedule of external finishes shall be submitted to Council for approval.

Reason: To ensure there are no reflective materials.

STANDARD CONDITIONS**GENERAL CONDITIONS RELATING TO APPROVAL**

1 (1AP04)

Alteration and demolition of the existing building is limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is not shown to be altered or demolished.

Reason: To ensure compliance with the approved development.

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

2 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

3 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

4 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a Final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

5 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

6 (2CD07)

A Certificate of Adequacy signed by a practising structural engineer stating the existing structure is capable of supporting the proposed additions, is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: The existing building must be able to support proposed additional loading.

7 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council for approval prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

8 (2MS03)

An amended BASIX Certificate is required to reflect all the approved works. All commitments embodied within the BASIX Certificate must be incorporated in drawings submitted with the Construction Certificate.

Reason: To ensure the development complies with the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

9 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

10 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with Australian Standard AS 3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

11 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

12 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

14 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the

- requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
 - 10) All waste must be contained entirely within the site.
 - 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
 - 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
 - 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
 - 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
 - 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
 - 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
 - 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
 - 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

15 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

16 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

17 (4CD06)

All construction works must be strictly in accordance with the Reduced Levels (RLs) as shown on the approved drawings. A copy of approved drawings should be kept at site. Certification from a registered surveyor is to be submitted to the Principal Certifying Authority during construction to confirm floor and finished ridge levels.

Reason: To ensure compliance with the consent.

18 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Work Health and Safety Act 2011.
- The Work Health and Safety Regulation 2011.
- How to Safely Remove Asbestos Code of Practice – WorkCover 2011.

Reason: To ensure the health of site workers and the public.

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

19 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

20 (5FR01)

An automatic fire detection and alarm system must be installed in the proposed dwelling in accordance with the requirements of the Building Code of Australia.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

21 (5TC01)

Prior to issue of the Occupation Certificate, a durable termite protection notice must be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with the Manly Code for the protection of Buildings against Termite Attack.

Reason: To inform owners and future owners of the type of termite protection installed and of the need for regular inspections.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

22 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be

arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

23 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

24 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

For the Decision: Stein, Vergotis, Graham and Grant Jary

Against the Decision: Nil

MIAP Report No. 46

46 Lewis Street, Balgowlah Heights - DA0013/2014 (MC/14/83259)

<u>Application Lodged:</u>	04 February 2014
<u>Applicant:</u>	Hobbs Jamieson Architecture
<u>Owner:</u>	Stuart Crofton
<u>Property Description:</u>	Lot 3, Section B of DP 21741 known as 46 Lewis Street Balgowlah Heights
<u>Estimated Cost:</u>	\$400,000
<u>Zoning:</u>	Manly LEP 2013, Residential R2
<u>Surrounding Development:</u>	Residential
<u>Heritage:</u>	No Heritage/Conservation Areas in the immediate vicinity
<u>Officer:</u>	Yvette Middleton

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING, REAR ADDITION TO THE LOWER GROUND FLOOR AND SECOND FLOOR, REAR COURTYARDS, REAR DECK, DRIVEWAY AND DOUBLE CARPORT.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND THREE (3) SUBMISSIONS WERE RECEIVED.
3. COMMENTS WERE RECEIVED FROM THE BALGOWLAH HEIGHTS PRECINCT COMMUNITY FORUM WHICH WAS NOT IN FAVOUR OF THE PROPOSAL.

4. THE APPLICATION INCLUDES AN APPLICATION PURSUANT TO CLAUSE 4.6 OF THE MANLY LOCAL ENVIRONMENTAL PLAN 2013 TO VARY THE HEIGHT OF BUILDINGS DEVELOPMENT STANDARD BY 18%, HOWEVER DRAWINGS WERE AMENDED (04 JUNE) TO DELETE THE ADDITIONAL HEIGHT AND THEREFORE NEW WORKS COMPLY.
5. LANDSCAPE PLANS WERE RECEIVED: 18 MARCH 2014
6. AMENDED DRAWINGS WERE RECEIVED ON 4 JUNE 2014.
7. THE APPLICATION WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT MEETING ON THE 25 JUNE 2014 WHERE IT WAS RECOMMENDED FOR APPROVAL.
8. SITE INSPECTION IS RECOMMENDED.
9. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL **APPROVAL**.

The following people addressed the meeting in relation to this item:

Against the Recommendation: Darren Crichton Browne

For the Recommendation: Adam Hobbs

47/14 Decision of the Panel:

That Development Application No. 0013/2014 for Alterations and additions to an existing dwelling, rear addition to the lower ground floor and second floor, rear courtyards, rear deck, driveway and double carport at 46 Lewis Street Balgowlah Heights be conditionally **Approved** subject to the following conditions:-

ANS01

All works must comply with AS4970-2009 'Protection of Trees on Development Sites', for both trees on the site and on Council land.

Reason: To ensure trees are properly protected.

ANS02

The existing driveway and crossover are to be removed and concrete kerbing reinstated, to Council specifications. Amended drawings are to be submitted to Council/Accredited Certifier with the Construction Certificate application.

Reason: To retain on street parking and to permit one vehicular entry only per property.

ANS03

Additional planting is to be provided at the lower ground level between the dwelling and the southern boundary, and the proposed pathway deleted and any existing concrete pavers removed. The planting is to provide suitable screening, outlook and amenity for residents and neighbours.

Amended landscape drawings are to be submitted to Council/Accredited Certifier with the Construction Certificate application.

Reason: To provide amenity between dwellings.

ANS04

The architectural drawings are to include the following:

- **Details of the privacy screen on the southern side's ground floor pathway are to be provided, including minimum 30 per cent transparency, and oriented/placed to maximise privacy between dwellings.**
- **An elevation to show the new vehicular gate and fence extension with minimum 30 per cent transparency, to match the existing fence style and materials.**

The additional drawings are to be submitted to Council/Accredited Certifier with the Construction Certificate application.

Reason: To ensure compliance with Council controls, for resident amenity, and for streetscape.

ANS05

Prior to the issue of Construction Certificate a schedule of external finishes shall be submitted to Council for approval.

Reason: To ensure there are no reflective materials.

DA1

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation.

Plans affixed with Council's stamp relating to Development Application No. 13/2014

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA02 Site Plan	C 04 June 2014	05 June 2014
DA03 Lower Ground Floor Plan	C 04 June 2014	05 June 2014
DA04 Ground Floor Plan	C 04 June 2014	05 June 2014
DA05 Upper Floor Plan	C 04 June 2014	05 June 2014
DA06 North & South Elevations	C 04 June 2014	05 June 2014
DA07 East & West Elevations	C 04 June 2014	05 June 2014
DA08 Section A-A	C 04 June 2014	05 June 2014
DA13 Driveway Plan	B 21 January 2014	04 February 2014
Landscape Plan prepared by Babbington Landscapes	12 March 2014	02 June 2014
North Elevation Landscape prepared by Babbington Landscapes	12 March 2014	18 March 2014

Documentation affixed with Council's stamp relating to Development Application No. 13/2014

- Statement of Environmental Effects prepared by Hobbs Jamieson Architecture undated and received by Council on the 04 February 2014.
- BASIX Certificate No A179698_02 dated 17 January 2014 and received by Council on the 04 February 2014.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

GENERAL CONDITIONS RELATING TO APPROVAL**1 (1AP04)**

Alteration and demolition of the existing building is limited to that documented on the approved plans (by way of annotation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is not shown to be altered or demolished.

Reason: To ensure compliance with the approved development.

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

2 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

3 (2CD01)

Pursuant to Section 97 of the *Local Government Act, 1993*, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$8,660. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a Final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

4 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

5 (2CD07)

A Certificate of Adequacy signed by a practising structural engineer stating the existing structure is capable of supporting the proposed additions, is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: The existing building must be able to support proposed additional loading.

6 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's *Specification for On-site Stormwater Management 2003* and *Specification for Stormwater Drainage 2003* and must be submitted to Council for approval prior to issue of the Construction Certificate. The Stormwater management plan must be prepared and certified by a chartered professional engineer with NPER number, name and date of signature on the drawing.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

7 (2DS03A)

Where internal habitable areas are beneath natural site level, an open spoon drain must be provided at the base of any excavation adjoining such habitable area. The spoon drain is to be a minimum of 150 mm below the floor level of the adjoining habitable room. Adequate cross ventilation is to be provided.

Reason: To ensure healthy and habitable conditions in below ground habitable parts of the

building.

8 (2FC01)

Any proposed fence between the building line and the street alignment is to be no more than 1.5 metres in height with 30% transparency above 1 metre. The fence and/or wall height may be averaged if the fence or wall is regularly stepped on sloping sites.

Reason: To reduce the impact of the fence on the street.

9 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the *Roads Act 1993*, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, of two (2) metres, and in accordance with the current policy of Council and *Specifications for the Construction of Vehicle Crossings*; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with *Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking*. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's *Specification for Civil Infrastructure Works, Developments & Subdivisions 2003* and *Australian Standard AS 1428.1:2001 - Design for access and mobility*.

Reason: To facilitate suitable vehicular access to private sites.

10 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the *Local Government Act 1993*. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

11 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council *Guidelines on Erosion and Sediment Control*, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

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

12 (2MS03)

An amended BASIX Certificate is required to reflect all the approved works. All commitments embodied within the BASIX Certificate must be incorporated in drawings submitted with the Construction Certificate.

Reason: To ensure the development complies with the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

13 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

14 (2PT02)

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

15 (2PT04)

The carport is not to be enclosed on any elevation (including enclosure by the installation of garage door/s or gates) without separate development consent.

Reason: To maintain the open nature of the streetscape and ensure compliance with this consent.

16 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the *Manly Development Control Plan 2013, Amendment 2*.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

The requirement for a Waste Management Plan is included in the Office of Environment and Heritage (OEH) *Waste Service Performance Improvement Payment Criteria* (WSPIP).

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

17 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with *Australian Standard AS 3740*. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

18 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

19 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

20 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

21 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

22 (3LD02)

All trees on the site clear of the building are to be retained, and those trees within 7.5 metres of the building are to be provided with a tree guard and a notice on each guard reading: 'This tree is the subject of a Tree Preservation Order by Manly Council'. This notice is to be in position prior to any work being commenced on the site. This does not include trees which have Council approval to be removed.

Reason: To ensure trees clear of the building are retained and those within 7.5 metres of the building are protected.

23 (3LD03)

Where trees greater than 5 metres in height which are not within the proposed footprint (i.e. not directly affected by the development) and are proposed for removal, a tree permit is required subject to the *Tree Preservation Order 2001* criteria.

Reason: Retain the number of existing trees on site which are protected by the Tree Preservation Order and not directly in the way of development.

24 (3PT01)

In accordance with the *Roads Act 1993*, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

26 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with *Australian Standard AS 2601-2001*.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition / excavation / building / construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the *Protection of the Environment Operations Act 1997*. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) Section 143 of the *Protection of the Environment Operations Act 1997* requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 11) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 12) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 13) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 14) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 15) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 16) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 17) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

27 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7:00 a.m. and 6:00 p.m. Monday to Friday and 7:00 a.m. to 1:00 p.m. Saturday. No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

28 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

29 (4CD06)

All construction works must be strictly in accordance with the Reduced Levels (RLs) as shown on the approved drawings. A copy of approved drawing should be kept at site. Certification from a registered surveyor is to be submitted to the Principal Certifying Authority during construction to confirm floor and finished ridge levels.

Reason: To ensure compliance with the consent.

30 (4CD07)

Anyone who removes or repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from the WorkCover Authority of NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from WorkCover. A permit will not be granted without a current WorkCover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- *Work Health and Safety Act 2011,*
- *Work Health and Safety Regulation 2011*
- *The Protection of the Environment Operations Act, 1997*
- *Manly Council – Asbestos Management Guideline 2011*
- *Model Code of Practice - How to Safely Remove Asbestos* available at:
<http://www.safeworkaustralia.gov.au/AboutSafeWorkAustralia/WhatWeDo/Publications/Pages/Safely-Remove-Asbestos-COP.aspx>
- *Model Code of Practice - How to Manage and Control Asbestos in the Workplace* available at:
<http://www.safeworkaustralia.gov.au/AboutSafeWorkAustralia/WhatWeDo/Publications/Pages/Manage-Control-Asbestos-COP.aspx>, and
- *The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.*

Note: The Model Codes of Practice referred to above are specifically referenced in the *Work Health and Safety Act 2011*. Council is not the appropriate regulatory authority to act upon this legislation; readers are referred to the WorkCover Authority of NSW. Further advice is available online at: www.workcover.nsw.gov.au.

Reason: To ensure the health of site workers and the public.

31 (4CD08)

The work must be carried out in accordance with the requirements of the *Building Code of Australia*.

Reason: To comply with the legislation.

32 (4CD09)

In the case of residential building works for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Reason: To comply with the legislation.

33 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

34 (4HT04)

Should any historic relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the *Heritage Act 1977*.

Should any Aboriginal relics be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the NSW Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*.

Reason: To ensure the proper management and preservation of historical artefacts.

35 (4LD01)

Landscaping is to be carried out in accordance with the approved Landscape Drawing prepared by Babbington Landscapes, dated 12 March 2014, and approval conditions.

Reason: To ensure appropriate landscaping is carried out on the development site.

36 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

37 (4LD03)

The felling, lopping, topping, ring-barking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

38 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

39 (4LD05)

Trees and shrubs liable to damage (including, but not limited to street trees) are to be protected with suitable temporary enclosures for the duration of the works. These enclosures are to only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800 mm high wired to 2400 mm long star pickets, driven 600 mm into the ground and spaced 1800 mm apart at a minimum distance of 1000 mm from the tree trunk.

Reason: To ensure protection of the trees on the site which could be damaged during any development works and to outline the type of protection.

40 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be re-vegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

41 (4LD07)

Where development/construction necessitates the pruning of more than 10% of existing tree canopy, a permit application must be lodged with the Council's Civic Services Division, subject to the *Tree Preservation Order 2001*.

Reason: To ensure those trees are maintained appropriately and in compliance with Australian Standard AS 4373:2007 – Pruning of Amenity Trees.

42 (4LD08)

Retain and protect trees and planting on Council's Road Reserve during construction.

Reason: To maintain the number of street trees and preserve the amenity of the local area.

43 (4MS01)

Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction, then the following inspections/certifications are required:

1. Reinforced concrete slab,
2. Framework inspection,
3. Wet area moisture barrier,
4. Drainage inspection,
5. Final inspection.

The cost of these inspections by Council is \$1,475.00 (being \$295 per inspection inclusive of GST for the current financial year). Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1414.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$165, for the current financial year.

Note: Council charges are adjusted on the 1st July each year and are based on the March CPI figures. A list of current charges is available on Council's website: www.manly.nsw.gov.au

Reason: To ensure that the development is completed in accordance with the terms of the development consent and with the Building Code of Australia.

44 (4MS04)

The Sediment Control Plan is to be implemented from the commencement of works and maintained until completion of the development.

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

45 (4MS08)

At no time during the building works can any encroachment, temporary or permanent be made onto another property without prior written agreement being entered into with all persons to whom these encroachments affect and any persons whose land is subject to the encroachment.

Reason: To ensure adequate protection of property.

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

46 (5CD02)

Where any habitable room is located below ground level, internal walls are to be suitably treated so as to prevent ingress of moisture.

Reason: To provide a safe and healthy environment and to comply with the Building Code of Australia.

47 (5FP01)

All surplus vehicular crossings and/or kerb laybacks must be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

Reason: To provide on-street parking, suitable vehicular access to private sites, and infrastructure protection.

48 (5FR01)

An automatic fire detection and alarm system must be installed in the proposed dwelling in accordance with the requirements of the *Building Code of Australia*.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

49 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

50 (5LD02)

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.

51 (5US01)

Any adjustment to a public utility service is to be carried out in compliance with its standards; where consent is required, with its concurrence; and with the full cost being borne by the applicant. Full documents of adjustments to any public utility service should be submitted to Council.

Reason: To ensure compliance with the terms of this consent.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

52 (6AP01)

- 1) Nothing in this consent authorises the use of the premises other than for a single occupancy.
- 2) No kitchen facilities are to be installed within the Lower Ground Floor area including the installation of any appliance, fixtures or fittings so as to alter the nature or concept of a single occupancy.

Reason: To ensure the premises is occupied in compliance with the consent.

53 (6AP02)

The premises are to be used or occupied solely as a dwelling house and not at any time for separate occupation as flats, without the prior consent of Council.

Reason: To ensure the premises is occupied in compliance with the consent.

54 (6LP01)

No existing street trees can be removed without Council approval. Where such approval is granted, the trees must be replaced at full cost by the applicant with an advanced tree of a species nominated by Council's relevant officer.

Reason: To encourage the retention of street trees.

55 (6LP02)

No tree other than on land identified for the construction of buildings and works as shown on the building drawing can be felled, lopped, topped, ring-barked or otherwise wilfully destroyed or removed without the approval of Council.

Reason: To prevent the destruction of trees on other properties adjoining the development site.

56 (6LP03)

Landscaping is to be maintained in accordance with the approved Landscaping Drawing and approval conditions.

Reason: This is to ensure that landscaping is maintained appropriately.

57 (6LP04)

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

58 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

59 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

60 (6NL02)

All lights used to illuminate the exterior of the buildings or site must be positioned and/or fitted with cut off luminaires (baffles) so as to prevent the emission of direct light onto adjoining roadways, adjoining land, dwellings and waterways.

Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

61 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the *Protection of the Environment Operations Act 1997*.

Reason: To ensure compliance with legislation and to protect public health and amenity.

62 (6PT02)

Adequate vehicle parking as required by the *Manly Development Control Plan 2013, Amendment 2* is to be available at all times for motor vehicles associated with the use of the land.

Reason: To ensure users of the land are not forced to park on public streets.

63 (6PT05)

The driveway and crossover on the Road Reserve is not to be used for parking vehicles and is to provide clear access to the property and footpath at all times.

Reason: Vehicles are not permitted to park on the Road Reserve.

COVENANTS, etc. Irrespective of and notwithstanding the terms of this development consent you must ensure that all covenants on the title of the property, as well as agreements and other instruments, are complied with in respect of the proposed development, to the extent to which they are applicable. Please see clause 1.9A of *Manly Local Environmental Plan 2013* as to the suspension of certain covenants, agreements and instruments (but not others). For more details contact Land and Property Information, NSW Department of Lands - www.lands.nsw.gov.au or call 9228 6713 or contact your solicitor or licensed conveyancer.

For the Decision: Stein, Vergotis, Graham and Grant Jary

Against the Decision: Nil

MIAP Report No. 47

51 Hope Street, Seaforth - DA0062/2014 (MC/14/83328)

Application Lodged: 14 April 2014
Applicant: Mrs Staurota Phokos
Owner: Mrs S Phokos
Estimated Cost: \$45,000
Zoning: Manly Local Environmental Plan, 2013 – R1 General Residential
Surrounding Development: One (1) to two (2) storey dwelling houses and multi dwelling housing
Heritage: No
Officer: Glen Hugo

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING INCLUDING DEMOLITION OF THE EXISTING GARAGE, CONSTRUCTION OF A NEW DOUBLE GARAGE WITH STUDY ABOVE, PERGOLA AND SWIMMING POOL.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND TWO SUBMISSIONS WERE RECEIVED ON BEHALF OF THREE SURROUNDING PROPERTIES.
3. THE APPLICATION WAS NOT REFERRED TO THE PRECINCT COMMUNITY FORUM FOR COMMENTS.
4. THE APPLICATION WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT MEETING ON THE 2 JULY WHERE IT WAS RECOMMENDED FOR REFUSAL.
5. SITE INSPECTION IS RECOMMENDED.
6. THE APPLICATION IS RECOMMENDED FOR **REFUSAL**.

The following people addressed the meeting in relation to this item:

For the Recommendation: Nil

Against the Recommendation: Nil

48/14 Decision of the Panel:

That Development Application No. 62/2014 for Alterations and additions to an existing dwelling including demolition of the existing garage, construction of a new double garage with study above, pergola and swimming pool at 51 Hope Street Seaforth be **Refused** for the following reasons Here:-

1. The works have partially been commenced having regard to section 76A (1) (a) of the *Environmental Planning & Assessment Act 1979*.
2. The application fails to provide sufficient information as required by schedule 1 of *Environmental planning and Assessment Regulations 2000* having regard to section 79C (1) (a) (iv) of the *Environmental Planning & Assessment Act 1979*.
3. The proposed setback on the northern side is non-compliant with the Manly Development Control Plan 2013 and results in additional amenity impacts having regard to section 79C (1) (a) (iii) of the *Environmental Planning & Assessment Act 1979*.
4. The proposed amount of open space is non-compliant with the Manly Development Control Plan 2013 and is inconsistent with the relevant objectives having regard to section 79C (1) (a) (iii) of the *Environmental Planning & Assessment Act 1979*.
5. The proposal is considered to be inconsistent with the objectives of the Act having regard to Section 5 of the *Environmental Planning & Assessment Act 1979*.
6. The proposal is inconsistent with the aims and objectives contained within paragraph 1.7 of the Manly Development Control Plan 2013 having regard to section 79C (1) (a) (iii) of the *Environmental Planning and Assessment Act 1979*.
7. The works are substantial the same development that was previously considered at the MIAP on the 19 August 2010 and refused. As such the proposal is not considered to be in the public interest having regard to section 79C (1) (e) of the *Environmental Planning and Assessment Act 1979*.
8. The proposed development is considered to not be suitable for the site having regard to section 79C (1) (c) of the *Environmental Planning & Assessment Act 1979*.
9. The proposal adds additional excessive visual bulk to the garage when viewed from 53 Hope Street having regard to section 79C (1) (b) of the *Environmental Planning & Assessment Act 1979*.
10. The proposal results in the loss of a significant tree having regard to section 79C (1) (b) of the *Environmental Planning & Assessment Act 1979*.
11. The proposal does not provide sufficient manoeuvring space for a car to maneuver as per Australian standard AS2890.1 as is required by the Manly Development Control Plan 2013 having regard to having regard to section 79C (1) (a) (iii) of the *Environmental Planning & Assessment Act 1979*.

For the Decision: Stein, Vergotis, Graham and Grant Jary

Against the Decision: Nil

MIAP Report No. 48

17 Allenby Street, Clontarf - DA0178/2013

Section 96(1A) - Part 2 (MC/14/92337)

Application Lodged: 27 May 2014 with amended plans submitted 7 July 2014.
Applicant: Langland Building Group Pty Ltd
Owner: Mr JE & Mrs CG Fengels
Estimated Cost: \$716,675.30
Zoning: Manly Local Environmental Plan, 2013 – R2 Low Density Residential
Surrounding Development: Dwelling houses
Heritage: No
Officer: Glen Hugo

SUMMARY:

1. COUNCIL APPROVED THE APPLICATION FOR ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING INCLUDING GARAGE FORWARD OF THE BUILDING LINE, NEW FRONT PORCH, REAR EXTENSION DECKS SWIMMING POOL AND LANDSCAPING ON THE 20 FEBRUARY 2014.
2. THE CURRENT APPLICATION IS FOR THE MODIFICATION OF THE CONSENT.
3. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND NO SUBMISSIONS RECEIVED.
4. THE APPLICATION INCLUDES A VARIATION TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD OF 18.1%.
5. THE APPLICATION WAS NOT REFERRED TO THE PRECINCT COMMUNITY FORUM FOR COMMENTS.
6. THE APPLICATION WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT MEETING ON THE 30 JULY 2014 WHERE IT WAS RECOMMENDED FOR APPROVAL.
7. SITE INSPECTION IS RECOMMENDED.
8. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL **APPROVAL**.

The following people addressed the meeting in relation to this item:

Against the Recommendation: Nil

For the Recommendation: Justin Richard

49/14 Decision of the Panel:

That the application to vary the development standard for floor space ratio pursuant to clause 4.6 of the Manly Local Environmental Plan 2013 is well founded.

That pursuant to Section 96 (1A) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 178/2013 for alterations and additions to an existing dwelling including garage forward of the building line, new front porch, rear extension decks swimming pool and landscaping at 17 Allenby Street Clontarf be **approved** subject to the original conditions of consent and the modification of condition no DA1 and the addition of condition no ANS06, 65(1AP03) and 66 (3MS01) as follows: -

DA1

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation

Plans affixed with Council's stamp relating to Development Consent No. 178/2013:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
Site Plan / A01	Revision C / 24 October 2013	18 December 2013
Ground Floor Plan / A05	Revision C / 24 October 2013	18 December 2013
First Floor Plan / A06	Revision C / 24 October 2013	18 December 2013
Elevations Sheet 1 / A07	Revision B / 24 October 2013	18 December 2013
Elevations Sheet 2 / A08	Revision B / 24 October 2013	18 December 2013
Section / A09	Revision B / 24 October 2013	18 December 2013
Site Analysis Plan / Plan at Pool / P1	August 2013	5 September 2013
Pool Plan and Sections / P2	August 2013	5 September 2013
Landscape Plan / LA1	September 2013	5 September 2013

Documentation affixed with Council's stamp relating to Development Consent No. 178/2013:

- Statement of Environmental Effects dated 30 August 2013 and received by Council 23 December 2013.
- BASIX Certificate number A168373, dated 2 August 2013 and received by Council 5 September 2013.
- Preliminary assessment: Acid sulphate, written by Ben White, dated 22 September 2013 and received by Council 18 December 2013.

Except as amended by:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
A01f / Floor Plans	27 May 2014	7 July 2014
A02c / Elevations	27 May 2014	7 July 2014
A03c / Sections	27 May 2014	7 July 2014

Documentation affixed with Council's stamp relating to Development Consent No. 178/2013:

- BASIX Certificate number A189057, dated 27 May 2014 and received by Council 27 May 2014.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

ANS06

The setback of the swimming pool is to be amended to provide 1.5m to the water's edge and 1m to the coping and adjacent deck. Plans are to be suitably amended prior to the issue of a Construction Certificate.

Reason: To achieve compliance with the DCP controls for swimming pools and minimise the impacts on the privacy of the adjoining properties.

ANS07

The proposed removable deck to the western end of the extended swimming pool is to be deleted and the area landscaped to provide screen planting. Plans are to be amended accordingly prior to the issue of Construction Certificate.

Reason: To ensure amenity and the privacy to the adjoining property.

ANS08 (2CD16)

For works over or adjacent to Sydney Water assets a Sydney Water stamped copy of approved plans is to be submitted as part of the Construction Certificate application.

Reason: Sydney Water approval is required.

GENERAL CONDITIONS RELATING TO APPROVAL

65(1AP03)

Where the drawings relate to alterations, additions, or Section 96 modifications, only those works shown in colour, clouded, notated or highlighted are approved, except where modified by a condition of this consent.

Reason: To ensure that only those works considered by Council form part of the consent.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

66 (3MS01)

Works in connection with this Section 96 modification are not to be commenced/carried out until a new Construction Certificate is issued.

Reason: The Environmental Planning and Assessment Act 1979 requires a new updated Construction Certificate to cover any or all approved Section 96 modifications involving changes in the design of the development.

For the Decision: Stein, Vergotis, Graham and Grant Jary

Against the Decision: Nil

MIAP Report No. 49

80 West Esplanade, Manly - DA0031/2014 (MC/14/86218)

Application Lodged: 4 March 2014 with additional information submitted 10 June 2014 and 4 July 2014

Applicant: Attic and Roof Conversions

Owner: The proprietors of SP 15889.

Estimated Cost: \$150,000

Zoning: Manly Local Environmental Plan, 2013 – R1 General Residential.

Surrounding Development: Residential flat buildings and a dwelling house.

Heritage: The site is in the vicinity of the former service station at the corner of West Promenade and Gilbert Street and the locally listed trees located within the West Esplanade Park.

Officer: Glen Hugo

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR ALTERATIONS AND ADDITIONS TO AN EXISTING RESIDENTIAL FLAT BUILDING INCLUDING NEW ATTIC ADDITION AND BALCONY.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND NO SUBMISSIONS WERE RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE CORSO PRECINCT COMMUNITY FORUM FOR COMMENTS, WHO DID NOT OBJECT TO THE PROPOSAL
4. THE APPLICATION INCLUDES A VARIATION TO THE HEIGHT OF BUILDINGS DEVELOPMENT STANDARD OF 15.6%.
5. THE APPLICATION INCLUDES A VARIATION TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD OF 9%.
6. THE APPLICATION WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT MEETING ON 16 JULY 2014 WHERE IT WAS RECOMMENDED FOR APPROVAL.
7. SITE INSPECTION IS RECOMMENDED.
8. THE APPLICATION IS RECOMMENDED FOR **APPROVAL**.

The following people addressed the meeting in relation to this item:

Against the Recommendation: Nil

For the Recommendation: Nil

50/14 Decision of the Panel:

That the application to vary the development standard for height of buildings pursuant to clause 4.6 of the Manly Local Environmental Plan 2013 is well founded.

That the application to vary the development standard for floor space ratio pursuant to clause 4.6 of the Manly Local Environmental Plan 2013 is well founded.

That Development Application No. 31/2014 for alterations and additions to an existing residential flat building including new attic addition and balcony at 80 West Esplanade Manly be **Approved** subject to the following conditions:-

DA1

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation

Plans affixed with Council's stamp relating to Development Consent No. 31/2014:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA04 / Site Plan True North	Revision B / 20 February 2014	4 March 2014
DA06 / Proposed Apartment Floor Plan	Revision B / 20 February 2014	4 March 2014
DA07 / Proposed Attic Level Floor Plan	Revision B / 20 February 2014	4 March 2014
DA08 / Roof Plan	Revision B / 20 February 2014	4 March 2014
DA11 / North Elevation	Revision D / 4 July 2014	4 July 2014
DA12 / East Elevation	Revision D / 4 July 2014	4 July 2014
DA13 / South Elevation	Revision D / 4 July 2014	4 July 2014
DA14 / West Elevation	Revision D / 4 July 2014	4 July 2014
DA15 /Sections	Revision B / 20 February 2014	4 March 2014
DA20 /Schedule – Window / Door / Skylight	Revision B / 20 February 2014	4 March 2014
DA21 / Finishes Schedule	Revision D / 4 July 2014	4 July 2014

Documentation affixed with Council's stamp relating to Development Consent No. 31/2014:

- Statement of Environmental Effects dated February 2014 and received by Council 4 March 2014.
- Letter addressing clause 4.6 Variation (FSR) dated 10 June 2014 and received by Council 10 June 2014.
- Clause 4.6 Variation – height of buildings dated July 2014 and received by Council 4 July 2014.
- BASIX Certificate number A182205, dated 17 February 2014 and received by Council 4 March 2014.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

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

1 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

2 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

3 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

4 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

5 (2CD07)

A Certificate of Adequacy signed by a practising structural engineer stating the existing structure is capable of supporting the proposed additions, is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: The existing building must be able to support proposed additional loading.

6 (2FR01)

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

Reason: Compliance with the Environmental Planning and Assessment Act 1979.

7 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

8 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

9 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

10 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

12 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in

accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

13 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

14 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

15 (4MS02)

In order to ensure compliance with approved drawings, a Survey Certificate, to Australian Height Datum, must be prepared by a registered surveyor as follows:

- a) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries, and
- b) at the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials, and
- c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

Progress certifications in response to points (a) through (c) must be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved drawings and the proposed works.

Reason: To ensure compliance with the development consent.

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

16 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

17 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

For the Decision: Stein, Vergotis, Graham and Grant Jary

Against the Decision: Nil

CLOSE

The meeting closed at 2.00pm

CLOSED SESSION

The meeting moved into Closed Session to consider the above items.

The Closed Session began at 2.10pm

The Closed Session ended at 4.08pm

The above minutes were confirmed at an **Manly Independent Assessment Panel** of Manly Council held on 21 August 2014.

CHAIRPERSON

***** END OF DECISIONS *****